

A Study on Women Assuming the Position of Judiciary

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ABSTRACT: *This study aims to clarify and explain the conditions for assuming the position of the judiciary in Islamic law. In addition, it discusses the position of contemporary jurists on the assumption of the position of judiciary by women, who in turn were divided between supporters and opponents with providing the evidences. This study clarifies that the profession and existence of the judiciary is in order to show the right and rule on the basis of returning rights to their owners, and separating the litigants with justice. The study shows that the jurists are unanimously agreed that the judiciary is nothing but the settlement of disputes, and the clarification of the legal ruling in order to obligate the opponents to the ruling of the judge. In addition, the dispute over the issue of women assuming the position of the judiciary is neither new nor a product of the current era. Since the dispute in it has existed since antiquity, and the evidence is that there are many different opinions on the subject, but there has been much talk about it with women occupying many positions in the current era, including the position of the judiciary. After research and analysis, we chose the opinion in favor of women taking over the judiciary, however, it has to be within the limits and controls of Islamic law.*

KEYWORDS: judiciary, woman, position of the judiciary, opposing jurists, supporting jurists, punishments, retribution.

INTRODUCTION

Researching on the issue of women assuming the position of judiciary, is the best evidence of the position of women in Islam, and the extent of the value and the high degree that Islam bestowed upon them. At the time of 'Jahilia' (the time before Islam) a woman was a commodity that was sold and bought at a cheap price for the sake of service or enjoyment, women were deprived of their lowest and simplest rights, even their right to live, as most of them were buried as soon as they were born. Islam raised the status of the woman, and granted her all her rights, made her the sister of the man, and restored to her all the rights and privileges that had been taken from her and even made her half of the society. Her stature did not stop at this point, but rather allowed her to assume the highest sovereign positions in the Country¹.

In the current era, women have made great gains in the field of law; they worked in the judiciary, in addition to working in the field of law and legal advice. This profession, which was the focus of attention

¹Saleh, Jamal Abdel Jalil, (2013). The ruling on women assuming the position of the judiciary: a comparative jurisprudential study, *Al-Quds Open University Journal for Research and Studies*, No. (30), p. 148.

only for men, is now occupied by women, and in many countries female judges are appointed to family courts and lower civil courts, and it is forbidden to promote them to higher courts related to state security issues. However, the presence of female judges in the International Criminal Court is an indication of gender equality and women's empowerment in the international community, and their participation in decision-making circles¹.

It is worth noting that in the Arab region, the State of Palestine is the first country in the region to allow women to hold the position of judge in Sharia courts, including Judge Asmahan Yousef Al-Wahidi and Judge Kholoud Muhammad Ahmad Faqih in the courts of Hebron and Ramallah. Judge Samoud Al Dhamiri, Head of the Personal Status Prosecution in the Sharia Courts². The jurists varied regarding the ruling on women taking up the position of the judiciary, in the past and in the present, with the passage of time, great changes have happened. Nowadays, there is a great scope for women to be involved in the various fields of work that were previously only assumed by men including the judiciary. The dispute between scholars on this subject has widened, some of them permitted it absolutely, and some of them permitted it in some issues only, and some of them rejected it completely, so through this research we will clarify the statement of the Sharia ruling on women taking the position of judiciary in the light of contemporary developments.

Research problem and questions

The problem of this research emerges in the difference of opinions on the issue of women taking over the position of judge and the statement of the point of Islamic Sharia regarding it from the point of view of contemporary scholars, and accordingly, the research questions come as follows:

1. What is meant by the judiciary, what are its purposes, and what are its conditions?
2. What is the point of contemporary jurists on the assumption of the position of judge by women?

Research importance

The importance of the research is manifested in the need to refer to and resort to the application of Islamic law in contemporary and emerging issues that society deals with. That includes the issue of women taking over the position of judiciary, which did not exist in the past, nor was it accepted by custom or tradition. This goes in accordance with the need to adhere to the foundations and controls that accompanied them and to refer to 'fatwas'(advisory opinions) and the opinions put forward by the majority of contemporary scholars and jurists, and to discuss the different points of view on the subject.

¹Moghadam, V. (2006). Women , Law , And Judicial Decision Making: A Regional And Comparative Overview, Women, Law, And Judicial Decision –Making In The Middle East And North Africa: Toward Gender Justice, Amman, Jordan, P. 5.

²Economic and Social Committee for Western Asia, (2019). Women in the Judiciary in the Arab States Removing Barriers, Increasing Numbers, United Nations, Beirut, P. 7.

Research aims

This research aims to elucidate the issue of women becoming a judge and to clarify the opinions and fatwas put forward by contemporary scholars in it, through the following:

1. Clarifying the meaning of the concept of judiciary and clarifying its importance, purposes, and conditions.
2. Discussing the point of contemporary jurists on the assumption of the position of judge by women.

LITERATURE REVIEWS

The research sought to collect some of the previous studies and literature reviews related to the topic of the current study, which is the assumption of the position of judiciary by women, and the following is a presentation of the most important studies that we obtained, ranked from newest to oldest:

The study of Al-Jilali Muhammad, Yasser Al-Tarshani and Asad Mwanzi, entitled “Women’s Jurisdiction between Islamic Jurisprudence and Algerian Law: A Comparative Study, 2021.” The research also¹ focused on the need to refer to the application of the Islamic Sharia in every emerging contemporary issue while adhering to the controls that it set to highlight the civilized face of Islamic Sharia, and the extent of its realism, flexibility and suitability for application in every time and place. As for the study of Jawad Tabar and Hassan al-Kindi, it was titled “Women’s Judicial Performance: A New Jurisprudential Reading, 2019².” The researcher started the study by focusing on the fact that women constitute half of society and are men’s partners in the wide field of life, and each of them has varying characteristics and advantages according to the talented preparations of each. Just as God, the Most High, assigned the woman the same as the man, and made them all obligated to legal duties according to the rule of participation, except for what came out with evidence and text. The function of the judiciary is one of those functions and assigning it is among those costs. Therefore, preventing women from being judges needs evidence, and the evidence that was established on Preventing a woman from serving as a judge was deficient and falling short of what is required in a text. The study concluded that depriving society of women’s performance of the judicial function is considered a neglect of the legitimate and humane interests that are made regarding the legal provisions in their matters.

In addition to the study of Daoud Salman Muhammad, entitled “**The Ruling of Women’s Judiciary: A Comparative Jurisprudential Study, 2016³**”. The study aimed to define the judiciary and clarify its legitimacy, wisdom and status, and define the conditions and etiquette of the judiciary, and then the researcher relied on the most important pillar in it which is a dispute of the jurists regarding women

¹ Jilali, Muhammad and Tarshani, Yasser and Mwanzi, Asad, (2021). Women’s Judiciary between Islamic Jurisprudence and Algerian Law: A Comparative Study, Al-Rasikhoon Journal, Volume (7), No. (1).

²Tabar, Jawad Habibi and Al Kindi, Hassan Ojjeh, (2019). Women’s Judicial Performance: A New Jurisprudential Reading, Journal of the Islamic University College, Volume (1), Issue (53).

³Muhammad, Daoud Salman, (2016). The ruling on women taking over the judiciary: a comparative jurisprudential study, Journal of the College of Basic Education, Volume (22), Issue (96).

assuming the judiciary. The researcher reached some conclusions, including the argument of scholars in the ruling on women assuming the judiciary, due to their difference in the conditions that qualify for the position of judiciary.

While the study of Jamal Abdel-Jalil Saleh was entitled “**The Ruling of Women assuming the Position of the Judiciary: A Comparative Jurisprudential Study, 2013**”¹, and focused on the ruling on the employment of women to the position of the judiciary. In addition to Sunnah, unanimity and reasonability, then clarify the issue of women assuming the position of judge, then presented the opinions of the jurists on the ruling on women assuming the position of judge and discussed the opinions to reach a more correct opinion on the issue.

Finally, the paper presents the study of Nasr Abdel Karim Awad, which came under the title “**The Ruling of Women’s Judiciary in the Light of Contemporary Developments, 2012**”.² The study exposed a statement of the meaning of the judiciary from a linguistic point of view, the Noble Qur’an, the Noble Prophetic Sunnah and the terminology of jurists. It gives a statement of the importance of the judiciary and some evidence for intimidation and encouragement. The study included the changes that have occurred in the nature of the judiciary now, such as the change in the participation of women in public life. In addition to mentioning the sayings of contemporary scholars regarding the ruling on women taking over the judiciary, as some of them said that it is permissible and some of them said that it is forbidden.

Legitimacy of the judiciary

Judgment is defined in the language as: ruling, conclusive, and separating, and it is said to adjudicate so-and-so. **Deciding a thing:** making it up, signing it, and completing it³

Conditions that must be met by a person holding a judicial position

The jurists stipulated a set of conditions that must be met for an individual to assume the position of judge, and among these conditions are what the jurists agreed upon, which is that the judge must be sane, adult, Muslim, can hear, speak and see. Including what they differ about, such as justice, attentiveness and masculinity, and the following is a detailed presentation of these conditions:

1. **The judge must be Muslim:** The judge must be Muslim. As the judiciary is considered part of the general jurisdiction that does not belong to a non-Muslim⁴.

¹Saleh, Jamal Abdel Jalil, (2013). The ruling on women assuming the position of the judiciary: a comparative jurisprudential study, previous reference.

²Awad, Nasr Abdel Karim, (2012). The ruling on women’s access to the judiciary in the light of contemporary developments, Master’s thesis, Nablus: An-Najah National University.

³ Ibn Manzur, (1995). Lisan Al Arab, Beirut: Dar Sader, p. 3651

⁴Al-Mawardi, Abul-Hasan Muhammad, (1983). Sultanate rulings and religious states, Algeria: Diwan of University Publications, p. 59..

2. **That the judge must be an adult:** This is because the testimony of a non-adult is rejected, so how is the case if he is a judge?¹

3. **That the judge must be sane:** whoever takes over the judiciary must be sane, because a sane person is the one who is assigned².

4. **That the judge must be free:** The jurists stipulated that whoever is entrusted with the position of judge must be free and not a slave who obeys the orders of his master, so how can a judge judges people when he has not own his freedom?³

5. **That the judge must be just:** Shafi'i, Hanbali, and Maliki jurists stipulated justice when taking up the position of judge. The judge must be "apparently honest, chaste from forbidden things, avoiding sin, ⁴ free from doubt, safe in contentment and anger, acting chivalry in his religious and life matters."⁵

6. **That the judge must be of sound senses:** the integrity of sight, hearing, and speech is required for those who hold the position of judge. This condition was set by the Hanafis, Shafi'is and Hanbalis; he is of sound hearing because the deaf does not hear the words of the two opponents, sound of sight because the blind does not distinguish the plaintiff from the defendant, and of sound speech because the mute cannot pronounce the judgment⁶.

7. **That the judge must be male:** The jurists differed in this condition, some of them stipulated masculinity for the judge and some did not require it, and some of them stood between the two opinions.

Contemporary jurists' opinions on women's assumption of the position of judge

The issue of women's occupation in the judiciary is one of the problems that occupy a large space in legal thought, because it is linked to a larger issue, which is the work of women in general. Especially since there is no doubt that the working woman represents an important component of comprehensive development, as she constitutes half of the society, which bears a great burden of making progress and development, as well as the burden of raising children in her family. In addition to her role in positive participation in building future generations and raise them properly.⁷

¹Al-Shawkani, Muhammad bin Ali, (2004). Neil Al-Awtar, Explanation of Muntaqa Al-Akhbar from Sayyid Al-Akhbar's hadiths, Beirut: International Ideas House, p. 1704.

² Al-Mawardi, Abul-Hasan Muhammad, (1983). Sultanate rulings and religious states, Algeria: Diwan of University Publications, p. 59.

³Al-Mawardi, Abul-Hasan Muhammad, (1983). Sultanate rulings and religious states, previous reference, p. 59.

⁴Al-Mawardi, Abul-Hasan Muhammad, (1983). Sultanate rulings and religious states, previous reference, p. 59.

⁵Al-Maliki, Khalil bin Ishaq. (2004). Khalil's Summary in the Fiqh of the Imam of Dar Al-Hijrah, 2nd Edition, Dar Al-Madar Al-Islami, Beirut, p. 313.

⁶ Al-Bahooti, Mansour bin Younes, (1993). Explanation of Muntaha al-Iradaat: called Mina'at Uli al-Nuha for Sharh al-Muntaha, previous reference, pg. 464-465..

⁷Al-Osaili, Sherine (2014). Women's assumption of the judiciary between restriction and divorce: a comparative study in the light of Islamic Sharia provisions and man-made laws, Journal of the Kuwait International Law College, Volume (8), Number (5), p. 105.

The issue of women assuming the position of the judiciary is a subject of much discussion and disagreement about its ruling, as it is one of the vital issues in which knowledge of the ruling is always required. We are now in an era in which women have assumed all the significant positions just like men, and they have proven their worth and superiority. The dispute over the legality of women assuming the position of the judiciary gains its importance from the fact that the issue of women is a vital issue in the social and political reality of the Islamic state, and not just an issue of theoretical and intellectual research. Everything related to women in terms of values, traditions, customs, legislation and institutions has become an area for civilized conflict, and an area for testing the validity and universality of the Islamic project, which still needs to establish a clear contemporary vision for the issue of women and political action, in order to become a basis for actual practice on the ground.¹

Since this research deals with the issue of the judiciary in general and the opinions of jurists regarding women assuming the position of the judiciary in particular. Therefore, this part will be devoted to highlighting some ‘fatwas’ and research launched by contemporary jurists in this regard, which came between supporters and opponents, and the beginning will be with the jurists opposing the assumption of women’s work in the judiciary.

Opinions against women's assumption to the judiciary

Sheikh Mustafa Al-Zarqa’s opinion: The Sheikh believes that the distribution of jobs between women and men is not based on merit. He also sees that the physiological nature of women is different from that of men, so the jobs that suit men and their competencies do not necessarily suit women and their competencies and vice versa. It is not enough that a woman proves her worthiness for the judiciary in order to be assigned to her, as it is not one of her natural functions, and when working in the judiciary, she will give up another field that is more worthy of work than the man. Therefore, the judiciary should not be made one of the women’s jobs and public rights.²

The opinion of Dr. Muhammad Abu Fares: He stated his opinion on women’s entrance to the judiciary in his book “The Judiciary in Islam” as follows: “The one who looks at the sayings of the jurists and their evidence will find that the opinion of the public, which prevents women from taking over the judiciary, is more correct than the many evidences that they give, for the man is more efficient than the woman. The judiciary and the rest of the states, that is why he is prior to them, and those who permit the guardianship of women to the judiciary give precedence to the woman over the man, so they give precedence to what God has delayed, ” then he said: “If we accept that the verse of guardianship is related to responsibility in the family and is not general, then the argument remains valid, if the woman is incapable of managing a family consisting of a group of individuals that do not exceed the fingers of two hands, so it is more

¹ Al-Jansh, Spirituality, (2012). Women’s Assumption of the Judiciary: A Contemporary Jurisprudential View, Cairo: Al-Azhar University, p. 5.

². Qudah, Muhammad Tohme, (1998). General guardianship of women in Islamic jurisprudence, i 1, Amman: Dar Al-Nafais, pp. 137-138

appropriate to be more helpless in managing people's affairs, adjudicating their disputes, and solving their problems."¹

The opinion of Sheikh Muhammad Abu Zahra: He says "The scholars are unanimously agreed that the one who appoints women as judges is sinning, and that those who invoke Abu Hanifa's opinion have erred."²

Sheikh Abdul-Aziz bin Baz's opinion: He says in his 'Fatwas' that "women's preoccupation outside the home leads to men's unemployment and the loss of the nation, the family's inconsistency and the collapse of its edifice, and the corruption of children's morals, and leads to falling into a violation of what God told in his book of the guardianship of men on women," Islam has been keen to keep women away from everything that contradicts their nature, so it prevented them from assuming public authority such as the presidency of the state, the judiciary and all that has public responsibilities, so it opened the door for her to go down to the field of men considered to be contrary to what Islam wants of her happiness and stability.³

Previous jurists relied on some legal evidence in their prohibition and opposition to women taking up the position of judge, including: **The Noble Qur'an:** They were based on the Almighty's saying: "**Men are the protectors and maintainers of women because Allah has made one of them excel over the other, and because they spend out of their possessions (to support them)**" (Surat An-Nisa: 34). Where the jurists have interpreted this verse as if the general guardianship is assigned to the woman and she becomes the ruler of her husband, how will the man exercise his guardianship over her, and will her husband's guardianship be limited to her only in the home. Alternatively, will his guardianship be rejected absolutely over her by virtue of her general guardianship?⁴

The Noble Prophetic Sunnah: it is based on the hadith narrated by Al-Bukhari on the authority of Abu Bakr Al-Siddiq - may God be pleased with him - where he said: "Those people will not succeed who entrust their affairs to a woman." and that was said when the Messenger of God informed that daughter of Kisra⁵ had become the ruler of the people of Persia. People who entrust their affairs to a woman are included in the hadith. Therefore, those who assign the judiciary to a woman will not succeed; since the

¹ Abu Fares, Muhammad Abdul Qadir, (1978). The Judiciary in Islam, 1st Edition, Amman: Al-Aqsa Library, pp. 35-36.

² Qudah, Muhammad Tohme, (1998). General guardianship of women in Islamic jurisprudence, previous reference, p. 138

³ Total Fatwas of Ibn Baz. Fatwas of Senior Scholars and the Standing Committee on Women Assuming Public Guardianship, Fatwa No. (1/424), The Scientific Council, available at the following link: <https://majles.alukah.net/t89602/> Date of entry: 17/5/2012..

⁴ Al-Mawardi, Abul-Hasan Muhammad, (1983). Sultanate rulings and religious states, previous reference, p. 65.

⁵ Al-Asqalani, Shihab Al-Din Ibn Hajar, (2002). Sahih Al-Bukhari with the explanation of Fath Al-Bari, 2nd Edition, Beirut: Dar Al-Maarifa for printing, pg. 1610.

meaning of the general is one of the connotations of the legal terms, and this hadith is general in general and did not come with a specification, so it applies to all similar cases until the restricted evidence is established.: -may God's prayers and peace be upon him -And also the hadith of the Messenger of God ¹ **"The three judges: one in Paradise, and two in Hell, as for the one who is in Paradise, a man who knows the truth and judges with it, and a man who knows the truth and is defiant in judgment is in Hell, and a man who judges people on ignorance is in Hell."** ²The jurists based their opposition on the fact that the hadith is clear in the number of judges that they are all male; where he said a man has ruled and he did not say a man or woman has ruled. Therefore, it is definitive evidence that it is not permissible for a woman to take the position of judge³.

They also cited the hadith of the Messenger of God - may God's prayers and peace be upon him - **"The best rows for men are the first, and the worst are the last, and the best rows for women are the last, and the worst are the first ones"** which was mentioned by **Ahmad Al-Sharqawy**; where he asks in his book **"Women's Rights in the Sunnah"** how do women take the lead in ruling councils and judicial platforms in the presence of men who can do this.⁴

The two researchers believe that the opinions of the great scholars and jurists such as the scholar Sheikh Al-Zarqa, Ibn Baz and others are considered to be rather strict. As they made the woman completely subject to the guardianship of the man, and they saw that it is illogical for her to go out to work outside her house, and that she is a shepherd in her home, knowing that the woman in the past and even in the era of the Messenger - may God's prayers and peace be upon him - her opinion was taken and it was enlightening. The Messenger did not marginalize his wives and his daughters, he used to deal with them according to the principle of consultation. A wise woman can be better than an unreasonable man, and she can issue just and correct rulings. Therefore, we will deal with opinions and fatwas that did not oppose the woman's work in the judiciary, while clarifying the evidence that they relied on from the Qur'an and Sunnah, in implementation of the following saying: "The difference of imams is a mercy for the nation."

Opinions in favor of women assuming the position of judge

The opinion of Sheikh Mahmoud Shaltout: He says, "And what we can say is that there is no doubt that Islamic Sharia is represented in the Qur'an and Sunnah the most that protects women's rights, and honors them from all man-made laws combined, and discusses the issue of equality between women and men and proves with evidence that Islamic Sharia confirms equality. Sharia warns against depriving a woman of

¹ Muhammad, Daoud Salman, (2016). Ruling on women taking over the judiciary: a comparative jurisprudential study, previous reference, p. 293

² Al-Nisaburi, Al-Hafiz Abi Abdullah, (d. T). Al-Mustadrak on the Two Sahihs, i 1, Beirut: Dar al-Maarifa, p. 144 .

³ Awad, Nasr Abdel Karim, (2012). The ruling on women taking over the judiciary in the light of contemporary developments, previous reference, p. 31..

⁴ Al-Sharqawi, Ahmed bin Muhammad, (d. T.). Women's Rights in the Sunnah, Riyadh: Al-Sumaei Publishing House, pg. 364.

her rights, and saying that the testimony of a woman is considered half of the testimony of a man, so it is only in one case, which is financial transactions, not in absolute terms.¹

The opinion of Dr. Yusuf al-Qaradawi: He says, “They stipulated masculinity because they of the saying of the Messenger - may God’s prayers and peace be upon him - Those people will not succeed who they are given command by a woman. They considered that the judiciary is a kind of guardianship, and they said that the judiciary needs a complete opinion, and a woman is deficient in opinion, and it needs not to be influenced by emotions and women are emotional.” He also says: “There are men who are less than women and vice versa. Perhaps men are more based on experience, culture, life practice, and so on, but there may be women who prefer men.”²

The opinion of Dr. Abdul Karim Zidan: He says that “it is permissible for a woman to assume a public position in the Islamic state, such as the position of the judiciary, but he set conditions for a Muslim woman to enjoy this right. The first condition is that her enjoyment of this right should not crowd out what is obligatory for her, and the second condition: that she needs to earn a lawful income and earn a living in this job.”³

Dr. Muhammad Gharaibeh’s opinion: His opinion was mentioned in his book “**The Judiciary in Islam**”, where he said, “We can say that there is no definitive evidence to be relied upon to prevent women from assuming the judiciary, and that this matter is due to the social and political conditions that the nation is going through.”⁴

It was based on former scholars to some legal evidence in their support for women from taking the position of the judiciary, including the verse: said{ O chiefs! Advise me in this matter of mine, for I would never make any decision without you. } (Al Naml , 32-33).

Bilqis, the Queen of Seba at that time, was not only the holder of the general jurisdiction, and ruled the affairs of the people. Rather, she was a democratic woman who respected the opinion of her entourage and dealt with them according to the principle of ‘shura’ (consultation) and did not take a decision without referring to them. In addition, she was a wise woman and she and her people converted to Islam with our master Solomon. Peace be upon him - and she and her people survived. So, since ancient times, there were women who took charge of the ruling matters and behave well. Then, why do we oppose her assuming the position of judge after all the contemporary changes that have occurred in our time?

¹Al-Jawadi, Muhammad, (2019). Sheikh Mahmoud Shaltout who lit the light of Al-Azhar in the communist night, Al-Jazeera blogs website, available at the following link: <https://www.aljazeera.net/blogs/2019/6/2/> Date of entry: 17/5/2021.

²His Eminence Sheikh Yusuf Al-Qaradawi's website, (2004). Appointing a woman to the position of the judiciary, available at the following link: <https://www.al-qaradawi.net/node/4384> Date of entry: 5/18/2021..

³Zidan, Abdel Karim, (1997). Al-Mofassal fi Rulings on Woman and the Muslim Home, 3rd Edition, Beirut: Al-Resala Foundation, pp. 302-303.

⁴ Gharaibeh, Muhammad Hamad, (2004). The Judicial System in Islam, 1st Edition, Amman: Dar Al-Hamid, p. 156..

Those who are authorized women to assume the position of judge, have also adopted the authority to eliminate analogy; where they measured the judiciary on fatwas, since the woman was permitted to give fatwas, so it is permissible for her to judge, as they measured the judiciary on testimony, so whoever is permissible to testify is permissible to judge. They measured the reasonability; meaning that the original thing is permissibility and the fact that there is no evidence that it is forbidden for a woman to assume the position of judge is permissible. They conclude that Lady Aisha, may God be pleased with her, came out at the head of an army that included a large number of Companions, knowing that the woman's going out with the army is higher and greater than her assumption of the judiciary.¹

The Chosen Opinion

Addressing the opinions that prevent and oppose women from assuming the position of judge, and the opinions that support her assuming the position of judge, this paper supports that a woman may be in some cases more experienced than a male judge. Especially when dealing with issues that relate to women in particular, because personal and general life experiences have a role in a woman's life. In addition to the fact that a woman is capable of assuming the position of the judiciary as long as she fulfills all the necessary bases and conditions for assuming this position.

CONCLUSION

Praise be to Allah, Who helped me to write this research, through which I sought to address as an important topic that has widely argued about, we still need more. With the great progress and the remarkable change that we have reached in this era and the developments that have raised, some still stand against assigning the task of the judiciary to women, considering that it is not commensurate with her nature and physiological formation on the one hand, and with the nature of women who are governed by emotion on the other hand. However, we are, thanks to God, and then to the presence of a group of open minded people who appreciated the great role that women have played and are still playing at the present time, and the great amount of experience that reached her and made her able to exercise all her political rights, starting from election to political representation in the People's Assembly. Therefore, with great respect for our distinguished scholars and jurists who illuminated dark paths for us with their valuable opinions, their opposition to women taking the position of judge and their commitment to interpreting evidence, is a sort of detraction to her capabilities and the ability to occupy sensitive positions in the state. Therefore, this paper adopts the opinion in favor of women's work in the judiciary, but within the foundations and controls set by the noble Islamic Sharia, which is considered a valid palette for every time.

¹ Gharaibeh, Muhammad Hamad, (2004). The Judicial System in Islam, 1st Edition, Amman: Dar Al-Hamid, p. 156.

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