

MODERN COMPLIANCE WITH THE STATUS OF WOMEN IN ISLAM AND THE PROBLEM OF GUARANTEEING HER RIGHTS IN MUSLIM COUNTRIES

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ABSTRACT

This significant article was called “Modern compliance with the status of women in Islam and the problem of guaranteeing her rights in Muslim countries”. It analyzed social problems connected with women’s right in Islam. Sharia is regarded as a legal code binding on all Muslims. In a religion where everything is beautifully and intelligibly revealed and embraced, unfortunately, some segments of the population severely infringe on the rights of women. The main issues that relate to the legal status of women in Islamic law and are perceived most controversially lie in the field of testimony and inheritance problems. In this regard, with the article we will consider these two aspects in more detail before dwelling on the dialectic of the rights and freedoms of women in Islam as a whole.

Keywords: Religion, The Koran, Sunnah, Islamic law, Muslim law, Women’s rights,

INTRODUCTION

The Islamic and Muslim history of women has a profound impact on the development of the state and the right to protection of the state, in particular, on the position of human rights and freedoms, on the status in society. The scope of their action in our time also remains very wide, which is largely determined by the close connection of Muslim law with the use of public opinion as a system, which still has an almost estimable value for the worldview of the widest sections of the population in Muslim countries. It should also be pointed out to the indisputable fact that of all the world religions, it is closest to the right of use. In this regard, Muslim law and Muslim legal ideology are the connecting link. At the same time, emphasizing the nature of state Islam, “Muslim law has always been at the center of its teaching, and it was perceived not only as a system of norms, but also as a universal political and legal doctrine”.

In Islam, Sharia has been replaced by the quality of a legal code that all Muslims must identify. The Koran and the Sunnah, as the main sources of Sharia, there are common legal grounds and rules. Depending on the changing characteristics, they can be interpreted as ijtihad, whereby extreme generality as the most important source of Islamic law after the Koran and associated with the Sun. On the other hand, fiqh is just as importantly based on Sharia, but its development is possible through human effort. Therefore, it can be re-examined. If necessary, its provisions may also be included in its interpretation. Many states with a Muslim population continue to declare in their laws and often even in their constitutions the allegiance of the population to Islam. The subjugation of the state of this wealth is proclaimed by the constitutions of Morocco, Tunisia, Algeria, Mauritania, Iran, private capital. The Civil Codes of Egypt (1948), Algeria (1975), Iraq (1951) The Constitution of Iran and the laws of Indonesia

require expenditure, provide them with a survey of Islamic law. However, almost all of these countries are planning to modernize and take various measures for this, including in the issue of the status of women, their rights and freedoms. Some examples of the application that this evolution, which includes the establishment of a new type of regime, as well as bold reforms in the field of private law, can live with the seeming immutability of Islamic law.

Numerous Muslim societies, which are recognized as one of the symbols of faith in the perfection and authority of Islamic law, have a large number of centuries and continue to exist, mainly subject to customs. Customs are not included in Islamic law and are never replaced as a law, but this does not mean that it is rejected by Islamic law. It goes without saying that some practices may be illegal in terms of Islamic law, but in the place of application of Muslim countries they take place. Islamic law divides all human actions into categories: obligatory, recommended, indifferent, condemned and forbidden. Custom cannot recommend actions that the law forbids, or forbids what the law considers reprehensible or only permissible.

Islamic law contains very few imperative sentences and provides ample opportunity for free initiative. As a result of interpretations, it is possible, while remaining faithful to Islam, to carry out very significant changes to these norms, which offer Islamic law, but which are not considered mandatory.

Due to this possibility, the jurisprudence of Muslim countries allows, for example, when entering into a marriage, it is possible for the wife to demand from marriage (in the sense that this is the prerogative of the husband) or that she will receive such a right if the husband does not remain monogamous. The status of marriage and family has been seriously changed, especially in cases of just such consequences. Ample opportunity for such digressions, in truth, discussion issues. Unlike the Muslim Shiite persuasion, the Sunnis do not allow, for example, to raise this issue in relation to conditions such as the temporary nature of marriage (mut'a) or the regime of community property of spouses. The possibility of developing Muslim law at the user's choice is not lost, however, its value.

Much attention in Muslim law is paid to family relations, family and marriage problems, and the status of women. Here it is necessary to proceed from what is covered and Sharia explore celibacy as a special state, and marriage as a religious duty of a Muslim. But in fact, the marriage contract took place as a kind of commercial transaction. Formally, a party is required for the presence of a marriage, including including the bride. According to Sharia, a Muslim had no right to marry unbelievers and apostates from Islam. Marriages entered into in violation of these conditions were annulled. But, a Muslim was allowed to marry women of a different religion, as it was assumed that the husband would convert his wife to the Muslim faith. It was forbidden for a Muslim woman to marry a non-Muslim. Islamic law defines in detail the grounds for divorce and its procedure. Sharia knows several types of divorces, differing both in the order itself and in its legal consequences. For example, a temporary divorce is possible, providing for a kind of probationary period. Although the grounds for divorce are clearly defined (apostasy from Islam, etc.), a husband can divorce his wife without explaining the reasons in a simplified form (talaq).

The fundamental idea of many Muslim authors regarding the legal status of women in Islam is that it should be considered within the framework of the principle of social justice.

Personal and family law, which contained the norms of ritual and religious behavior, has always been considered the most important in Sharia, although theoretically all branches of Muslim law are equally related to religion. This position follows from the close connection that exists in the minds of Muslims between religion and "personal status". It is this issue that is devoted to the largest number of instructions in the Qur'an. The main issues that relate to the legal status of women in Islamic law and are perceived most controversially lie in the field of testimony and inheritance problems. In this regard, we will consider these two aspects in more detail before dwelling on the dialectic of the rights and freedoms of women in Islam as a whole. First of all, we note that at the present time, some Muslim authors frankly speak about the need for repeated research in these areas of Islamic law, if certain provisions do not correspond to changed conditions and circumstances. They pay special attention to the fact that only a few norms of Islamic law are directly based on divine revelation, and most of the norms are the result of the work of medieval jurists. This desire for *ijtihad* is characteristic of rationally thinking representatives of the Muslim world, who are not inclined to submit to the traditional power installation. Take, for example, a Qur'anic verse about the testimony of two women as both a debtor and a creditor.

Here it is necessary, in our opinion, to recall the conditions in which this legal norm arose. During the appearance of the Koran in Arabian society, a woman, of course, had no actual influence and did not take a real part in the life of the business community, she was not familiar with many financial transactions and, in general, much of what a woman takes an active part in today. However, based on the legal and social status of an Arabian woman in the early Middle Ages, in modern conditions, a Muslim woman cannot be considered outside these areas of activity, as Muslim theologians often believe. Naturally, the Koran reflects the rights of women in this area in a form that was more understandable and justified in a given historical period for a particular society.

However, in a modern society in which both women and men are well versed in business and finance, when it has even become a profession for many of them, there is no legal or moral basis to question the right of a woman not only to this activity, but also to participate in as a full witness.

Moreover, the rule formulated for sales transactions does not give reason to extend it to all other cases and to exclude a woman as a witness in general or to require two women in every situation in which their testimony is required. The verse clearly outlines the specific situation in which this rule applies and why. According to the commentary of the modern Egyptian theologian Muhammad al-Ghazali, it is not true that this rule was extended to some other situations in order to exclude a woman from witnessing altogether.

The difference in the status of men and women in Islam, first of all, concerns their different roles and functions in traditional Muslim society. The rights and obligations of men and women are equal, but they are not necessarily identical. Equality and identity are two different things. If the first is supported by Islamic tradition, then the second is not. Man and woman should complement each other in a multifunctional organization rather than compete in a universal society. Gender equality in Islam is understood in a broader context, in other words, Muslims advocate the differentiation of the roles of men and women in order to more closely correspond to the natural characteristics of each of them. For example, it is known that in most cases the

economic responsibilities of male and female family members are different. In Islam, this circumstance is taken into account in order to comply with the specifics of physical differences between a man and a woman, whereby the responsibility that a woman bears, for example, in her reproductive functions, is perceived in Islamic tradition as necessary for society as the economic responsibility for providing for a family that a man bears. In other words, there is a certain compensation of mutual responsibility, interdependence of roles in society.

The same is true of the question of unequal inheritance between men and women. The institution of inheritance is often regarded as an example of discrimination against women, although even here it is impossible to judge the corresponding Qur'anic text in isolation [4]. In pre-Islamic Arabia, inheritance was the exclusive right of male relatives, who primarily included sons, fathers, and brothers. The woman was excluded from the list of persons entitled to inherit. One of the main Islamic reforms in the field of inheritance is the Qur'anic injunction that applies to widows and daughters. Although women's inheritance under Muslim law is half the share due to men, it represents a radical change from previous systems that completely excluded women in this matter.

The fact that a woman in Islam, in accordance with the provisions of the Koran and Sharia, enjoys a separate legal status is also often seen as an infringement of her rights compared to a man. In this case, first of all, it should be emphasized that each member of the Muslim community, whether male or female, from the cradle to the grave has its own identity. A kind of personal legal identity guarantees every woman the right to make deals, do business, earn money and own property independently of anyone. Marriage has no effect on her legal status, her opportunities and income. If she commits any civil offense, her fine is no less, but no more than what a man is subjected to in such a case. If she is incompetent, then, like a man, she has the right to compensation.

Inheritance issues are closely intertwined with family law, because the rights of heirs largely depend on the structure and size of the family. Before Islam, only men had the right to inherit from the Arabs. Such a situation was characteristic of the patriarchal system, which to a certain extent remains Sharia, we find rights regarding inheritance in the sura "Women".

The Qur'an attempts to correct the position of women in relation to inheritance rights, but it cannot be said that the problem is solved in it quite successfully. In fact, it is difficult to accept that the Qur'an prescribes ultimate equality between man and woman. At the same time, it would not be an exaggeration to say that it was Islam that introduced revolutionary norms into the practice of the medieval world regarding the problems of inheritance by a woman. Prior to the relevant Qur'anic provisions, a woman not only did not receive inheritance from relatives, but she herself was bequeathed as some kind of property subject to distribution after the death of a husband, father or brother. Giving women the right to inherit Islam radically changed the status of women. In addition, this right was framed as a divine institution, and not the result of political pressure. Interestingly, the verses about inheritance are contained in the fourth sura of the Qur'an called "Woman", perhaps signaling the importance of this area for a woman. The Qur'an speaks in detail about the division of the inheritance, taking into account the number of relatives and the degree of kinship.

Muslim jurists have been discussing the problem of inheritance for many centuries within the framework of several theoretical arguments that they themselves propose. According to one of

these approaches, the brother receives a double share due to his sister, because he is obliged to guarantee her support [8]. The corresponding Qur'anic verses impose an obligation on a person who has more profitable material opportunities to use them to support the poor. Thus, men are responsible for the material support of women [9]. According to other approaches, the cited Qur'anic provisions on the right to inherit apply only in the event of death. Naturally, the corresponding texts of the Qur'an are cited to substantiate the other [10]. For example, the verses from Surah The Cow seem to sanction the need to make a will and do not directly deal with matters of inheritance. However, there are jurists who believe that the verses on inheritance were annulled after the verses on the order of inheritance were sent down.

The third theoretical substantiation makes it possible to resolve issues of inheritance during the life of the testator. In some cases, a person is allowed to receive up to a third of the inheritance in any form. However, this must be done in such a way that this third can be used to provide for the woman in the future. Most proponents of the Sunni schools of Islam state that the resource of the third part cannot be bequeathed to natural heirs; however others, including yuchaya Shiite schools, do not agree with this restriction.

Thus, there are many approaches to the interpretation of issues related to inheritance, they contain many complex, often contradictory rules that require additional clarification and interpretation. Based on this, it can be assumed that Muslim jurists will continue the debate on these issues. In this sense, the Qur'anic provisions concerning this issue, it would seem, require reforming and rethinking due to the obvious progress of mankind and the inadmissibility of gender inequality. This circumstance is a stumbling block for modern Muslim jurists. As Muslims, they believe in the heavenly origin of the Koran and cannot recognize the need for a different perception and interpretation of its individual provisions. Therefore, they often try to protect him from those who believe that such a position humiliates a woman, believing that this is how her dignity is ensured. Many jurists argue that in matters of inheritance and a woman's testimony, the ratio should be maintained on the principle of two to one.

At the same time, it must be admitted that some researchers agree that the part of the inheritance due to a woman is not related to the idea of her lower status compared to a man, but stems from the nature of a woman and her social role in society. In this sense, the thesis of Mahmud Shaltut and some other modern Muslim scholars and jurists who are interested in justifying the verses of the Koran that do not correspond to modern realities. All of them refer to circumstances that can only exist within the framework of Sharia. For example, Mahmoud Shaltut emphasizes that a woman is not able to provide for her family financially and economically. As a result, she only increases the burden on her husband. Finally, Shaltut believes that "on this basis, from an Islamic point of view, a woman is in a more advantageous position than a man," since she can keep her part of the inheritance for herself, while the man is obliged to use it to support the family.

The legal status of a woman in Sharia is based on the principle that all people have the same legal capacity and enjoy the same legal protection. This means that in Islam only slaves and non-Muslims enjoy partial rights. Theoretically, a woman in some matters enjoys the same rights as men, but in practice, regarding other issues, this equality is not commensurate with uniform terms. For example, this applies to inheritance issues.

Islamic doctrine proceeds from the fact that, unlike Western positive law, only the Almighty is the source of Islamic law, that the basic norms and rights are laid down in the Koran and the Sunnah, therefore, they are true, eternal, absolute. According to G.R. Baltanova, "there is no contradiction between the modern Western concept, set out in the Universal Declaration of Human Rights, and Sharia." "Moreover," she points out, "according to modern Muslim theorists and jurists, the concept of human rights has been contained in Islamic doctrine since its inception and spread, and Western society came to understand the importance of this issue after almost fourteen centuries."

It is difficult to agree with this opinion, because the existing status of a Muslim woman in practice is in conflict with many aspects of the Universal Declaration of Human Rights, adopted in 1948, and other international human rights documents adopted by the UN. Therefore, some rights and freedoms in Islam conflict with the rights and freedoms enshrined in the International Bill and other international human rights instruments. This contradiction can be found in a number of rights and freedoms of a citizen of a modern Muslim state. For example, the right to life and the provision for the death penalty; the human right to freedom of opinion and freedom of expression; the human right to freedom of thought, conscience and religion; equality of men and women, as well as the equal right for men and women to enjoy all rights; slavery and the slave trade.

For now the constitutions of most Arab states "reflect the fundamental human rights and freedoms enshrined in the international Bill of Human Rights." However, these constitutions "contain neither legal guarantees of rights and freedoms, nor a legal mechanism for protecting these rights and freedoms at the national level. Islam contains various human rights and freedoms, which are reflected in its main sources, the Koran and the Sunnah. The teaching propagated by Muhammad in Mecca is quite compatible with the problem of universal human rights, since during this period he called for the solidarity of all people, for social justice, including in relation to women, non-Muslims and slaves. Subsequently, these principles were somewhat tightened. Unfortunately, there are still many gaps in Muslim countries regarding the protection of women's rights. But we hope that the situation will change for the better as soon as possible.

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