

Woman's Rights from the Perspective of the Purposes of Sharee'ah

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Abstract: This research touches upon the rights of woman according to the perspective of Islamic Sharee'ah (revealed laws). Researcher have divided these rights into three categories: Firstly, rights with which woman is distinguished away from man such as giving her a warm welcome at her birth and making Aqeeqah (slaughtering done for a new born) for her, giving her a beautiful name, taking care about her in her childhood, not preferring male child to her, honoring and protecting her when she becomes a wife, entitling her to have a specific obligatory share in inheritance. Secondly, rights in which woman is equal to man. They are the right of learning, her competence regarding bearing the responsibility of the religious obligations like man, respecting her will, the right of her independent financial liability and the right of work. Thirdly, the political rights of woman. They are her right in assuming the high posts (i.e., the political activities) such as the ministry, parliament, her right in assuming the great leadership of Muslims (president of the state), her right in assuming the judiciary posts. Also, researcher have explain these rights in detail according to the objectives of the Islamic Sharee'ah and according to the requirements and necessities of the modern age and according to observing the matter of benefits and interests.

Key words: Islam, woman's rights, purposes of sharee'ah, benefits, requirments, modern age, Malaysia

INTRODUCTION

Woman in Islam has acquired her complete rights without any shortcoming of whatsoever. Moreover, Allaah The Almighty has honored her in the best way. He The Almighty has made her equal to man in all matters. He The Almighty has made her share him all rights and obligations. She also like man in bearing the responsibility of the religious obligations and fulfilling them such as Salaah (prayer), Sawum (fasting), Zakaah (obligatory almsgiving), Hajj (pilgrimage). Amongst the examples in which Islam has honored woman is that it has given her many rights which start from the very beginning of her birth and go on until her death. In the following lines, researchers will explain the rights of woman that the Islamic legislation has given her. The rights of woman are divided in general into three rights; namely, rights with which woman is distinguished away from man, rights in which woman is equal to man and the political rights of woman.

FIRSTLY, RIGHTS WITH WHICH WOMAN IS DISTINGUISHED AWAY FROM MAN

Giving her a warm welcome at her birth: Arabs before Islam used to receive females in a bad way. When they

informed of the birth of a female, they used to feel displeasure and grief, their faces become dark, hide themselves. That is because they believe that she will bring them poverty and shame. Thus, they used to bury her alive (Ibn Jareer, 1405). However, Allaah The Almighty prohibited Muslims to do so and went on dispraising this heinous act and explained that who does this, will sustain clear loss. Allaah The Almighty says:

They are losers who besottedly have slain their children without knowledge (Quran 6: 140)

Islam came to point out that the right of existence and life is a complete gift from Allaah The Almighty for every human being whether male or female. Allaah The Almighty says:

He createth what He will. He bestoweth female (offspring) upon whom He will and bestoweth male (offspring) upon whom He will (Quran 42: 49)

Slaughtering aqeeqah for female baby: The aqeeqah is a sacrificial animal that is slaughtered for a new born as a form of thanking Allaah The Almighty for the blessing of the newborn. It has specific intention and conditions. It is a stressed Sunnah (supererogatory act). It was prescribed to manifest the happiness, blessings and spreading

linage. Male and female child are equal in the matter of aqeeqah, i.e., as the guardian make aqeeqah for the male child on the 7th day of his birth, he does the same with his female child. Majority of scholars viewed that aqeeqah is prescribed for the female child in much the same way it is prescribed for the male child (Ibn Qudaamah, 1985).

Giving her a good name: It is recommended to give her a good name. Also, male and female child are equal in this matter. As the Prophet (Peace and blessings be upon him) used to change the bad names of men into good ones, he used to change the bad names of women into good ones (Ibn Al-Qayyim, 1971).

Entitling her to have a specific obligatory share in inheritance: Allaah The Almighty has made a specific share for woman in inheritance in much the same way He has done with man. In the pre-Islamic era, people used to give nothing of inheritance to women. The polytheists used to make property for men and give nothing of it to women nor children. Thus, Allaah The Almighty revealed:

Unto the men (of a family) belongeth a share of that which parents and near kindred leave and unto the women a share of that which parents and near kindred leave, whether it be little or much a legal share (Quran 4: 7)

It means that all are equal in inheritance even if they have different shares according to what Allaah The Almighty has prescribed for everyone of them.

Taking care about her in her childhood and not preferring male to her: Islam has cared about woman in all different stages of her life. It has cared about her childhood and made taking care of it a shield from the Hellfire and a means of entering Paradise. Thus, it is not permissible to prefer male child to her regarding education and care. Also, it is not permissible to prefer the male child to the female one in the matter of gift. Caring about her in her childhood includes qualifying her to her future life.

Honoring woman when she becomes a wife or mother: Allaah The Almighty commanded dealing with wife in good terms. In this regard, Allaah The Almighty says:

But consort with them in kindness, for if ye hate them it may happen that ye hate a thing wherein Allah hath placed much good (Quran 4: 19)

The meaning by saying kind words to them, treating them kindly and making your appearance appealing for them as much as you can just as you like the same from

them. It was the practice of the Prophet (Peace and blessings be upon him) to be kind, cheerful, playful with his wives, compassionate, spending on them and laughing with them. Furthermore, he used to race with Aaishah (May Allaah be pleased with her), the mother of the faithful as a means of kindness to her.

In this regard, researchers will mention only one example that is related to honoring the motherhood of woman. The Prophet (Peace and blessings be upon him) has repeatedly recommended taking care of the mother and even giving her precedence over the father in this effect. It was narrated that Abu Huriarah (May Allaah be pleased with him) said: A man came to the Messenger of Allaah (Peace and blessings be upon him) and said, O Messenger of Allaah who among the people is most deserving of my good companionship? He said: Your mother. The man asked, then who? He said: Your mother. He asked, then who? He said: Your mother. He asked, then who? He said: Your father (Reported by Al-Bukhaari and Muslim).

SECONDLY, RIGHTS IN WHICH WOMAN IS EQUAL TO MAN

Woman and man are equal in many general rights while there are some limitations in some minor issues in way that befits her dialect nature. Some of these rights are as follows:

Right of learning: Woman has the right to learn just as the man. The Prophet (Peace and blessings be upon him) said:

Seeking knowledge is obligatory upon every Muslim. The same actually applies to woman as well

The Prophet (Peace and blessings be upon him) also said:

Whoever had a daughter, tutored her on good morals, educated her well and bestowed over her from the blessings that Allaah The Almighty bestowed over him; she will be a shield or a screen for him from the Hellfire

Moreover, woman at the time of the Prophet (Peace and blessings be upon him) used to seek knowledge. There are some branches of non-religious knowledge that are necessary to the woman such as gynecology so that men cannot see the private parts of women. It was stated in the Indian Fataawa (religious edicts): A woman was afflicted by a ulcer in a place which man is not allowed to see. Thus, he (male doctor) is not allowed to look at her.

However, he (the doctor) should teach a woman how to treat it. If there is no woman who can do that nor is any woman who can learn to do that and they fear that she may die or suffer unbearably then they should cover all of her body except the site of the sickness then a man may treat her but he should avoid looking at her as much as he can and look only at the site of the sickness that he is treating. Accordingly, there is no disagreement regarding the matter of educating woman (Al-Balkhi, 1991).

Her competence regarding bearing the responsibility of the religious obligations: Muslim woman is competent to bear the responsibility of the religious obligations like man. Her guardian has to command her to fulfill the acts of worship and educate her since her tender years. That is because the Prophet (Peace and blessings be upon him) said:

Tell your children to pray when they are 7 years old and smack them if they do not pray when they are 10 and separate them in their beds

Actually, this hadeeth includes woman without any disagreement. Woman after reaching the age of puberty is obliged to do the different acts of worship such as prayer, fasting, Zakaah and Hajj. No one such as her wife or the like can prevent her from fulfilling obligations. Men and women are equal regarding the obligations of belief, acts of worship, morals and rulings that Allaah The Almighty has prescribed (Ibn Al-Qayyim, 1991).

Respecting her will: Woman is actually free in her will and expression. Allaah The Almighty has granted her this right from which the pre-Islamic period of ignorance has deprived her. She used to when her husband dies have no right in herself. Moreover, those who inherit the property of her husband used to inherit her. It was narrated that Ibn ‘Abbaas (May Allaah be pleased with him) said regarding the saying of Allaah The Almighty:

○ ye who believe! It is not lawful for you forcibly to inherit the women (of your deceased kinsmen) (Quran 4: 19)

Before, the practice was that when a man dies, his male relatives used to have the right to do whatever they wanted with his wife. If one of them wants, he would marry her, give her in marriage or prevent her from marriage for they had more right to her than her own family. Thereafter, this verse was revealed about this practice. Furthermore, Zayd ibn Aslam said; the people of Yathrib used to when a man dies in the pre-Islamic period of ignorance, inherit his wife along with his property. The one who inherits her used to prevent her from marriage or

give her in marriage to whomever he wills. Also, the man among people of Tuhaamah used to treat his wife badly until he divorces her and stipulates that she should not marry except the one he wills until she ransoms herself from him by giving him what he has granted her and thus Allaah The Almighty prohibited the believers to do so (Ibn Hajr, 1379).

Her financial liability: Woman has an independent financial liability exactly like man. Her right regarding disposing her property is something prescribed by religion as long as she is mature for the saying of Allaah The Almighty:

Prove orphans till they reach the marriageable age; then if ye find them of sound judgment, deliver over unto them their fortune and devour it not by squandering and in haste lest they should grow up Whoso (of the guardians) is rich, let him abstain generously (from taking of the property of orphans) (Quran 4: 6)

She can do whatever she wants regarding her property as a whole through commutative contracts without taking the permission of anyone. This is according to the consensus of the scholars of jurisprudence. However, her disposal of her property through donations, it is permissible for her, according to the majority of the jurisprudence scholars to do whatever she wants in her property through donation. This also what is adopted by Hanafi and Shaafi‘i scholars, Ibn al-Munthir and it is a report from Imam Ahmad for the Prophet (Peace and blessings be upon him) said:

○ women, give in charity even if it is some of your jewelry

Also, they used to give in charity and he accepts it while he did not ask about it. Therefore, it is permissible for her to do whatever she wants in her property without seeking the permission of her husband for he has no right to control her disposal of her property. According to Imam Maalik and in the narration of Imam Ahmad, it is permissible for her to give charity in the limit of one-third and she is not allowed to give charity with what exceeds the one-third of her property except by the permission of her husband.

As long as she has an independent financial liability, scholars of jurisprudence allowed her to guarantee others. Guarantee of everyone who is liable to dispose his money, whether for man or woman because it is an intentional act related to property and thus it will be valid from woman such as trade transaction. This according to those, who

view that she is allowed to give all of her property in charity. As for those who do not view that she is allowed to donate more than the one-third except by the permission of her husband, they allow her to guarantee but in the limits of the one-third of her property or with a slight excess, believing that guarantee is a form of donation. As for what may exceed the one-third, it depends on the consent of the husband (Ibn Qudaamah, 1985).

Right of work: The first work of woman is to administer her house and taking care about her family, educating her children and treating her husband in the best way. She is not required to spend on herself. Her expenditures are obligatory on her father or husband. Therefore, the field of her work is her house. Her work in the house is actually equal to the work of those who strive in the way of Allaah The Almighty. In spite of this, the Islamic legislation does not prevent woman from work. She can sell and buy, delegate someone to do so on his behalf and someone can delegate her to do so. He also can trade with her property and no one can prevent her from doing so as long as she observes the rulings and etiquette of religion. Therefore, she is allowed to discover her face and the palm of her hand. Scholars of jurisprudence said because necessity entails discovering face for selling and buying and discover the palm of her hand to take and give. Texts that prove the permissibility of the work of woman are multiple. What can be deduced from them is that the woman has the right to work, providing that her husband should permit her to go out if her work necessitates her to go out and she has a husband. His right in giving permission to her is dropped if he refused to spend on her. If the husband cannot spend on his wife and his inability is confirmed, he shall be granted a respite of 3 days according to the preponderant opinion of the scholars. She has the right to cancel marriage on the morning of the 4th day. The wife has the right, if she is rich to go out during the daytime of respite to get her expenditures through earning and her husband cannot prevent her for prevention is in return for alimony (Ibn Ahmad, 1981)

THIRDLY, THE POLITICAL RIGHTS OF WOMAN

Her right in assuming the high political posts (such as the ministry and parliament): The political rights of woman are those rights in which individuals share according to them, directly or indirectly, the matters of rule and administration such as the right of election, right of participating in a referendum, right of standing for the election for the membership of the representative

organizations, presidency of the state or the ministry as well as the right of employment (Metwaly, 1979).

Her right in assuming the judiciary posts: Scholars hold different opinions regarding appointing woman as a judge and that masculinity is a condition should be met in the one who assumes judiciary posts:

The first perspective: The majority of the scholars are of the opinion that woman is not allowed in any way to assume judiciary posts and even if she is appointed, then the one who appoints her will be sinful and her authority and appointment will be invalid and her judgment will be ineffective, no matter what ruling she passes. This is the opinion adopted by the majority of the scholars such as Maaliki, Shaafi'i, Hanaabili scholars and Zufar amongst the Hanafi scholars.

The second perspective: Hanafi scholars are of the opinion that the woman can assume judiciary posts other than al-Hudood (Corporal punishment prescribed for crime) and Qasaas (Retribution). That is to say all what she can bear witness in then she can be judge in them. The authority of the judge cannot be sound except if the one who is appointed to be a judge meets the condition of competence of bearing witness. Whoever is competent to bear witness can actually assume judiciary posts and what is stipulated in the competence of bearing witness is stipulated in the competence of assuming judiciary posts. As for of masculinity, it is not included among the conditions of assuming such posts in any way. That is because woman is one of those who can generally bear witness; however, she cannot judge the matters related to Hudood and Qasaas because she does not bear witness in them and the competence of assuming judiciary posts depends on the competence of bearing witness (Al-Kasaani, 1982).

The third perspective: Those who adopt this opinion view that masculinity is not a condition of the permissibility or validity and thus woman can assume judiciary posts in general and if she is appointed, the one who appointed her is not sinning and her appointment and authority is valid and her judgments will be effective, whether judgment in Hudood or other than that and whether it is something in which woman can bear witness or not and whether it is of what men cannot see or not. This opinion is adopted by Ibn Jareer At-Tabari and Ibn Hazm while Ibn Al-Qaasim from the Maaliki scholars alone has confined the judgment of woman to funds what men cannot see such as giving birth, determining the life of the newborn and the hidden defects of women.

CONCLUSION

Islamic legislation has honored woman through distinguishing her with some rights away from man. Firstly, giving her a warm welcome at her birth and prohibition of burying her alive. Moreover, Islam legislation has prescribed manifesting happiness and joy at her birth. Amongst the forms of manifesting happiness is to slaughter Aqeeqah for the female newborn on the 7th day of her birth as a form of thanking Allaah The Almighty for the blessing of the newborn. Amongst the other manifestations through which Islam has honored woman is giving her a good name. Also, Islam has honored her by entitling her to have a specific obligatory share in inheritance. Amongst the other rights of woman are taking care about her in her childhood and not preferring male to her. Furthermore, Islam has cared about woman in all different stages of her life. It has cared about her childhood and made taking care of it a shield from the Hellfire and a means of entering Paradise. Amongst the rights of woman is to honor and protect her when she becomes a wife, treat her kindly, recommending children to take care of their mothers. The Prophet (Peace and blessings be upon him) has repeatedly recommended taking care of the more and even given her precedence over the father in this effect.

There are some other rights in which woman is equal to man. They are the right of learning, her competence regarding bearing the responsibility of the religious obligations. Woman is competent to bear the responsibility of such obligations like man. Her guardian has to command her to fulfill the acts of worship and educate her since her tender years. Also, her rights include respecting her will. Woman is actually free in her will and expression. Allaah The Almighty has granted her this right from which the pre-Islamic period of ignorance has deprived her. She used to when her husband dies, have no right in herself. Moreover, those who inherit the property of her husband used to inherit her. Her rights still include her financial liability. Woman has an independent financial liability exactly like man. Her right regarding disposing her property is something prescribed

by religion as long as she is mature. She can do whatever she wants regarding her property as a whole through commutative contracts without taking the permission of anyone. Woman also has the right to work. Islam does not prevent woman from working. She can sell and buy, delegate someone to do so on her behalf and someone can delegate her to do so. She also can trade with her property and no one can prevent her from doing so as long as she observes the rulings and etiquette of religion.

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