



ISSN No. 2394-9996

New Vision

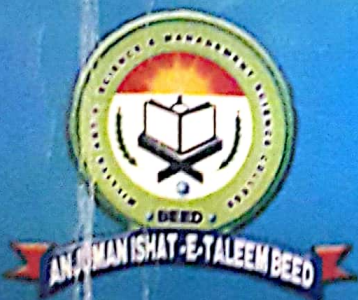
Multi-disciplinary

Research

Journal

July 2015

Online version : <http://www.milliyaresearchportal.com>



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The Status Of Muslim Women And Human Right.

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• Introduction:

The international solidarity network of women living under Muslim laws in its ongoing women and law programme aims to document the diversity of Muslim laws (both written and unwritten) and customary practices in 25 countries either as country project or inputs.

• Social structure of Muslim women :

Women are seen as inseparable from the family and most functions assigned to the family are allocated to women within it. Women are usually the cause the nurture the educator, they are major cash contributors. For the most part women meet their responsibilities to their children, their men and older or infirm relatives with generosity, self sacrifice and unstinting labour. Many men similarly are devoted to the creation and maintenance of family and demonstrate respect for its individual members. ⁽¹⁾ The international solidarity network women living under Muslim laws (MLUML) promotes the exchange of information and experience between women whose lives are modulated directly or indirectly by Muslim laws. For women in Muslim countries and communities, the patterns and structures of everyday life are shaped by intricate webs of laws and customs that are often justified as “Islamic” and hence not open to negotiation and change. Such claims are reinforced by the myth that there exists one homogeneous Muslim world. ⁽²⁾

While there are commonalities, the laws and custom as applied to women vary substantially from one community to the next according to culture ethnicity, sect, age and class. Law are not immutable but man made adaptation to diverse and changing cultural and economic realities. Never the less, all laws and customs embody and promote patriarchal structures and values. Which for political reason are frequently presented as being derived from religion. This deters women from questioning oppressive laws and customs or even from dreaming of a different reality for fear of ostracism. ⁽³⁾

• Women and human right:

The history of women’s rights can in a brutal simplification be described as circular. A very early period of sex equality seems to have been followed by a long period of retrogression than by efforts to regain some of the lost equality. Descriptions of the equal status of women in early history are sometimes. Criticized as romanticizing as going further and further back into history to in entity examples of women’s equality and finding them a very , very long time ago. The following is an illustrative example. From Africa.

We women do not know a lot about our own history and our own identity. We are unknown even to ourselves and Deprived of the means of knowing ourselves. We tend to believe in myth about ourselves even when these conflict with our reality we are hindered in seeing ourselves clearly we are too busy looking at others and we remain in their shadow we are told that the way these others see Us is sufficient for our existence. ⁽⁴⁾

Monogamy was the prevalent form of marriage within the population. Royalty and court dignitaries practiced polygamy in varying degrees., depending on wealth and the states. Political and economical rights were transmitted through the women. Who was seen as the most stable element within the family. No restriction barred Egyptian women from participating in the public affairs of society. Besides the opportunity to reign as monarchs in their own rights accorded to royal women, commoner were also able to excel based on merit. ⁽⁵⁾

Women did not always have an inferior status to men in primitive communities men and women tended to be viewed as equal sine both had vital economic roles to play in supporting their families and communities. There are even instances of matrilineal and matriarchal societies in Malaysia, Java, the Philippines and India.

Subjugation of women did not begin until the advent of the religion and become more intense as the centuries rolled on. ⁽⁶⁾ The civil law as well as nature herself has always recognized a wide difference in the respective spheres and destinies of men and women. Man is or should be. Women's protector and defender. The constitution of the family organization, which is founded in divine ordinance as well as in the nature of things, indicates the domain and function of womanhood. ⁽⁷⁾

This exclusion of women from political participation was a consequence of the traditional confinement of women in the private sphere, leaving the public sphere to men. This view was reflected in a US supreme court decision of 1873.

Olympe de gauges demonstrated an imaginative use of human rights concept to argue protection for women deprived of all rights. Such as mothers of illegitimate children. Under freedom of expression she subsumed their right to challenge societal norms of silence and shame imposed on unmarried mothers and their entitlement to demand responsible fatherhood.

• Muslim personal Law:

A division bench of the Bangladesh high court ruled that the utterance of the word talaq or divorce thrice in one sitting by an estranged Muslim husband would not constitute a valid and legally permissible divorce. The court further held that the practice of issuing fatwas or religious edicts was illegal and unauthorized hence not binding on Muslims. The judgement was delivered in a petition filed by Sahida, whose husband Saiful had pronounced talaq thrice to her following which he married his paternal cousin by procuring a fatwa from local cleric. Azizul Haq. Annulling the divorce and directing the Bangladesh parliament to enact a legislation to declare the practice of issuing father punishable offense. ⁽⁸⁾

Although the judgement does not pertain to India. It would certainly have a substantial persuasive influence on our courts and legislatures, as both the countries

are the inheritors of the shared legacy of the British legal system. Our court to have precariously grappled with the contentious and sensitive issue of the interpretation of Muslim personal law at times leading to strong conservation backlash like the one following the Shah Bano judgement of the supreme court in 1986. ⁽⁹⁾

The Bangladesh High Court judgement in a way sounded that knell for an erroneous but long legal doctrine that has stifled the growth and benevolent interpretation of Muslim law not just in India but in many Islamic countries of the world. simply put it envisage that the interpretation of the 'Quran' and the tradition of prophet Mohammed, 'Sunnah' can only be based on the narration and commentaries of a few canonized religious scholars of the first two countries where Islam is a religion evolved. Subsequently the gates of interpretation were closed and every Muslim, thereafter, had to unflinchingly adhere to the rules and precept laid down by those ancient scholars.

The legal drama and its political consequence are dense. Often the case seems to remain only a watershed for identity politics in the continuing struggle for inclusive norms within postcolonial India. What needs to be stressed alternatively in the natural of the legal system that made all three cases possible. All three women resided neither in Bangladesh nor in Pakistan, the two majoritarian Muslim nations of the subcontinent but in the republic of India. As Indian citizens they lived under an adhoc system evolved since British colonial rule. I was a personal law. Throughout the nineteenth and the early twentieth centuries there was no uniform manner of applying Muslim family law within the lower courts. On the one hand the number of rules applied to questions of marriage and inheritance were restricted, while on the other hand they were enforced through a strict hierarchical structure. Where appeals moved to halt from a subordinate district judge for a state high court to the London privy council, replaced after 1947 by the Indian supreme court. ⁽¹⁰⁾

• The role and Right of women:

Nowadays, the radio and televisions are the major source of information. This keeps women up to date with all the news from the area, the town, neighboring countries and overseas. We now have women who preside over meetings the villages, in the local area and even in the towns. They have all been democratically elected by village groups and through other political structures. Development greatly in their work, through meetings and by helping them to visit different areas and exchange ideas about different social structure. ⁽¹¹⁾

Few Deny that women in every society carry out multiple roles both within the family and outside. Women have responsibilities which can be roughly categorized as reproductive (child bearing caring and rearing) caring for other family members, the ill, the infirm and the elderly. Household domestic work including food growing, buying and preparation. Side by side with these is what is called productive work, agriculture and earning an income in the full range of trades and professions. Recently researchers have identified and environmental management. ⁽¹²⁾ However described and in some societies there are no terms to differentiate productively from reproductive work. It is clear that each role contains within its myriad functions and obligations that call for many different skills.

Research in various disciplines over the last thirty years has identified and described these roles and succeeded in making them visible to those who want to know. Social and economic development programs in every country are now required, though still sometimes reluctant to give some recognition to the central place women hold within society. The discussion of women's multiple roles has helped focus attention on the immense demands which are made on women's time, energy, skills and good will. It also allows for a much more critical assessment of social and economic development policies and programs whether designed to assist national development or specifically for women. Potentially it highlights the asymmetry in Women's and Men's family and public responsibilities. ⁽¹³⁾

The family is widely perceived as the natural state for every human being and until quite recently this 'naturalness' was transferred without question to the division of roles and responsibilities within it. Young girls are socialized and trained from early childhood to take care of others to be altruistic loving and forgiving. Full assumption of the roles of wife, mother, carer and provider comes in most societies with marriage. ⁽¹⁴⁾

Women are bringing some demands to the amendment of the civil code which is now taking place. The clause which states that the husband is the head of the family must be taken out of the text of the civil code. Marriage according to women is a union based on the free will of two full citizens. Therefore legally neither spouse can be considered superior to the other. One of the consequences of the aforementioned clause is a woman's obligation to adopt the husband's family name. The changing of a woman's name at marriage makes it impossible to locate the records of women who have married several times. ⁽¹⁵⁾

In United Nations terminology, problems concerning the human rights of women are often subsumed under the term 'status of women' and advancement of women. Here such argues that the unequal status of women, constantly deplored as unsatisfactory, result from gender discrimination. Advancement of women is impossible unless and until their equal rights are fully protected. Again terminology reflects our perception of problems. By discussing the status of women in terms of the denial of equal rights we are moving the debate from an assessment of facts into the realm of remedies. Human rights terminology embodies the demand that the unequal status of women be addressed as a violation of their rights, as a breach of the obligation of governments to guarantee equal rights to all.

• **Eliminating women at work discrimination:**

Many changes have been enacted in many countries when laws were proved to discriminate against women. One example is the unification of retirement age. Previously non discrimination was deemed to necessitate that the retirement age for women be lower than that for men.

Protective norms which apparently favored women workers have recently been challenged because their effect may be discriminatory. This is hardly a recent phenomenon although awareness of the necessity to eradicate discrimination today results in abolishing such norms. This was not the case at the beginning of international protection of women workers

An illustrative of the example is the 1919 advisory opinion of the permanent court of international justice (PCIJ) concerning the interpretation of the 1919 ILO convention on the night work of women. This convention protected women from night work but it also prohibited them from working at night and thus from increasing their earnings. ⁽¹⁶⁾ The case was brought up by the united kingdom which sought an authoritative interpretation of this prohibition as it affected women engineers. The specific question that the PCIJ had to answer was whether the 1919 convention precluded British woman engineer that is women who were holding or striving to obtain a managerial position in electrical companies from such work because it required night work. It was unclear whether this convention prohibited all women in industrial enterprises from night work or applied only to women involved in manual labour.

The court decided by six votes to five that prohibition of night work applied to all women including those in managerial position. ⁽¹⁷⁾ In the subsequent revision of this convention, first in 1934 and then in 1948, women in managerial position were exempted and flexibility in interpretation was written into the text of the convention to prevent provision aimed at benefiting women from actually harming them. the majority of women in the world work , but a minority are recognized as 'workers' with the corollas rights of safe working environment, equal wages, paid vacation and sick leave. The majority of women are not paid for their work because they are not recognized as workers. The main shortcoming of all global economic statics from a woman's point of view is without doubt, the invisibility of the unpaid labor in households and the informal and agricultural sectors a major part of which in all countries is performed by women. ⁽¹⁸⁾

This was the gap between working women and women workers hinders recognition the basic rights of women as workers only a small minority of working women is formally employed consequently, most are invisibly unprotected. Underpaid or unpaid and more often than not exploited. The Development Assistance Committee (ADC) of the OECD recently called for the creation of a legal framework that would guarantee equal rights for women and especially for the removal of legal restriction of women. ⁽¹⁹⁾

The protection of women workers is one of the most thoroughly regulated areas of international human rights protection. The number of specific international standards, their detailed provisions and effective supervision make this area a notable success of the international community. Its impart on women's lives much as in other areas necessitates further and stronger national measures to apply protection to women in need it. ⁽²⁰⁾

There are significant differences between the situation of the working girls and that of the working boy in the household in agriculture and in unorganized industry. These differences manifest themselves in a variety of ways; the sex typing of work the value imputed to such work and its influence on the attitudes of parents and access to education . As a result of certain cultural restraints the female child faces in mines , workshop or factories ; the same stereotypes keep her home helping her mother , when she is out of public sight , she is out of mind . Devalued as a child ,

denied equal access to education and often devoid skills, she carries into her womanhood all the accumulated burdens of her past. The challenge facing program policy and law is to offer the working girls the opportunity to grow to change and be free. (21)

• Conclusion :

Women whether they are secularists or Islamic activists have responded by mobilizing and galvanizing public opinion and taking to task the notion of Islamic justice by flooding the media with stories of injustices done to them as women wives and mothers. In particular Islamic activist women are questioning the very nature of Islam and sharia, which have been dominated by male centered interpretations of the major religious texts. They have launched their own interpretations and pressured the government to introduce amendments to personal status laws. ⁽²²⁾ However despite recent changes such as ways for housework, the divorce amendment and the introduction of new marriage contract, fairness in marriage and divorce is still even further away than it was before the establishment near the meeting the guideline set out by the convention on the Elimination of all forms of discrimination Against women.

Personal status law has a special significance in most Muslim countries as the role area in which local law has not been supplanted by western or western inspired law. ⁽²³⁾ as a result of political struggle in which the status of women was a key element of criticism by all sides, most states have chosen to institutionalize their version of Islamic personal status law. The arguments and approach used to promote legal reform in Tunisia might provide a model for other Muslim communities concerned with the integration of gender equality and Islamic values. Furthermore, governments rarely imposed one version of Islamic law on the population and permitted individuals to observe the school or practice of their choice in private matters (Leites 1991; 267) for example, Ibn Taymiyyah wrote, No one is obliged to follow any particular authority, except the prophet himself in everything he is allowed or forbidden to do Muslims have never ceased to ask the advice of scholars and to follow this authority on the occasion and that authority on another if a person follows a particular authority on a specific issue because he thinks that this authority is most beneficial to him in his religion or because he thinks his argument is the better one or for any similar reason this is permissible according to the great majority of Muslim scholars. This was not denied by Abu Hanifa, Malik, Shafi, Ahmed Ibn Hanbal or anyone else.

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