

FEMINISM AND THE RIGHTS OF MUSLIM WOMEN IN MODERN LEGAL INTERPRETATIONS

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ABSTRACT: *The question of woman is one of the major areas of debate in most contemporary societies in Nigeria in particular and throughout the world in general. Social scientists, feminists and anthropologists have tried to identify the essence of “woman” and how she differs from man if indeed, such difference exists. As a result, a variety of opinions regarding the “woman” and what determined her role in the society emerged. Furthermore the question of what is intrinsically Islamic with respect to ideas about woman and gender remains complicated by several clichés which have been confused with Islam, this has led to the belief that Islamic law is anti feminism in some or all of its forms. On the other hand, feminists’ discourses address basic issues of inequality in Islamic law and practice with the aim of attaining more equally balanced marital relationships, basic human rights and personal, civil and political rights. This paper attempts to examine a number of feminists’ issues on the above mentioned areas. It also shed light on the treatment of women by the Islamic legal system and in modern Muslim legal interpretations. Here a return to history is required looking at religious texts and high documents in a more critical and objective manner. The study finds out that Muslim women are subjugated to various forms of denials of rights because Islam has been abandoned in practice and misrepresented by some scholars. The study recommends that Muslim scholars both male and female should play the vital role of massive enlightenment campaigns to educate the people on the Shari’ah (Islamic law), its positive attitude towards gender equality and the right of all human beings.*

KEYWORDS: Feminism, Muslim Women, Legal Interpretation, Gender Equality

INTRODUCTION

The term feminism can be used to describe a political, cultural or economic movement aimed at establishing rights and legal protection for women (History and Theory.....1). It is built on the principle that, women have innate worth, inalienable rights and valuable ideas and talents to contribute to society. Thus, Idyorough states that: “feminism is a belief as well as a movement meant to address the gender imbalance in the society.” (Idyorough 14)

The Chambers Dictionary defines feminism as “advocacy of women’s rights, the movement for the advancement and emancipation of women (Macdonald 481). The meaning or definition of feminism varies considerably. In other words, “Feminism” itself is a word that has been given a range of shifting meanings even in modern women’s movement. Mama, a Nigerian feminist researcher and scholar opines that, the term ‘feminism’ clearly connotes a more critical stance on the continued subordination and marginalization of women despite decades of Women In Development(WID) work.(Mama 5) According to her, feminist perspectives on development include commitments to ending systemic oppression, demanding sexual and reproductive rights and full and equal political citizenship, and transforming gender relations at personal and household levels, as well as in public arenas.(Mama 6)

Rowbotham is of the opinion that: “The use of the term “feminism” served to highlight women’s specific oppression in relation to men, preventing this from being submerged, amid all the other unequal relationships existing in society” (Rowbotham 6).

According to Sheila Rowbotham the word “feminist” was invented by a French Socialist, Charles Fourier, in the early nineteenth century. He imagined “new woman” who would both transform and be transformed by a society based on association and mutuality, rather than on competition and profits. His views seem to have influenced many women and combined self emancipation and social emancipation. Changing oneself was part of changing the world (Rowbotham 8).

Thus, feminism is sometimes limited to women’s struggles against oppressive gender relationships. Some feminists have stretched the meaning of the word and given it a wide span. Rowbotham cited the opinion of Judith Astrellara as saying:

Feminism is a proposal for social transformation as well as a movement that strives to end the oppression of women. In this double aspect; feminism has always existed as part of the historical societies in which it has developed: it has been influenced by the specific social, economic and political traits of its society. As a movement, feminism has a long history of rebellion, more or less organized, by always expressing opposition to the social institutions that made possible the inferiority of women. This opposition has not been isolated from other forms of social struggles and this relationship has influenced both the ideology and the organization of the movement (Rowbotham 6).

According to Rowbotham, not all women would accept this view, since feminism is sometimes seen as quite separate from any kind of politics in which men are involved. She further says that feminism is often regarded as a movement for limited reforms and not for social transformation. It has also been characterized as being restricted to a particular group, for example, as expressing the interests of middle class wives and white women in western capitalism (Rowbotham 6).

Feminist activists have campaigned for women’s legal rights (rights of contract, property rights, voting rights); for women’s right to bodily integrity and autonomy, for abortion rights, and for reproductive rights (including access to contraception and quality prenatal care); for protection of women and girls from domestic violence, sexual harassment and rape; for workplace rights, including maternity leave and equal pay; against misogyny; and against other forms of gender-specific discrimination against women (History and Theory....1).

Mama argues that, there is enough evidence to say that there are numerous women’s mobilizations ongoing in almost every country in the region. She further said that, it is also clear that not all of these were pursuing feminist agendas. Mobilizations of women can be directed by political parties, religious and other conservative forces, and many still distance themselves from any notion of women’s rights or feminism. She cited an example with a country like Nigeria, where strong independent movements – such as the movement concerned with overcoming military rule and building up women’s participation women in politics – have had a rather fraught coexistence with state-directed organizations led by military officers’ wives to support the dictatorship organizations that uphold party lines over women’s rights and religious organizations that participate in the regulation of women’s freedom and mobility (Mama 5).

Ghadbian a scholar describes gender roles or women roles from the point of view of Islam. He agrees with the fact that Muslim women too are oppressed but not as viewed by the west. He states that:

The problem is that women do face oppressive conditions in the Muslim world, as do their counterparts in the west, but these are different from the oppressive conditions imagined and constructed for Muslim women from a western frame of reference (Ghadbian 19).

On the range of Islamist positions on gender, Ghadbian notes that Islamists are just one static and unitary group. “There is diversity and development in their positions on women.” He categorizes the Islamist position on gender roles into three and calls them;

1. The conservative, referring to the early Islamists who were of the view that the best place for women was at home in order to play the role of mother and wife. Men and women are equal in worth, but are created for different and separate work life.
2. The extremists opine that women belong to the private sphere and men to the public and carry it to the extreme.
3. The Reformists conclude that the inclusion of women in all facets of the political process is entirely consistent with Islam (Ghadbian 25-26).

Ghadbian acknowledges the efforts of some Islamist activists on the gender debate. Such activists include Muhammad al-Ghazali, Zynab al-Ghazali (*no relation to Muhammad al-Ghazali*), Hassan Turabi and so on. He notes that, despite efforts made by Islamists or Reformists to upgrade the status of women, Islamists have not yet integrated women in all levels; have not changed many conditions that oppress women and have not empowered women to do so, and that Islamists must embark on the task of transforming these conditions. Quoting from Heba Ra’uf Ezza, Ghadbian writes “it is time to launch a new women’s liberation movement, an Islamic one not only for the benefit of Muslim women and Muslim societies but for all women everywhere” (Ghadbian 28).

Goals of Feminism

The goals or aims of feminism are:

1. To seek freedom from oppression, equality, the right to freedom of choice and power to control their own lives within and outside the home; this is to bring about a sense of dignity and autonomy for women.
2. To seek the removal of all forms of inequality and oppressions through the creation of a more just social and economic order at national and international levels. It encourages the involvement of women in development at the local, national and global levels. In addition, western feminism incorporates issues of lesbianism and homosexuality and so on (Udegbe 1 and 3). On the other hand, a feminist is an advocate or favourer of feminism (Macdonald 481).

Feminist Theories

Feminist theory is an attempt to reach an analytical understanding of the subordination of women in relation to other forms of domination. There exists a great diversity in feminists’

attitudes and perspectives. In other words, feminists differ in their analysis of the causes of gender inequalities and therefore in their recommendations for change. The most frequently cited are liberal, radical and Marxist or Socialist perspectives. There are, however, others such as cultural, conservative and womanist feminists which are also prominent in literature.

Marxist Feminism

Pereira cites Engel's (1884) "The origin of the family, private property and the state" declaring that the orthodox Marxist has rejected the idea of a biological basis to gender relations. According to Marxist Feminists, women's oppression is a function of class oppression, which supersedes all forms of oppression. They also explain that women's oppression is related to their class location, with respect to ownership and control of the means of production and position in the labour force. Women's liberation depends on their entry into wage employment, market oriented production and membership in the "working class." Their entire focus is on economic issues (Pereira 10). Marxist feminists see capitalism as the primary cause and beneficiary of gender equality. According to them, capitalism must be eradicated if women are to gain equality (Udegbe 3).

Radical Feminism

Radical Feminism sees men as the oppressors of women rather than capitalism, custom or biology. In other words, radical Feminists rebel against all established societal norms and urge women to follow their lust and greed in the name of liberation. Women are defined as the politically oppressed class, regardless of race or class. Women have more in common with other women than with men of the same class or race (Udegbe 3).

Liberal Feminism

This grew out of the social contract theories of the sixteenth and seventeenth centuries. Liberal Feminists assert that, as human beings, women have a natural right to the same opportunity and freedom as men. Liberal feminists favour gender equality in the sense of equal opportunities for women and men, and focus on the rights of the individual (Pereira 10). In order to fight for these rights, firstly, they campaign for changes in laws that discriminate against women. Secondly, they gain rights for women which were previously enjoyed by men (e.g. suffrage). Thirdly, they campaign against laws that discriminate against women but which claim to protect them, such as, the factory Acts which prevented women from full participation in paid work (Udegbe 3). Liberal feminism sees the causes of inequalities as being rooted in our socialization process; given the same opportunities, they argue that, while they are in the same environment, males and females will behave similarly (Udegbe 3).

Socialist Feminism

Socialist feminism thinks women are oppressed not only by men but by other forms of subordinations, such as class and race inequality. It sees these issues (race, class, gender) as inseparable. Also sexism, class oppression and racism reinforce and feed on one another and so cannot be adequately understood separately (Udegbe 4).

Conservative Feminism

Conservative feminism most often attempts to keep gender arrangement traditional; male dominant and in public roles and females subordinate in private sphere. Conservation is based on two types of justification; biology and religion. Biology means that gender differences in

human capacities; needs, styles of expressions and interests are determined by innate rather than social factors. While religion means that essential differences are ordained by God (Udegbe 2).

The implication of the conservative perspective on woman and development is clear. Men should take charge of politics and define the direction of social and economic development which underlines the reasons for the exclusion of women from political and economic decisions (Ityavyar, 13-14). However, this perspective has failed to recognize women potentialities in the economic and political area.

Modernization Feminism

This approach is based largely on the modernization theory. The major argument of this paradigm is that gender roles are products of culture which are transmitted through the socialization process. The modernists in the Nigerian context are organizations such as the National Council of Women Societies (NCNS), International Federation of Women Lawyers (FIDA) and other liberal women organizations such as Army Officers. Wives Associations (NAOWA). These groups advocate for better education, health, political offices and increased socio-economic opportunities among women, but they accept the Supremacy of men and do not challenge the dominance of men. Maryam Babangida a one time leading member of this approach in Nigeria states that:

I am a strong advocate of total respect for the authority of the man as the head of the home...we must all learn to emphasize and appreciate the complementary nature of our roles rather than view them only in competitive terms. (Ityavyar and Obiajunwa 17).

In contemporary Nigeria, modernization feminists are mostly women of “timber and caliber” whose husbands are big capitalists and /or members of the ruling class. Thus, Ityavyar and Obiajunwa assert that modernization feminists are out to modernize and are not ready to generate change that will affect all Nigerian women. Their development strategies favour only a minority of women from the ruling class. This approach to women studies is weak, too liberal and their development strategies fit only a minority of women from the privileged or ruling class (Ityavyar and Obiajuwa 18). I. Bola Udegbe in his presentation cites the view of Iweriebor, (1998; 303) as follows:

The dominant thinking among Nigerian women is that they are committed to the institution of the family and certainly do not want to do without their men. They simply do not want to be mistreated and so are interested in working out guidelines that protect women and eradicate discrimination. I have come to understand and recognize that the basic tenet in Nigerian and perhaps African feminism is that it is integretionalist rather than separationalist. In terms of tactics and styles, it has utilized negotiation, confrontation, compromise, building on steady gains, advocating the twin paths of merits and quotas. In many cases the style may be considered reformist (Udegbe 6).

Critical Feminism

This approach postulates that myths and jokes that relegate women to the background should be totally eradicated to enable a better socialization process which will not deprive women of their rightful position in the society. Critical feminists are against a situation where developments and everything in the society “is defined in relation to male interests, needs and

concern” (Udegbe 21). This researcher, however, has chosen the liberal feminism as her theoretical framework. This is because it is close to her topic of discussion.

Concept of Islamic Feminism

Islamic feminism is a form of feminism concerned with the role of women in Islam. It aims for the full equality of all Muslims regardless of gender, in public and private life. Islamic feminists advocate women’s rights, gender equality and social justice grounded in an Islamic framework. Although rooted in Islam, the movement’s pioneers have also utilized secular and European discourses and recognize the role of Islamic feminism as part of an integrated global feminist movement (Islamic feminism 2).

Advocates of the movement seek to highlight the deeply rooted teachings of equality in the religion and encourage a questioning of the patriarchal interpretation of Islamic teachings through the Qur’an (holy book) hadith (Traditions of the prophet SAW) and shari’ah (Islamic law) towards the creation of a more equal and just society (Islamic feminism 2).

In an interview on “Islamic feminism” with Badran, a scholar in Islamic feminism, she says that Islamic feminists are looking into the basic texts of Islam in context of real life situations for concrete ideas. Islamic feminists are using Islamic categories like the notion of *Ijtihad* (individual reasoning). The tools can be different like linguistic methodology or historiosizing. But the frame should be within Islam, not foreign. In furtherance of the interview, she stated that Islamic feminism is speaking for justice to women as Islam stands for. It’s a tool to remind people what Islam is for women not more Islam or more feminism. Continuing, she said that the term, Islamic feminism is an idea awareness preaching that men and women have equal rights based on re-reading the Quran, re-examining the religious texts and telling people to practice it.

On the question of whether or not there are male scholars who are in support of feminist notions,

She said that, there are some scholars who are very friendly to women in their interpretations. Yusuf-al-Qardawi and late Muhammad-al-Ghazzali are examples. “They are liberal scholars” said Badran.

She also stated that, feminists from other religions and non-religions have started to pick up on Islamic feminism and rather Islam itself and that in the US, many women are converting to. Islam. In her words “I am not speaking about theories whose job is only to theorise for radical or socialist feminist thinking. But those who struggle for women are picking up the Islamic feminism.” (Badran 1-5). Another scholar in Islamic feminism Hussein, in an interview with Sikant, talks about the origins and prospects of Islamic feminism as an emancipatory project for Muslim women and as a new contextually relevant way of understanding Islam. She says:

These gender activists, using Islamic arguments to critique and challenge the Islamists, brought classical fiqh and tafsir texts to public scrutiny and made them a subject of public debate and discussion, articulating alternative, gender-friendly understandings, Indeed visions of Islam. (Hussein 1)

Islamic Law (*SHARI'AH*) and Feminism

Some scholars especially feminists are of the view that Islam gives woman a position inferior to man. For instance, the Egyptian feminist, Saadawi, however, suggests that women are regarded as intellectually and spiritually inferior to men in Islam: "They [men] are also superior to women as far as reason, wisdom, piety, knowledge and religious conviction are concerned." (Saadawi, 144). While other scholars believed that the shari'ah (Islamic law) regards women as men's counterparts.

According to Qutb (133-142), men and women are equal to one another in their origin, their abode as well as in their place of return and are as such entitled to similar and equal rights. He states that, although both men and women are entitled to equal rights, Islam does, however, differentiate between man and woman with regard to their special functions. According to him, this has to do with conceiving, suckling, etc in the case of a woman. On the other hand, man is assigned the special function of struggling in the outside world. In addition, he is to safeguard his person, his wife as well as his children against oppression etc. But this, according to Qutb, does not mean that one gender or sex is superior to the other. Rather, it makes them to realize the real objective of their earthly existence. Thus, according to him, it means that Islam effects equality between men and women where there is a natural ground for it; and differentiates between them where differentiation is but natural. But, the *Shari'ah* or Islamic law is essentially the same and its general rules are common to both sexes. The law is addressed to both, without distinct personal religious duties; for the woman, Islam is the same as for the man. She has to perform her prayers, fasting, pay Zakat, pilgrimage to makkah and remember Allah. Muslim scholars such as: Maududi, Doi, and Badawi agree that Islam has accorded the Muslim woman all her rights. They believe that men and women are treated with equality in all branches of the Islamic law. They also share the view of Muhammad Qutb that the physiological and psychological make up of a man is different from that of a woman. According to them, these differences are natural and indisputable but they do not imply any "supremacy" of one over the other. The differences imply rather the "complementary role of both sexes in life" (Maududi 172-193, Doi 11-21, Badawi 11-25).

Allah also says that He makes no distinction between male and female: "The noblest of you in the sight of Allah are the best in conduct." (Q. 49:13)

Piety of character – as opposed to being male or female is constantly emphasized. Nazlee (17) in his book "Feminism and Muslim Women" quoted the modern Moroccan feminist Mernissi saying:

"And it is not sex that determines who earns His grace, it is faith and the desire to serve and obey Him." Wadud African American scholar in her explanation of the above verse (Q. 49:13) says:

"The distinguishing value from Allah's perspective is *taqwa* (piety). Provided that *taqwa* is understood in both its action and attitude dimensions, this verse is self-explanatory. Allah does not distinguish on the basis of wealth, nationality, sex, or historical context, but on the basis of *taqwa*. It is from this perspective then that all distinctions between woman and woman, between man and man, and between woman and man, must be analysed". (Wadud 37)

Numerous references in the Qur'an and hadith clearly illustrate the spiritual equality of men and women and their complementary. Allah says:

Indeed Muslim men and Muslim women, the believing men and the believing women, the obedient men and the obedient women, the truthful men and the truthful women, the patient men and patient women, the humble men and humble women, the charitable men and charitable women, the fasting men and fasting women, the men who guard their private part the women who do so, and the men who remember Allah often and the women who do so – for them Allah has prepared forgiveness and a great reward. (Q. 33:35)

Also in the Qur'an, Allah shows that paradise is a blessing for both. "And whoever does righteous deeds, whether male or female, while being a believer – those will enter paradise and will not be wronged, (even as much as) the speck on a date seed." (Q. 4:1-4)

Women in a rightly guided Muslim Society enjoy all legal rights as individuals. In short Islam made men and women equal in terms of religious duties, personal rights, human dignity and civil rights in dealings and wealth. The only area where men and women differ is in the sexual peculiarities. Thus, according to Islam, men and women are treated equally in all branches of Islamic law. The Qur'an states:

The believers, men and women are protectors, one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey God and His Apostle. On them will God pour His mercy: For God is exalted in power and wise (Q. 9: 71). And the prophet (SAW), re-firmed this by saying "O people, it is true that you have certain rights with regards to your women but they also have rights over you" (Najeebadi 240) and scholars have recognized these rights.

Islam gave Muslim women rights and freedom in the words of the Qur'an, "...And women shall have rights similar to the rights against them according to what is equitable..." (Q. 2:228). In addition, the teachings of the prophet (SAW) have shown the high esteem for women in Islam. Many of his teachings underscore the need for Muslims to treat their parents kindly with the mother enjoying greater consideration. Other teachings show that a man completes half of his religion when he marries. Again, an abundant reward from Allah is assured for a father who raises three daughters without showing despair for their sex. Thus, the importance of the above discussion is that it places women in the right perspective as male and female babies are considered as gifts from Allah to rejoice over and to be nourished to maturity. A woman is a possessor of free personality and enjoys equality with man in respect of her spiritual and moral status which are independent of one another. So, both sexes are equal in their origin and destiny.

Rights of Women in Islamic Law (SHARI'AH)

Islam accords rights to human beings irrespective of their colour, gender, race or nationality. In other words, Islam emphasizes human rights as those rights which are possessed by every human being (*male or female*) by virtue of their humanity and are therefore inalienable. Thus, Muslims are cautioned not to engage in anything which violates the rights of others, and considers it as evil which must be eradicated from human society so that Muslims can obey and worship Allah (SWT) in peace and devotion. Suzan Courtwright in her paper "Written in stone? The impact Of sharia Law on Women's Rights in Nigeria" quoted Mernissi saying:

..If women's rights are a problem for some modern Muslim men, it is neither because of the Koran nor the Prophet, nor the Islamic tradition, but simply because those rights conflict with the interests of a male elite... Not only have the sacred texts always been

manipulated, but the manipulation of them is a structural characteristic of the practice of power in Muslim societies...(Courtwright 9).

Turabi a prominent leader of the Sudanese Islamists, accepts the participatory role of women in politics and in every other sphere of society and declares that traditional restrictions on women's freedoms had nothing to do with Islam. He, however, observes that Muslim men who are weak in faith tend to oppress women and exploit them. He presents women from the viewpoint of Islam making references to both the Qur'an and Hadith. He observes how Muslims misrepresent most of the doctrinal and normative teachings of Islam on female affairs. He notes:

The female is hardly ever religiously addressed except through the mediation of the male and as an addendum to him (Turabi 39). He also notes: "Her role in private life has been reduced to that of a housewife chosen not for her personal merit for she was denied the education or the opportunity to acquire merit, but for the merit of her men-folk" (Turabi 39).

He goes on to say that in public life a woman is not allowed to make an active participation to contribute and promote the religious quality of life. And whenever she is allowed to do so one discovers that it is likely to be in a context of exploitation or as mundane work with little spiritual satisfaction or significance. He further says that "the greatest injustice visited upon women is their segregation and isolation from the general society. He concludes that:

A revolution against the condition of women in the traditional Muslim society is inevitable. The Islamists are worthy of the leadership of the movement of women's liberation from the traditional quagmire of historical Islam, and of their resurgence towards the heights of ideal Islam (Turabi 43).

Women under the *Shari'ah* are guaranteed the following specific rights:

Right to Life

During The Jahiliyyah Period (i.e. period before Islam popularly known and called time of Ignorance), the pagan Arabs practised female infanticide. This abhorrence was queried in the Qur'an where Allah says: "With shame does he hide himself from his people because of the bad news he has had! Shall he retain it on (sufferance and) contempt or bury it in the dust? Ah! what an evil (choice) they decide on!" (Q. 16: 59)

In another place, Allah says: "When news is brought to one of them of (the birth of) what he sets up as a likeness to (Allah) Most Gracious his face darkens and he is filled with inward grief!" (Q43: 17). Again He says; "When the female (infant) buried alive, is questioned for what crime she was killed" (Q. 81: 8 – 9). To forestall further killings of infant females, the prophet is reported to have said: "If anybody has got a female child and then does neither bury her alive nor treats her unjustly, nor prefers his male children to her Allah will admit him in paradise" (Abu Da'ud 4:337).

The above-cited quotation indicates that, in Islam, no one has the right to take the life of another person (whether man or woman), without due process of law, such as murder or for other offences. In this case, only a competent and properly constituted court of Law can decide on that as a punishment.

Equality in the Sight of Allah

According to the Qur'an, men and women are equal before Allah. Nowhere in the Qur'an, from where equality is derived, is the woman made inferior to the man. In the Qur'an, Allah has promised that whosoever does good, be it a man or woman, will have reward on the last day and same with bad deeds for which they will equally receive punishment. Qur'an 33:35, 3:195, 4:124 and 57:12, clearly state the equality of both sexes before Allah. Although Q 4:34 assigns a leadership role to the man, Qur'an 42:38 and 2:23 and 33 enjoin the man to govern his wife and not in an overbearing manner.

Right to Acquire Education

Islam encourages the pursuit of knowledge by all Muslims regardless of their sex. In fact, the search for knowledge is the first thing the prophet of Islam was commanded to do. This is clearly indicated in the Qur'an: "Proclaim! (or Read!) in the name of thy Lord and Cherisher Who created. Created man out of a (mere) clot of congealed blood: Proclaim! And thy Lord is Most Bountiful. He Who taught (the use of) the Pen. Taught man that which he knew not" (Q. 96:1-5).

The verses above show the importance of knowledge not just to the prophet but to the generality of the people (male and female all).

The verse above did not restrict the acquisition of knowledge to men. God's servants, both males and females, are to seek for knowledge especially the knowledge of the religion so as to know God and how to worship Him.

Furthermore, specific comments for the equal rights of women and men to pursue education can be found in the Hadith literature. The Prophet is reported to have said: "Seek knowledge from cradle to the grave." He also said: "The search for knowledge is compulsory upon every Muslim, male and female (Karim 35).

Right to Choose a Husband

The woman has been granted full freedom in the choice of her husband. According to Islamic Law, women cannot be forced to marry anyone without their consent. According to Abdal'Ati, there are various opinions of scholars on compulsion of marriage. Some permit certain guardians to impose the spouse of marriage on their wards. He says that the basis of the guardian's authority in this respect is his assumed concern for the welfare of the ward. He goes further to state that there are wide differences of opinion as regards factors which justify compulsion in marriage. These include virginity, minority, womanhood, as such and dependence on the guardian. He, therefore, concludes by saying that textual and historical evidence seems to suggest that these juristic views are nothing more than academic or mental exercise. This is so because nowhere can it be found either in the Qur'an or the Sunnah that the Prophet (SAW) speaks with approval of such coercive authority (Abdal'Ati 83).

The Qur'an says:

When ye divorce women and they fulfill the term of their (‘Iddat) do not prevent them from marrying their (former) husbands if they mutually agree on equitable terms. This instruction is for all amongst you who believe in Allah and the Last Day. That is (the course making for) most virtue and purity amongst you and Allah knows and ye know not. (Q. 2:232).

Right to Fair Treatment in Polygamy

Polygamy means plurality of wives. Polygamy is permitted in Islam. The prophet Muhammad found polygamy practised not only among his own people, but also among the people of the neighbouring communities where it assumes some of its most degrading aspects. Islam, therefore, limits the number of women a man could marry to four.

If ye fear that ye shall not be able to deal justly with the orphans marry women of your choice two or three or four; but if ye fear that ye shall not be able to deal justly (with them) then only one or (a captive) that your right hands possess. That will be more suitable to prevent you from doing injustice.

Ye are never able to be fair and just as between women even if it is your ardent desire: but turn not away (from a woman) altogether so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding and practice self-restraint Allah is Oft-Forgiving Most Merciful. (Q 4:3&129).

The verse above shows that Islam recognizes monogamy and polygamy and makes regulations to govern each system. The verse thus limits the unrestricted number of wives to a maximum of four, provided one can treat them with equality in material things as well as affections. So, the word “equity” (to deal, justly) here signifies not merely equality of treatment in the matter of lodgment, clothing and other domestic requisites, but also complete equity as regards affection and esteem. Philips and Jones, in their book *“Polygamy in Islam*, explain this verse that: the fact that man is first told to marry two, three or four women, does not mean that Islam encourages all men to marry at least two women, but that such an option is undoubtedly by permissible for those who can fulfill its condition. After all, one is advised to marry only one if he cannot deal justly with more than one. They further elaborate that a man must be able and willing to divide his time and wealth in an equitable fashion before he is allowed to have more than one wife. Conversely, if he is unable to feed, clothe and house all his wives justly, then, according to the Qur’anic command he should not marry more than one. (Philips and Jones 45)

In line with this view, Nazlee also explains that Islam does not have a command for all men to marry four women. It’s allowed to those who want to have more than one wife. He continues by saying that one is, however, prohibited from taking another wife if he is incapable of dealing justly and equitably with them. According to him, the husband must treat all the wives with equality with regard to food, clothing and time spent with them, (Nazlee 36). Regarding the reason why Islam allowed polygamy, Lemu explains that there are places and times in which there are compelling social and moral reasons for polygamy. The reasons they give range from community obligations towards orphans and widows and the fact that females outnumber male in the world (Lemu 12-17). The jurists hold a unanimous view on this situation. The concept of justice either in a monogamous or polygamous system is to give everybody what is due to him or her. This is a condition attached to polygamy and monogamy, although the way to obtain it depends on the compliance with the laid down rules for each system. (Ambali 160 –163). The prophet of Islam tried to treat his wives equally in all things. He made the popular statement thus: “my Lord this is my just sharing according to my power and not within my power” (Ambali 163).

Again he said: “Whosoever has two wives, inclining to either of them against the other will come on the Day of Resurrection while one of his sides is fallen” (Ibn Majah 3:181). Therefore, a man should try as much as possible to emulate the prophet by maintaining justice among his wives.

Rights to Obtain Divorce

This can be defined as the dissolution of (an unhappy) marriage, a preventive measure against the breach of peace. Divorce, though permissible in Islam, is one of the most detestable in the sight of Allah, according to the prophet (Abdal' Ati 217 –218). Maintenance of a stable home is the goal of Islam. And so Islam encourages reconciliation between spouses whenever there is any misunderstanding and this is why even when divorced, the woman is to stay in the man's house during the *iddah* (waiting period) during which she is entitled as of right to accommodation and maintenance at the husband's expense. It is also possible that reconciliation may take place. In any case, ample time is at their disposal to reconsider the whole situation. Divorce is not to be resorted to except if all steps taken for reconciliation have failed.

The Qur'an says:

Men are the protectors and maintainers of women because Allah has given the one more (strength) than the other and because they support them from their means. Therefore the righteous women are devoutly obedient and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct admonish them (first) (next) refuse to share their beds (and last) beat them (lightly); but if they return to obedience seek not against them means (of annoyance): for Allah is Most High Great (above you all).

If ye fear a breach between them twain appoint (two) arbiters one from his family and the other from hers; if they wish for peace Allah will cause their reconciliation: for Allah hath full knowledge and is acquainted with all things. (Q. 4:34-35).

The verse above indicates that couples are given all possible means to restore their marriage. However, when all these measures fail then Islam recognizes the right of both partners to separate through divorce Allah says “ But if their intention is firm for divorce, God heareth and knoweth all things” (Q. 2:127). Just as Islam gives the husband the right to divorce (Talaq), the wife too is given the right to seek dissolution of a marriage if she feels that there is no way that it can work out. This type of divorce at the instigation of the wife is known as *khul* (Nazlee 54). Despite the fact that Islam has given women the right to seek separation from their husbands, it is usually assumed that women have no such right under Islam. Nazlee cites Freda (sic) Hussain's writings on this issue “ The Qur'an does not give the same right in the matter of divorce to women that it gives to men, rather the decision to divorce is left to the men exclusively” (Nazlee 54).

However, the Sunnah as practised by generations of Muslims and the Hadith of the prophet make it clear that a woman is allowed to ask for a divorce if she feels that she can no longer cope with her husband. In fact, the prophet did not tell the woman that she had no right to ask for a divorce. Badawi says: “As the woman's right to decide about her marriage is recognized, so too her right to seek an end to an unsuccessful marriage is recognized” (Badawi 17). Qardawi expounds the position of the *Shari'ah*: where the woman cannot bear to live with her husband, she has the right to free herself from the marriage bond by returning to her husband the *mahr* (required married gift) (Qardawi 218). He further states that in this case, the husband is expected not to ask for more than he has given her. Allah says:

... If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah there is no blame on either of them if she give something for her freedom. These are the limits ordained by Allah; so do not transgress them. If any do transgress the limits ordained by Allah such persons wrong (themselves as well as others). (Q. 2: 229).

Right to Custody of Children

In Islam, a divorcee who is a mother is entitled to custody of her children. She nurses young children and cares for the rest. This is in accordance with the Qur'anic injunction, which is as follows:

The mothers shall give suck to their offspring for two whole years if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child nor father on account of his child. An heir shall be chargeable in the same way if they both decide on weaning by mutual consent and after due consultation there is no blame on them. If ye decide on a foster-mother for your offspring there is no blame on you provided ye pay (the mother) what ye offered on equitable terms. But fear Allah and know that Allah sees well what ye do. (Q. 2: 233).

One can infer from the verse above that, while the mother who is a divorcee nurses the young children, it is the responsibility of the father to bear full cost of this care and equitably compensate the mother. In addition, he is responsible for their housing, clothing, and food even though they are in the mother's custody or home. Therefore, Islam gives the right to the custody of the child to the woman. As Abdal'Ati² puts it, "while this may be a potential source of tension and litigation, it may also be an effective channel of reconciliation and harmony" (Abdal'Ati 246). Therefore, Islamic law entrusts the custody of the child at his tender age to the lenient, tender and safe hands of his mother. Islam believes that, under normal circumstances, the safe and protective hands of the woman are the practical place to guarantee the interest and welfare of the child.

Right not to be Discriminated Against

Islam does not allow any kind of discrimination against women. The Qur'an considers the birth of a female child as a gift and a blessing from Allah and the same as the birth of a male child. For the Qur'an even mentions the name of a female birth as a gift. This is in accordance with the following verse: "To Allah belongs the dominion of the heavens and the earth. He creates what He wills (and plans). He bestows (children) male or female according to His Will (and Plan)" (Q. 42:49). The Qur'an effectively ended the cruel pre-Islamic practice of female infanticide (Wa'ad) "When the female (infant) buried alive is questioned for what crime she was killed" (Q. 81:8-9). The Qur'an goes further to rebuke the unwelcoming attitudes among some parents upon the news of the birth of a baby girl instead of baby boy. "When news is brought to one of them of (the birth of) what he sets up as a likeness to (Allah) Most Gracious his face darkens and he is filled with inward grief!" (Q. 43:17).

Thus, the woman being a daughter has gotten a very important and high place in the society. Therefore parents are duty-bound to support and show kindness and justice to their daughters. The prophet of Islam, being a model for the believers, was kind and loving to his daughter. Throughout his life time, it was narrated that "whenever he' (the prophet) sees his daughter

(Fatimah), he will stand up and give her his place to sit.” The prophet is reported to have said: “Whosoever has a daughter and he does not bury her alive, does not insult her and does not favour his son over her, Allah will enter him into paradise” (Rahman 395). He also said: “He who has three daughters, then he shows patience (on their birth) feeds them and gives them water to drink, and clothes them out of his (labour) riches, there will be curtain against the fire (of hell) for him on the Day of Resurrection.” (Ibn. Majah Vol.5, 120).

However, Muslim feminist argue that placing women in a subordinate role is altogether wrong. They assert that Islam enables women to exist in order to complement men and that Islam demands respect for women and offers them opportunities, to be learned, educate and trained, but also allows them to fulfill their domestic roles as wife, mother and home maker. (Courtwright: dspace.centre.edu...12)

According to Amina Wadud:

In every society, in every century, people have assumed that males and females are different not merely in basic anatomy, but in elusive qualities of spirit, soul and ability. They are not supposed to do the same things, think the same way, or share the same dreams and desires. (Wadud 35)

Scholars had divergent views as regards the saying of the Qur’an “but men have a degree (of advantage) over them (Q 2:228 and 4:34) Asghar regards it as a degree of social function (Asghar 45), Abdal’ati sees it as a degree of “Social parlance” which, according to him, can best be explained by role difference or role allocation (Abdal’ati 170 -180). Some jurists, such as Al-jassas are of the opinion that the woman must obey her husband although not absolute (Vol. 1, 443) He explains that this obedience falls only within what Allah (SWT) permitted and what He prohibited or that which violates the rights of Allah. To further support his argument, he cites (Q. 4: 34) as well as the tradition of the prophet where he was reported to have said: “If human beings were to prostrate before another, he would have ordered wives to prostrate before their husbands for God given rights of the latter over the former.” (Vol.7, 223). Other scholars are of the view that the statement refers to husband’s responsibility or obligations in the area of feeding, shelter and clothing. Whatever their arguments may be, the quotations above from the Qur’an as well as the prophetic tradition have thrown light on the fact that a woman in an ideal Islamic society must not be discriminated against on the grounds of sex. She is a full human being that possesses rights like her male counterpart. Such rights must enforced and protected.

Right to Participate in Public Life

The orthodox jurists, like Qutub, maintain the view that a women’s place is only in the house, to rear the children and take care of her husband’s needs. This idea stems from the orthodox interpretation of the following Qur’anic verse.

O Consorts of the Prophet! ye are not like any of the (other) women: if ye do fear (Allah) be not too complaisant of speech lest one in whose heart is a disease should be moved with desire: but speak ye a speech (that is) just. And stay quietly in your houses and make not a dazzling display like that of the former Times of Ignorance; and establish regular Prayer and give regular Charity; and obey Allah and His Apostle. And Allah only wishes to remove all abomination from you ye Members of the Family and to make you pure and spotless. (Q. 33: 32 -33).

Based on the verses above, the orthodox jurists maintain the view that women should not leave their houses except during an emergency situation and they must ensure that their entire body is covered including the face. The Liberal scholars, like Badawi and bin Baz, opine that women can go out and they can even partake in public activities, but with some restrictions. Thus, Muslim scholars held divergent views as to whether the women should participate in public life or not. Doi is of the opinion that, in the area of economic pursuit, Islam does not require women to participate in trade, vocations or professions unless it is very necessary. Doi does not approve of a woman working as secretary at all. He agrees that a woman can establish a business. He believes that women, can learn and establish small-scale cottage industries in their home. As for those women who are highly talented and have the opportunity to go to University for higher education, these women, according to him, can render great services for the upliftment of the society. He considers the teaching the profession as the best suited for women. Here again, he prefers the women to teach only small pupils or grown up ladies (Doi 177 -180). Iqbal¹ shares the same opinion with the liberal scholars. She further notes that, since the woman is equally responsible for reforming and restructuring the society along healthier lines, she is entitled to pool her efforts with men by influencing the political and socio-economic activities in the society (Iqbal 309). Lemu, a Muslim scholar, in her paper "The role of Muslim women in the 15th century Hijrah," says that Muslim women should go out to work as teachers in girls' schools (and also primary schools). According to her, Muslim women principals and teachers are ideally placed to guide their pupils and students in good ways and help them to grow up as good Muslims. She in addition encourages Muslim women to involve themselves in other professions, for example as doctors, nurses etc. These arguments, according to her, are incontestable in respect of the professions of education, medicine, and nursing and apply to a number of other fields such as social welfare, agricultural extension work among women, women's journalism and broadcasting and so on. She goes on to say that the prophet has never given any statement or prohibition, regarding the woman going out to work, or mentioned any field of study or work that was prohibited to women (Lemu 73). Therefore, the Muslim woman is encouraged to participate in public life for the betterment of her own self, her family, her community and the entire *Ummah* (society). While she does that, she should be able to abide by the rules of the *Shari'ah* regarding her appearance when she goes out. Allah says: "O prophet! tell thy wives and daughters and the believing women that they should cast their outer garments over their persons (when abroad): that is most convenient that they should be known (as such) and not molested: and Allah is Oft-Forgiving Most Merciful." (Q. 33:59).

In another place, Allah says:

And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands their fathers their husbands' fathers their sons their husbands' sons their brothers or their brothers' sons or their sisters' sons or their women or the slaves whom their right hands possess or male servants free of physical needs or small children who have no sense of the shame of sex; and that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! turn ye all together towards Allah that ye may attain Bliss. (Q. 24:31).

We can infer from the verse above from the Glorious Qur'an that the most precious ornament of a woman is modesty and the best expression of modesty is in lowering the gaze.

In line with these verses (Q. 33: 32-33 and 59), the history of Islam is replete with women's activities, rising from their participation in jihad, trade, education and participation in the mosque activities. The period that followed this first generation of Muslims, women were to operate as partners of men partaking in decision-making; they were always in the mosque during Friday *khutbah*, even taking arms in *jihad* and also participating actively in the running of the affairs of the Ummah, throughout the period of *khulafaur Rashidun*. The early Abbasid woman enjoyed the same liberty as her Umayyad sister but towards the end of the tenth century, under the Buwayhids, the system of seclusion and absolute segregation of the sexes had become general (Hitti 333). Therefore, the illustration above in the area of preventing the woman from public participation when broadly viewed signifies a complete negation of Qur'anic injunctions, prophetic *Sunnah* as well as the practice of the early Muslim communities.

Right to Participation in Politics

Muslims are fond of saying that Islam is a complete system of peaceful life, unity and justice. Therefore, it is the right of a woman to be politically aware and active. Allah in His Glorious Qur'an defines the relationship between races, tribes nations and the two sexes. He says:

O mankind! We created you from a single (pair) of a male and a female and made you into nations and tribes that ye may know each other (not that ye may despise each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things). (Q 49:13).

The verse above shows that the most superior or best person is not the male or female but the most righteous. Furthermore, in *Surah al-Tawbah* Allah makes it incumbent upon Muslim men and women to enjoin good and forbid evil for which alone Allah has provided for them everlasting bliss. He says: "The believers men and women are protectors one of another: they enjoin what is just and forbid what is evil: they observe regular prayers practice regular charity and obey Allah and His apostle. On them will Allah pour His mercy: for Allah is Exalted in power Wise." (Q. 9: 71).

This obligation of commanding and ensuring what is good in the society as well as suppressing evil in it is the very essence of governance, and therefore of politics in Islam. This, therefore, means that politics in Islam is a stage where both men and women could succeed.. Historical records show that women participated in public life with the early Muslims, especially in times of emergencies. Women used to accompany the Muslim army to the battlefronts to nurse the wounded, prepare, supply and serve the warriors. (Nadvil et al): 247). They were not shut behind iron bars or considered worthless and soulless creatures. An example can be cited here from the life of prophet Muhammad (SAW) where many traditions show that in Madinah, women worked in various fields. Aisha the favourite wife of the prophet (SAW) participated in the political affairs of the Ummah (Doi: 141).

One major issue as regards politics and women in Islam is the issue of women leadership role. In other words, can a woman take a leadership role? Is it prohibited?

However, one finds in Q. 27: 22-44 that Bilqis, the Queen of Sheba, was in a ruling position. She represented a democratic ruler who consulted with her people before making important decisions. She visited Solomon (Suleiman), talked to him and made decisions for herself and her people. Bilqis, according to the Qur'an was a woman who led her people well, was just and administered them with intelligence and wisdom, saving her people from war that was

destructive. In the Sunnah, there is one Hadith which prohibits women from attaining a position of leadership. The Hadith was reported by Abu Bakr who said that the prophet (SAW) said “A nation (or people) which entrust its affairs to a woman will not succeed” (Al- Bukhari, Vol 2, 1059). It is this saying of the prophet (SAW) that is often quoted to prohibit female ascendancy to the position of leadership.

The question now is: should women continue to exempt themselves from politics or leadership positions? Human society is ever developing and circumstances are ever changing. Presently we are in the era of women’s human rights. As a result, the government of Nigeria has allocated a certain quota in the civil service sector to the female labour force. If the *‘Ulama* and the Muslim community continue to prohibit Muslim women from participating in politics, there is no doubt that a gap will be created and which cannot be filled with Muslim men but the non-Muslim women in the country. This is another challenge to the Muslim *Ummah*. There are a lot to do by the Nigerians especially law makers to make Nigeria socio-political arena appropriate for Muslim Women to participate in politics. Therefore, Muslim Women ought to participate in politics, if only because of the obligations they owe to the establishment of enjoining what is good and forbidding what is evil. In addition, some women are more gifted with wisdom and talents than some men. The *Ummah* can benefit from such talented women by giving them the opportunity of making good use of the gift from Allah. We need to recall how the wisdom of Umm Salamah saved the whole community at Hudaibiyah. Here we are not saying that women must be voted to the highest office at all costs, rather than the emphasis should not be based on sex but on faith and competence.

Right to Evidence

Another area of criticism is the position of a woman as a witness in Islam. In other words, doubt has been thrown on the principle of equality between man and woman on the ground of a verse of the Qur’an regarding testimony, which records;

... And get two witnesses out of your own men and if there are not two 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 witnesses should not refuse when they are called on (for evidence). Disdain not to reduce to writing (your contract) for a future period whether it be small or big: it is just in the sight of Allah more suitable as evidence and more convenient to prevent doubts among yourselves; but if it be a transaction which ye carry out on the spot among yourselves there is no blame on you if ye reduce it not to writing. But take witnesses whenever ye make a commercial contract; and let neither scribe nor witness suffer harm. If ye do (such harm) it would be wickedness in you. So fear Allah; for it is Allah that teaches you. And Allah is well acquainted with all things. (Q. 2: 282).

Commenting on the verse above, some Muslim jurists maintain the general view that one male witness is equitable to two female witnesses in all matters that demand witnesses. This implies that Islam makes woman equal to one half of a man; therefore, the man is superior to the woman.

Other jurists however, carefully looked into this verse and opined that such an interpretation is wrong. Omran, in his opinion on this verse, believes that the verse is actually only dealing with contracts. Therefore, it is not a general rule (Omran 56). He further explains that in cases such as business contracts, violence and murder, Islam seeks to protect women’s compassionate nature, thereby lightening the burden of the women rather than curtailing their equal rights. He

further states that, just like in inheritance, there are some instances where a woman is more competent as a witness than a man. These include, birth, defloration, defects and injuries of a woman's body. He also cites an example of instances where a woman's witness equals that of a man. For instance, in a situation where the man accuses his wife of adultery, and he is unable to produce four witnesses to the act, the husband and the wife will be asked to swear four times by Allah in accordance with the Qur'an.

And for those who launch a charge against their spouses and have (in support) no evidence but their own their solitary evidence (can be received) if they bear witness four times (with an oath) by Allah that they are solemnly telling the truth; And the fifth (oath) (should be) that they solemnly invoke the curse of Allah on themselves if they tell a lie. But it would avert the punishment from the wife if she bears witness four times (with an oath) by Allah that (her husband) is telling a lie; And the fifth (oath) should be that she solemnly invokes the wrath of Allah on herself if (her accuser) is telling the truth. (Q 24:6-9).

Omran, therefore, concludes that, based on these facts women are equal to men in providing witness as for the act of adultery, and in proof of innocence (Omran 56).

Nazlee, Khan and Asghar share the view that Q2:282 mentions two female witnesses and one male witness in reference only to financial matters or contracts (Nazlee 72, Khan 146, Asghar 63-64). While Nazlee maintains that many women are not particularly familiar with financial matter, Asghar says that there is no mention of any other kind and yet the jurists have concluded that in any matter financial or otherwise a woman should be treated as a half witness. Nazlee, Khan and Asghar, therefore, submit that, although two women witnesses as in place of one male is mentioned the injunction of the Qur'an requires that the other's function being nothing more than reminding the principal witness incase she falters (on account of her inexperience in financial matters) (Nazlee 72, Khan 146, Asghar 63-64). This is also the position taken by many modern scholars. Khan in his book "Woman between Islam and Western Society", states that, the phrase "so that if either of them forgets the other will remember" makes it clear that in such credit dealings, what has to be considered next in importance to justice is memory (Khan 146).

Asghar goes further to prove his point by saying that there are seven other verses recording witnesses in the Qur'an which do not necessarily treat women the same way. One of such verses he cites is:

O ye who believe! when death approaches any of you (take) witnesses among yourselves when making bequests two just men of your own (brotherhood) or others from outside if ye are journeying through the earth and the chance of death befalls you (thus). If ye doubt (their truth) detain them both after prayer and let them both swear by Allah: "We wish not in this for any worldly gain even though the (beneficiary) be our near relation: we shall hide not the evidence before Allah: if we do then behold! the sin be upon us!" (Q. 5: 106).

This verse, according to him, indicates that when a person is about to die, he can choose from among his own people two witnesses to what he has to say by way of a bequest. He categorically explains that here the words used for two witness are '*ithnan' dhawu 'adlin'*' (two just persons). No gender has been mentioned (Asghar 65). To sum up, it is clear from the explanations above that Islam considers each gender's biological make-up in assigning obligations or responsibilities. While there are cases of witnesses where the gender issue

matters, in some instances the issue of gender does not even arise as can be seen in examples above.

Right to Own Property

Men and women are also equal in their rights of realizing their material needs in the world including similar rights to hold property, and dispose of it as they should wish. They are free to mortgage it, to give it out in lease, or bequeath it, sell or buy it or exploit it for their benefits. The Qur'an says "to men is allotted what they earn and to women what they earn" (Q. 4:32).

The verse above shows that Islam grants women the right to independent ownership, something of which women had been deprived up to the advent of Islam, and in many parts of the world for centuries afterward. For Instance, the English common Law has it that: All real property which a wife held at the time of marriage became a possession of her husband. He was entitled to rent from the land and to any profit which might be made operating the estate during the joint life of the spouses (*Encyclopedia America*, Vol. 29. 108).

Right to Inheritance

In Islam, both males and females are entitled to a certain portion of the property of their deceased relatives. The Qur'an says. "From what is left by parents and nearest relation there is a share for men and a share for women, whether the property be small or large, a determinate share" (Q. 4: 7). However, due to differences of roles and responsibilities rather than superiority based on gender, the general rule is that the female share is half of the male share, and if there are no male children, the Qur'an stipulates what the share of the female should be.

Allah (thus) directs you as regards your children's (inheritance): to the male a portion equal to that of two females: if only daughters two or more their share is two-thirds of the inheritance; if only one her share is a half. For parents a sixth share of the inheritance to each if the deceased left children; if no children and the parents are the (only) heirs the mother has a third; if the deceased left brothers (or sisters) the mother has a sixth. (The distribution in all cases is) after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah and Allah is All-Knowing All-Wise. (Q. 4: 11).

The verse above goes on to explain the share of the mother to the deceased, which is a sixth of the whole property but increased to one-third if the deceased does not leave behind children, brothers or sisters. Thus, the Qur'an does not leave women out of the shares of inherited property, the distribution is clearly defined. Even as a wife, she is entitled to the property of her deceased husband. Furthermore, some scholars and feminists believe that Islam shows preference or supremacy to the man over the woman in the case of sharing inheritance. This is because, in some instances the man receives higher shares whereas the woman sometime receives or gets less. But, such an explanation probably seems unsatisfactory to Muslim scholars, who would suggest instead another explanation.

Abdal'Ati explains that, in the Islamic society, women are free from the usual economic responsibility. They are not duty-bound to provide for any person not even for themselves. If they have no independent resources, they are to be fully maintained by their able male relatives. The wife is to be maintained by her husband, the sister by the brother, the mother by the son,

the daughter by the father, etc. Thus, the man has to cater for himself and for other dependents (Abdal'Ati 269). So, when a man sometimes receives a larger share of inheritance, it is in recognition of his manifold roles and in partial compensation therefore.

Iqbal² states that the share of the daughter was not determined because of any inferiority inherent in her "but in view of her economic opportunities, and the place she occupies in the social structure of which she is a part and parcel" (Iqbal² 170). He further says that the daughter, according to Muslim Law, is regarded as the full owner of the property given to her both by the father and the husband during the period of marriage while at the same time absolutely owning her dowry which may be immediate or deferred according to her own choice and under the terms of which she can hold possession of the whole of her husband's property till payment is made. The responsibility of maintaining her throughout her life is entirely husband's responsibility (Iqbal² 170).

As – Sabuni, who shares the same opinion with Abdal'ati and Iqbal argues that, the Islamic Law has generally put greater economic responsibility on men while women's role economically is comparatively speaking much lighter. He continues by saying that the man gives Sadaq to his wife. He is responsible for accommodation, feeding and clothing for both wives and children. School fees for the education of children are the man's responsibility. He is also responsible for their health and medication for both the wife and children. All other expenses, apart from the above mentioned ones, so long as they are recognized by *Shari'ah*, are his duty (As-Sabuni 15-16). To support his argument, he cites a verse from the Qur'an where Allah says: "Let a man of wealth spend from his wealth, and he whose provision is restricted let him spend from what Allah has given him..." (Q. 65:7). It should also be noted that in some instances, the female inherit more or less than men. The following Qur'anic verses shed more light on this issue.

In what your wives leave your share is a half if they leave no child; but if they leave a child ye get a fourth; after payment of legacies and debts. In what ye leave their share is a fourth if ye leave no child; but if ye leave a child they get an eighth; after payment of legacies and debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister each one of the two gets a sixth; but if more than two they share in a third; after payment of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah and Allah is All-Knowing Most Forbearing (Q. 4: 12).

In his explanation, Omran says that the share above might differ according to circumstances. (52–54). He further categorises these different circumstance of varying shares between male and female inheritors.

- i) Higher shares for the males: The son takes twice as much as his sister, if the deceased is their father.
- ii) Equal shares for males and females: the female takes an equal share to that of male if the deceased is their son who has children of his own; "And to parents (of the deceased) a sixth each of inheritance if he has children".
- iii) Equal shares to brothers and sisters: Brothers and sisters who are distant heir: "to each of them twain (The brothers and sisters) the sixth.

- iv) Higher shares for females than males: The female who is a daughter (with no siblings) of the deceased takes half and his father takes one sixth; ‘and if there be only one (daughter) then, the half and to parents of the deceased a sixth each.

Omran therefore concludes that laws of inheritance cannot be taken to infer the relative status of females and males in Islam (Omran 52 – 53).

From the explanations above, it can be said, therefore, that the fact that a woman gets half of what a man gets, contrary to criticisms of being an unfair treatment, is a better deal since the woman (mother, wife, sister and daughter), in an Islamic Society is expected to be the financial responsibility of her husband or any recognized male guardian.

FEMINISTS VIEW ON ABORTION AND LESBIAN RIGHTS AND THE ISLAMIC POSITION

Abortion Right

There has been a debate within feminism over abortion between the pro-choice feminism and pro life feminism. Pro-choice feminism views the right to an abortion as integral to a woman’s right to sovereignty. According to this group, without abortion, women would unjustly be forced into motherhood. This group also argues that denying the right for women to choose to have an abortion forces them into submissive roles in society. According to this group, pregnancy works to condemn woman to second class citizenship. Again, the group argues that once a woman becomes a mother, her resources to education, employment, and health care become severely limited. Gaining the access to safe and legal abortions finally allowed a woman to have the basic rights of controlling her own body (Abortion and women’s rights...). Pro-life feminism (feminist for life) recognizes that abortion is a symptom of, not a solution to the continuing struggles women face in the workplace, home and in the society. Their emphasis is on addressing root causes and promoting solutions – from prevention to practical resources. The research arm of planned parenthood reports that women ave abortions for two primary reasons: lack of financial resources and lack of emotional support. (The feminist case against abortion...).

The early 1900s American feminists condemned abortion in the strongest positive terms. For instance Susan B. Anthony referred to abortion as “child murder” and viewed it as a means of exploiting both woman and children. Alice Paul, who drafted the original version of the Equal Rights Amendment, referred to abortion as “the ultimate exploitation of women.”

Some feminists still oppose abortion on these and ‘other grounds (BBC –Ethnics-Abortion...)

Abortion according to Islamic law is forbidden and legally punishable. Zubair(23) states that some scholars are of the view that abortion if it takes place before the quickening of the embryo i.e. during the first three to four months of conception does not entail destruction of any real life and therefore not punishable.

Accordting to him, other scholars consider it the killing of a potential life which is forbidden. In other words, before 120 days opinions of Muslim jurists are varied. The sound view, however, is in the direction of prohibiting it at any stage of pregnancy except in the constrained circumstances(Zubair 22).

Infact all other means of terminating life or preventing procreation had been forbidden.

The Qur'an states: "They are lost indeed who kill their children foolishly without knowledge and deny what Allah has given to them, forging a lie against Allah." (Q. 6:140.)

The above verse shows that to deprive oneself in any form of the blessing of progeniture has also been described as *Khusran*, i.e. a great loss.

Zubair explains the view of Sheikh Sharabasy, one of the proponents of family planning in Egypt as, any completely stopping natality, recurring to sterilization and any surgical operation that may incapacitate the persons from having offspring is prohibited in Islam. And thus compared these methods with infanticide to conclude on the same rule (Zubair 22.) It should be noted however that scholars unanimously agree that, if it is reliably established that the continuation of the pregnancy would result in the death of the mother. Then in accordance with the general principle of the Shari'ah, that of choosing the lesser of two evils, abortion may be performed. This is only exceptional situation.

Thus AlQardawi quotes the Fatawa given by Sheikh Shaltut saying:

For the mother is the origin of the foetus: moreover, she is established in life with duties and responsibilities and she is also a pillar of the family, it would not be possible to sacrifice her life for the life of a foetus which has not yet acquired a personality and which has no responsibilities or obligations to fulfill. (AlQardawi 202)

Thus, apart from this condition of danger to the mother's health, under no circumstance should a pregnancy be aborted for fear of economic pressure or over population. Pertaining to this, Allah said in the Qur'an: "...kill not your children on a plea of want, we provide sustenance for you and for them...." (Q. 6:151.)

Lesbian Right

Lesbian feminism argues that all women can and should become lesbians in order to invest the majority of their energy in giving love and support to women. Lesbian feminists opine that to continue having sexual relationships with men is to remain caught in the oppressive heterosexual pattern in which the fact that discriminatory employment laws prevent women from earning as much as their male partners or even enough to pay the cost of a good-quality, full-time babysitter is used to pressure married women into giving up their careers and becoming housewives financially dependent on men. Even bisexual women in sexual relationships with male partners are encouraged by lesbian feminism to leave their male partners have sexual relationships exclusively with women. (lesbian feminism...1) Some famous lesbian feminists include: Rita Mae Brown, Judy Grahn, Susan Griffin, Audre Lorde, Robin Morgan, Adrienne Rich, etc.(Lesbian feminism1).

Lesbianism or sexual relation between one woman and another is a punishable offence according to Islamic law, thou no specific punishment is given in the Qur'an, it is based on the Qadi's (judge's) discretion (Zakariyya 189). In other words, the Muslim scholars agreed that there is no *hadd* (capital) punishment for lesbiansm because it's not adultery rather it is to be punished with a *ta'zir* (deterrent) punishment in which the judge punishes the one who does that with a punishment which will deter her and others from doing this illegal action(islamical.info>principles...1)

According to Ibn Qudaamah: “If two women masturbate one another, then they are called funicators” (Ibn Qudaamah 162). The lesbian’s testimony is not acceptable because she is an evil doer (Zakariyya 189).

CONCLUSION

If women in the Muslim world are subjected to various forms of denials of rights, it is not because of Islam, rather it is because Islam has been abandoned in practice and misrepresented by some scholars. Women’s feminist organizations and human right organizations have strive to formalize these rights in legislation and struggle to see to their enforcement. Muslim scholars both male and female have role to play in this regard. They should embark on massive enlightenment campaigns to educate the people on the shari’ah (Islamic law) its positive attitude towards gender equality and the right of all human beings. These rights should be published into various languages and inform of portable manuals and made available to women in the Muslim parts of the country in particular and in the entire world in general. The Muslim scholars have a very important role, to specifically look at such practices which affect the rights of Muslim women and preached directly against these odds. This will enable Muslims to know the specific practices being attacked so as to refrain from such un-Islamic activities.

For women whose husbands are unable to provide for their children, assistance would come from both private and public sources to protect children by providing the basis, including affordable quality child care, and education and employment opportunities for the mothers. Finally the government should empower young women and men to make life easy.

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