

An Appraisal of the Rights of Women under the Shariah

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Abstract

The status and rights of women under Shari'ah remain among the most misunderstood aspects of Islam. This research employed a qualitative and analytical approach to address these misconceptions, arguing that they largely stem from cultural practices and selective interpretations rather than the principles of Islamic law itself. The study juxtaposes the systematically dehumanizing conditions for women in pre-Islamic Arabia with the revolutionary rights granted by Shari'ah, in spirituality, economics, education, and law. The analysis confirms that Islam provided a comprehensive protective framework for women's rights centuries before modern international conventions. The study concluded that the challenge lies not in the divine sources but in their human application, advocating for a return to authentic interpretations to realize Islam's inherent commitment to gender equity.

Keywords: Shari'ah, women's rights, Gender justice, pre-Islamic Arabia, misconception

Introduction

Islam is a monotheistic faith revolving around the declaration that, "there is no deity worthy of worship except God and Muhammad is the Messenger of God" ((Encyclopaedia Britannica, n.d.; Oxford Reference, 2009; Islamic Relief Australia, 2025). Approximately, one-fifth of the world's population are Muslim, with most living in at least fifty-seven Muslim-majority states (International Centre for Human Rights Education, 2009). As against, popular belief, only fifteen percent of Muslims are Arabs, while the largest Muslim populations exist in Indonesia, followed by Pakistan, India, Bangladesh, Turkey, Egypt, and Nigeria (International Centre for Human Rights Education, 2009). Therefore, any, discussions on Islam, including debates about women's rights, must be understood within this multifaceted and global context.

It is against this background that gender issues, particularly women's rights, is regarded as and remains an age-long controversy which cuts across various religions, cultures, and customary practices (Yusuf, 2009). In an Islamic society, the place of women is determined by the Qur'an, the tradition of Prophet Muhammad (PBUH), and interpretations of Islamic law

influenced by social customs and practices (Academy for Peace and Development, 2002). Through Qur'anic revelation and Prophetic Sunnah, Islam liberated women from unacceptable conditions that dominated the pre-Islamic Arabian tribal society.

Yet, the status and rights of women in Islam are among the most misunderstood and misconceived issues of our time, largely due to lack of in-depth knowledge of the Qur'an and outright prejudices against Islam (Naik, 2015). This is affecting not only non-Muslims but also average Muslims and even those ostensibly well-versed in Qur'anic text. The controversy around women's rights under Islamic law is further compounded by cultural practices that are wrongly attributed to Islam because in many cases, these practices contradict the core injunctions and standards of the Qur'an and Sunnah. Hence, understanding women's rights under Shari'ah requires returning to authentic sources and disentangling cultural distortions from divine legislation which is one of the main aim of this study.

Objectives of the Study

This research aims to:

- i. Examine the rights of women under Shari'ah.
- ii. Assess the status of women under Shari'ah.
- iii. Provide solutions to clear misconceptions transmitted about women's rights under Shari'ah.

Research Questions

- i. Do women have rights or are denied certain rights under Shari'ah?
- ii. What was the status of women in pre-Islamic Arabia and other societies?
- iii. iii. What are the misconceptions about women's rights under Shari'ah?

Statement of the Problem

The fight to liberate Muslim women from the “supposed arbitrary fang” of Shari'ah is championed by activists and feminists, both non-Muslims and Muslims alike. This disposition, however, could be attributed to lack of Shari'ah knowledge, mistaken beliefs, or deliberate misrepresentation of Shari'ah's actual intent. Therefore, there is a pressing need for immediate response to clear these issues. Although laudable efforts have been made by Islamic writers to dispel such impressions, these efforts seem to have yielded no satisfactory result; this is partly because of the dearth of literature- especially those written in English which is a widely used language worldwide- on women's rights under Islamic law, which when compared to works available on women's rights under secular law, remains under-researched.

In addition to this is the socio-political environment in many Muslim societies that continues to complicate effective implementation of Islamic provisions, leading to practices that are inconsistent with Qur'anic injunctions and as a result this discrepancy between theory and practice propels stereotypes about Islam, particularly regarding the treatment of women. Consequently, the problem this study seeks to address is not merely to add to existing body of scholarship but to also proffer practical suggestions, with significant implications for legal reform, gender justice, and human rights discourse in Muslim societies and beyond.

Literature Review

Several works have been published on rights of women under the Shari'ah geared towards enlightening and clearing the misconceptions and misunderstanding about the real intent of the Shari'ah. However, it is very imperative to ensure that the effort is not merely extolled but also encouraged by lending more voices to the quest, as no effort can be held to be enough until the goal is maximally, if not totally achieved. The topic of Muslim women's rights is vast, and even as Muslim jurists have been writing about it for centuries, the paucity of scholarship on it is still bemoaned by Muslim scholars.

Yusuf (2009), in recognition of this deficiency aptly opined that, such rights can never be exhaustively treated in one write up due to so many reasons, among which are the deliberate presentation of falsehood on Islamic issues by some groups and the lack of understanding about a lot of Islamic issues especially concerning women, even among Muslim scholars. In concurrence, Uwais (2009) states that Islamic law and institutions are subjects of gross misinformation and misunderstanding, and as such, Law students in Nigeria and the world over, particularly the western world enter the legal profession as fully-fledged lawyers without any exposure to the Islamic law.

In modern society, many Muslims and non-Muslims lack the in-depth knowledge of the rights of women in Islam, because many Muslim societies have deviated from the ideals of Islam with respect to the status of the woman, thus a wide gap is created between what Muslims are supposed to believe in and what they actually practice (Yusuf, 2009). Supporting this position, Kaura (2003) argues that improper implementation of Shari'ah is perhaps what gave birth to the low acknowledgement of the Muslim woman's rights especially in Nigeria. Scholars like Keddie (1990) underscored the challenges present in the quest to dispel misconceptions on the rights of women under the Shari'ah. He observed that the topic of the rights of a Muslim woman may be particularly wrenching for a scholar who wishes to overcome widespread prejudice against Islam on the one hand, but not ignore the problems of Muslim women on the other hand.

Lending a voice to the acknowledgement of women's right under the Shari'ah, while drawing support from Chapter 4, Verse 1 of the Quran and the saying of the Prophet (SAW), Khamenei (1989) noted that the Islamic faith and its viewpoint in regard to women's human rights are considered as a big and glorious revolution of women in the world. It is a common consensus amongst Islamic jurists that women's rights under the Islamic law are well guaranteed and protected because Islam ensures that women enjoy virtually all kinds of rights.

Additionally, instances abound in the Qur'an and Hadith of the Prophet Muhammad (PPUH) emphasizing unequivocally and repeatedly the high status of women, gender equality, and the protection of the rights of women. For instance, Qur'an 3:194 translates thus; "...so their lord accepted their prayer: That I will not waste the work of a worker among you, whether male or female, the one of you being from the other." Again, the Qur'an addressing the mutual rights of men and women states: "And they (women) have rights (over their husbands) similar to the rights against them, in kindness, but men have a of responsibility over them. And Allah is Al-mighty All-wise."

In a Hadith reported from the Prophet (PPUH) he said that; "Non- gives respect to women but they are themselves respected,' non gives disrespect to women but they render themselves

disrespectful,' 'fear from Allah for two weak ones, firstly orphans and secondly women', for the man is the same punishment if he teases a woman" That's why authors like Hassan (1996) suggests that the issue of women's rights in Islam is more of a key arena of the debate between traditionalists and contemporary Islam, since there exist documented evidence of Islam's radical revolutionary support for women's due rights and status, even in the days of ignorance, over 1,400 years ago. Again, in some societies, the existence of a vice-like influence of social, cultural and material factors rather than the Islamic teachings seem to be what determines the position of women which has somewhat led to high rate of women's rights subjugation.

In another vein, Mukhtar (2009) stated that there is sufficient historical evidence of Muslim women's participation in the choice of rulers, in public issues, in law making, in administrative positions, in scholarship and teaching, and even in the battle field Thus, reiterating the contents of Islamic history books, which clearly chronicles the progressive roles played by men and women, both earning respect as scholars and teachers of the Faith, as can be found in the books of Rijal (Reporters of Hadith) which contain the names of many prominent women, beginning with 'Aishah and Hafsa (Hassan, 1996).

According to Marsot (1978), economic and political exigencies are what count, and religion/ideology is used only to legitimize whatever has been required. She observes that in wartime, women are encouraged to work outside the home, but after the war, domesticity is urged. Furthermore, Bullock (1423AH/2002CE) noted that the methodological problems and biased perspectives have particularly affected Western perceptions of Muslim women and the veil, a line of argument also towed by Isah (1999) who avers that Muslim women in secular states continue to have educational and intellectual rights that are often overlooked or misunderstood.

While Khan (2008) in presenting a comprehensive examination of women's status in Islam, focused on addressing some misconceptions and providing clarifications based on Qur'anic teachings and Prophetic traditions, Doi (1983) on the other hand, emphasizes that women in Shari'ah law have comprehensive rights that were revolutionary for their time, predating many modern legal protections by centuries. It is therefore imperative that the Qur'an and the Hadith must and can be interpreted in a gender-equitable manner. It is not the Qur'an itself, but the patriarchal interpretation of the secondary religious texts by some scholars, that is responsible for the subordination of women.

From the foregoing, it is clear that there exists the need or gaps rather to constantly enlighten the public on the original nature and intent of the Shari'ah, especially in the area of women's rights and in a language that traverses the globe. In addition to contested questions of interpretation, there is also the problem that in-depth analysis, especially in women's rights as guaranteed by the Shari'ah, remain rare, although many scholars and certain countries, are now working to overcome this, as depicted by the Aceh, province in Indonesia, where in 2008, a Charter on Women's Rights, that illustrates the efficacy of a religious-based approach in the struggle to curb gender-specific discrimination was enacted, a laudable step which the teachings of the Shari'ah supports and greatly encourages, as long as such instruments do not in any way trivialises the Shari'ah.

Methodology

The research adopts a qualitative and analytical approach in light of the stated problems and questions. Relevant primary and secondary instruments closely and remotely related to the topic were consulted. In addition, comparative analysis of the status and rights of women under Shari'ah, other religions, and societies before Islam was carried out, leading to deductions and useful recommendations.

Findings

This study undertakes an in-depth investigation of women's rights under Islamic law that reveals a distinct historical narrative which essentially disputes prevailing misconceptions about Islam's treatment of women. The paper specifically attempts to uncover a systematic transformation from pre-Islamic oppressive state to revolutionary empowerment, followed by a detailed analysis of the all-inclusive rights framework established by Islamic law.

Before Islam, pre-Islamic Arabian society demonstrated systematic dehumanization of women as tribal systems that reduced women to mere property, devoid of legal personality or social agency, where men would exercise absolute authority over women's lives, treating them as chattels to be bought, sold, or inherited alongside material possessions were common practice (Zafaran, 2009). That period saw to the birth of a female child as a trigger for profound shame, alongside the practice of female infanticide which was a natural reflection of the extreme rejection of women.

Women were denied their basic rights, such as, inheritance right, property ownership and had no recourse against physical abuse. (Academy for Peace, 2002) Notably, these practices were not peculiar to Arabia, as ancient China, Hindu society, Greek civilization, Roman law, and even Jewish traditions reflected systematic discrimination against women, often treating them as inferior, dependent, or unworthy of education and property, thereby placing women's subjugation as a global reality rather than a regional peculiarity. (Women in Islam. ws, 2015).

It was against this background that Islam's emergence in seventh-century Arabia marked a revolutionary transformation through the Qur'anic injunctions and Prophetic guidance which recognized women as spiritually equal, economically empowered, socially dignified, legally protected, and politically acknowledged, translating the explicit Qur'anic proclamation on the spiritual equality of men and women into lived experiences which established the foundation upon which other rights rested. (Q4:124; Q16:97; Q33:35).

Similarly, women were granted economic rights that saw them exercising control over property, dower (mahr), maintenance (nafaqah), and inheritance, while socially, daughters, wives, and mothers were accorded dignity and respect. In the aspect of education, the pursuit of knowledge became an obligatory act for all Muslims, male and female alike, with women like Aisha (RA) emerging as leading scholars. Legally, women gained access to justice, property rights, and protections against false accusations and they were also politically empowered to participate in public service, advised leaders, and engaged in community governance.

Furthermore, evidence from Islamic history demonstrates that women served as warriors, nurses, and community leaders during the Prophet's (SAW) era and beyond as stated in the record of Al-Tabari, where the involvement of women such as Nusaybah bint Ka'ab (RA) in defending Medina during the Battle of Uhud, illustrated women's active participation in

societal defense. Again, records have attested to women acting as legal witnesses and petitioners before Caliphs, thus, confirming their recognized legal standing within early Islamic governance.

The findings also significantly unveil the fact that contemporary misconceptions about women's rights in Islam often stem from cultural practices, selective interpretations, or deliberate misrepresentations rather than from authentic Shari'ah principles, especially in the subjects of testimony giving, polygyny, and leadership, where context has been ignored or distorted. In addition, the study pin points that many discriminatory practices presently associated with Muslim societies are remnants of pre-Islamic customs or colonial impositions, rather than reflections of Shari'ah. For example, the denial of women's inheritance in some communities contradicts clear Qur'anic injunctions, as scholars such as Mir-Hosseini (2006) argue that such practices persist because patriarchal structures resist reforms that would empower women socially and economically.

Additionally, the findings suggest that contemporary Muslim women are increasingly reclaiming their rights through education, activism, and reinterpretation of classical jurisprudence as this development reflects a growing awareness that Islam not only permits but encourages women to assert their God-given rights, challenging both cultural distortions and orientalist misrepresentations.

Discussion

The findings reveal that Islam granted women comprehensive rights over fourteen centuries ago, preceding modern international human rights instruments. Also, the comparative analysis shows that women's status in pre-Islamic societies was uniformly oppressive across civilizations, whereas Islam introduced revolutionary improvements, through the Qur'an and Sunnah, which provide a framework addressing spiritual, economic, social, educational, legal, and political dimensions of women's lives. Importantly, the study unveiled the fact that many misconceptions about Islamic law and women's rights arise from lack of authentic knowledge, cultural influences, and deliberate misrepresentation, because a proper understanding and implementation of Islamic law would necessarily provide a balanced approach that considers both individual freedom and social harmony to women's rights.

It is also significant to note that Shari'ah demonstrates adaptability in addressing emerging social challenges through methodological tools like *ijtihad* (independent reasoning) and *maslahah* (public interest), for when these mechanisms are correctly and sincerely applied, they can serve and also pave way for reforms that uphold women's dignity in changing circumstances without compromising core Islamic principles. For example, reforms in family law in area such as child custody, polygyny requirements, inheritance laws, protection for women amongst others, across countries such as Tunisia and Morocco reflect attempts to reconcile Qur'anic injunctions with contemporary gender justice concerns.

Furthermore, scholarship suggests that the marginalization of women in some Muslim societies is not inherent in Shari'ah but is perpetuated by socio-political structures that exploit religion, because patriarchal interpretations have often been reinforced by authoritarian regimes that suppress reformist voices. Mir-Hosseini (2006), clearly indicating that the

challenge lies less in the divine sources and more in their human interpretations and applications.

Conclusion

The intersection between international human rights frameworks and Islamic law is germane because of the universal principles that guides justice. While critics often claim irreconcilable conflict, scholars such as Baderin (2003) argue that significant areas of compatibility exist, particularly concerning justice, dignity, and equality, hence, opening a path for constructive dialogue rather than antagonism. In practice, Muslim-majority countries have engaged with international conventions such as CEDAW, though with reservations, reflecting attempts to balance global commitments with local religious norms.

In addition, contemporary Muslim women scholars like Amina Wadud and Asthma Barlas, are reshaping the discourse by reclaiming interpretive authority, calling for rereading Qur'anic texts through inclusive interpretation, emphasizing justice and equality as central Qur'anic themes, illustrating that women are not only subjects of Shari'ah but also active agents in its interpretation and application.

Recommendations

Based on the findings of the study, the following recommendations are proposed to inform policy, practice and future research.

- i. Muslim women should be encouraged to seek knowledge while observing Shari'ah guidelines on women's appearance in public. for future mothers of Muslim society.
- ii. Promoters of equal rights for men and women need to review their agenda. While no one denies that women in some communities are denied rights, it is unrealistic to think that equality is the same as being identical, because Allah has created man and woman to play distinct roles in human society.
- iii. There is a need to carry Muslim women along in Shari'ah implementation by allowing female membership in implementation committees and agencies at all levels, with strategic planning to reach women, especially in rural areas.
- iv. Comparative study of different religions should be introduced from the early stages of education through to tertiary level, so that children grow better equipped to understand and evaluate different perspectives, including Shari'ah.
- v. Greater appreciation of cultures, customs, and religion should be promoted to aid the activation and bridging of the margin of appreciation doctrine, thus allowing for the sustenance of justifiable moral values of different societies.
- vi. Finally, correct interpretation of Shari'ah must be emphasized, since textual injunctions on gender equity and the Prophetic model are sometimes disregarded. An urgent re-examination of fallible human interpretations and practices is what is required, not the Qur'an and Sunnah.

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