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## Women and Fundamental Rights: A Study of the Tenets in the Context of Islam

According to historian George Liska, "unnecessarily prolonged Byzantine–Persian conflict opened the way for Islam" (Liska, 170). The beginning of the early seventh century in Arabia was one of tumultuous unrest. It began with the longest and most destructive period of the Byzantine-Sassanid Wars. As a result both empires were exhausted and susceptible to third-party attacks, particularly from nomadic Arabs united under a newly formed religion which was none other than Islam. By the time the last Byzantine-Sassanid war came to an end in 628, Islam was already united under the power of the religious-political Caliphate (or leader) (Liska, 170). Thus the historical background of the seventh century of Western Arabia reflects that the emergence of Islam was very much influenced by the political disturbances and situations of that region. In the beginning of the said era there was an enormous indiscipline and anarchy in society. It was in such a juncture that we see the emergence of Islam in Western Arabia.

The aim of this paper is to consider the status of women in Islam. The paper consists of three sections. The first section introduces the basic principles of Islam and expected duties of human beings as the best creation of Allah. The second section deals with the fundamental rights in Islam and the status of women regarding the enjoyment of those rights and finally the paper reflects in short the social impact of the obligatory actions, which are equally recommended for both men and women in Islam.

## 1. The basic principles of Islam and the expected duties of human beings

In the beginning of the seventh century enormous disturbance in the social structure of Arabia compelled men to be sceptic about one another. There was a lack of social dependence among men. Just as there was no affectionate father there was no dutiful son too. Utter indiscipline, lawlessness and tyranny reigned over the region. So reconstruction or rather reformation of social structure was the first and the foremost goal of Islam. Irrespective of race, sex, colour, wealth or any other differences Islam called upon all human beings to accept its beliefs and code of laws. All human beings are equal before Allah and must bear their own responsibility to accept the revelations of the Qur'ān: "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 honoured of you in the sight of Allah is (he who is) the most righteous of you" (The Inner Apartments: XLIX: 13). Human being is recognised as the best creation of the creator. The Qur'ān describes "We have indeed created man in the best of moulds" (The Fig: XCVI: 4).

Human beings are supposed to do good deeds as the best creation of Allah but along with that free will of a man are also acknowledged in Islam. A man is free to choose either good or evil and is rewarded or punished in accordance to his deeds.

The essence of Islam may be summed up in three major principles-(i) submission to Allah's will through 'peace'(Islām)(Gani, *Darshan*, 359), (ii) faith in Allah (Imān)( Gani, *Darshan*, 189) and (iii) virtue guided by the omnipresence of Allah. These three principles are also successive stages in the spiritual life of its followers. The fundamental aspiration of Islam with regard to human beings is to maintain (i) fraternity among human beings, and (ii)

equality in society. So Islam is nothing but the totality of these five wings (Gani, *Darshan*, 21, 47, and 73).

With regard to mankind the two fundamental principles on which Islam is established are equality and fraternity. In Islam each and every human being is unique in nature but equal in their rights - there is no disparity among human beings in the eyes of law. No human being is higher than the other.

To establish fraternity among human beings, equality is used as a tool in Islam. Two paths prescribed to maintain the equality and fraternity in Islam are (i) '*Al-amr bi al-ma 'Ruf*' (Williams, 125) means order to good deeds and (ii) '*Al-nahi 'an al-munkar*' (Williams, 129) i.e. forbiddance to evil. To summarise, do the good deeds and avoid the evil - that is the main verdict of Islam. Five recognised categories of human behaviour in Islam are – *fard* (obligatory), *mustahabb* (recommended), *mubāh*(neutral), *makruh*(disapproved) and *harām*(forbidden) ( Williams, 129). Among these *fard* or obligatory actions are described as “ ...the necessary acts of worship or obedience demanded of a Muslim, such as prayer, fasting, almsgiving and pilgrimage, which together with the profession of faith, the *shahāda*, make up the so called “five pillars” of Islam. Highly important is the question of ritual purity, since without it, the prayers of the worshipper are rendered invalid, and he may not touch the Qur’ān” (Williams, 95).

Now the question is, whether the obligations and forbiddances are applied equally to every human being or differ in case of men and women? What is the status of women in Islam? In the next section I have attempted to provide the answer to such questions in the light of the Qur’ān, which is the principal book of Islam.

## 2. Status of women and fundamental rights in Islam

To talk about the status of women in Islam it may be said that what is stated about the women in Islam are only an explication of the covert eternal truth. There is nothing new or unique in it. According to the mystery of creation in Islam, the first human being Adam was created by Allah with the help of Earth, Water, Fire and Wind and the first woman Hawa was created from the rib of Adam, which implies from the same elements. Here the rib is nothing more than a symbolic description. So according to the Qur'ān both men and women are created from the same elements (The Family of 'Imrān: III: 59, The Heights: VII: 189, Sād: XXXVIII: 76, The Groups: XXXIX: 6). On the basis of gender there is no difference in between men and women in Islam. According to the law of eternity in Islam both men and women hold the same rights and status. They are considered to be the two eyes of a single spiritual entity. Although they apparently differ in their physical attributes, instinct, nature and behaviour it does not call for distinctions with regard to social and legal status. A human being is known by his rationality and not by his or her gender identity. Equal rights of men and women are ensured in Islam to prevent gender discrimination. Every human being has some hidden potentialities and to get success in life (s)he should get the opportunity to develop those potentialities. Now the question arises, whether women are getting equal opportunities with men in Islam to develop their inner potentialities? The answer is not easy to provide in a single word. But it can be claimed that In Islam, men and women are theoretically empowered with equal fundamental rights.

### a. Status of Women in Islam

The status and classification of men and women in Islam may be elucidated as, men hold a superior status than women .The Qur'ān describes “Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and

they support them from their means” (The Women: IV: 34). Again in several places, men and women have been described with equal status like “They (women) are your garments and you are their garments” (The Cow: II: 187). So the status of equality is not always uniform and sacrosanct. So it is very difficult to describe the status of women in a single statement. But in Islamic thought and in the Qur’ān and even in the philosophy of Islam we notice that both men and women are entitled to enjoy equal fundamental rights.

### **b. Fundamental rights**

Keeping in consideration the socio- economic structure of Western Arabia at the time of the advent of Islam, we may acknowledge certain fundamental rights of human being like - (i) right to life, (ii) right to education, (iii) right to property, (iv) right to work and (v) right to religion. Now the question is whether both men and women are empowered equally to enjoy them in Islam? Theoretically, they are. The scriptures accord equal rights to both sections of the society. But do they enjoy those rights in all practical spheres of social life? The analysis of such a question is necessary and pertinent in the present scenario of world politics. In the following sub sections I have attempted to discuss the issue in some details:

#### **i. Right to life**

Discussing about the right to life, we may recollect from history that in the early days of Islam the socio economic structure of Arabia did not even ensure the right to life for a woman. There were several instances where a daughter is buried alive even at the age of five. The Qur’ān describes- “When news is brought to one of them, of (the birth of) a female (child), his face darkens, and he is filled with inward grief! With shame does he hide himself from his people, because of 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?” (The Bee-XVI:

58-59) Such an inhuman behaviour is rigorously prohibited in Islam. The Qur'ān declares “Kill not your children for fear of want: We shall provide, substances for them as well as for you. Verily the killing of them is a great sin” (The Children of Isrā'īl: XVII: 31). So Islam has ensured right to life to a woman.

But unfortunately, practical evidences show that the life of women is still at risk irrespective of religion in India. The following statistics clearly shows that the ratio of women compared to men, in India, is the lowest among ten countries worldwide. As a prevention, the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 is implemented by the Parliament of India to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination. The main purpose of this act is to ban the use of sex selection techniques before or after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortion.

Sex ratio of selected countries

<b>Country</b>	<b>Sex ratio</b> <b>(Females per 1,000 males)</b>
World	986
China	944
India	933
U.S.A.	1029
Indonesia	1004

Brazil	1025
Pakistan	938
Russian Fed.	1140
Bangladesh	953
Japan	1041
Nigeria	1016

Source:

World Population Prospects (midyear estimates) 1998, revision, Volume 2, Sex and Age, United Nations (Web Edition: PROVISIONAL POPULATION TOTALS, Chapter 6, Census of India 2001, Series 1, India, Paper 1 of 2001).

## ii. **Right to education**

Right to education is equally accorded to men and women. Women, in Islam, have full right to educate themselves for intellectual development. Along with men they have an obligation to seek knowledge. As the Prophet said - it is a duty for every Muslim, male and female, to seek knowledge (Gani, *Darshan*, 96). According to Islamic teachings, Muslim parents are expected to attach the same importance to the education of their daughters as their sons. Education here does not mean conventional learning. Knowledge can be acquired from various ways. Education was much appreciated by Hajrat Muhammad . For the sake of knowledge he has given permission even to go to China. It signifies that distance should not be a hindrance for education. He also declares that the writing of a wise man is much more valuable than the blood of a soldier who has sacrificed his life in a war. He appreciated

education as the highest achievement in human life. For instance, while the Quraysh were defeated by the Muslims in the battle of Badr in 624 A.D, the punishment for the defeated soldier was to spread literacy to ten Muslims who lived in Medina (Gani, *Mahanavi*, 272).

In theory education is encouraged in every section of human society but reality represents a different picture. A statistics of the review of the book entitled *Educating Muslim Girls: A Comparison of Five Cities* by Zoya Hasan, & Ritu Menon, done by Yoginder Sikand (Article 515) shows that, “over 75% of Muslim women in India are illiterate, literacy being officially defined rather generously to include just about anyone who can read and write a sentence or two. The situation in the northern states, especially in rural areas, is said to be particularly dismal. 85% of rural north Indian Muslim women are unable to read or write.” ([http://www.irfi.org/articles/articles\\_501\\_550/educating\\_muslim\\_girls.htm](http://www.irfi.org/articles/articles_501_550/educating_muslim_girls.htm).)

### **iii. Right to property**

Right to property is also accorded to women in Islam. Children will enjoy all the properties of their parents if and only if they take sole responsibilities of their parents. The Qur’ān says-“From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large, - a determinate share” (The Women: IV: 7). Regarding the proportion of the property The Qur’ān says- “Allah (thus) directs you as regards your children’s (inheritance): to the male, a portion equal to that of two females” (The Women: IV: 11). Here we may raise a question that why the portion of property of a man is determined double of the portion of a women? The answer is presumably because the man bears the support of the woman and the expenses of their children as well as the cost



of their marriage. That is why the share of the inheritance of a man is determined as double to that of the woman. But we should not forget that there are few other sources from which women are financially compensated. For instance, marriage is actually an agreement in Islam between two parties where a man pays to the woman the bride money, which is a token of admiration. As the Qur'ān says "And give the women (on marriage) their dower as an obligation" (The Women: IV: 4). Not only that, if a husband is survived by a wife or more than one wives, at the time of his death whether she has children or not, Islam ensures her inheritance of her late husband's property. It may be very nominal in amount, but the right is secured. The question may be raised as why the amount is nominal? Here we have to consider the socio economic background of Western Arabia at the time of the advent of Islam, when women were not even recognised as human being. At that time Islam has provided them financial security, which no doubt is worthy of appreciation.

#### **iv. Right to Work**

Equal rights and freedom of will to choose their professions is ensured to men and women in Islam. A Muslim woman has the right to accept employment which is commensurate with her nature and dignity. Regarding employment The Qur'ān declares "And when the Prayer is finished, then may ye disperse through the land, and seek of the Bounty of Allah: and remember Allah frequently that ye may prosper" (The Hypocrites: LXIII: 10). This declaration is made for the human race; there is no discrimination between men and women. There is no prohibition for women for employment. But there are certain fields where women are not compelled to participate like battle field, cultivation or any other work where muscle power is predominates over the other capabilities. Islam encourages women to accept those work which are suitable to their nature and helpful to maintain order and ensures progress of the society. Both men and women are equal in Islam just as for parents both a son

and a daughter are the same. But though a son and a daughter may be same for the parents their choices and places of work may differ. Their place or type of work differs according to their own choice and efficiency. In the period of Hajrat Muhammad women were free to move as per their requirements. Like men women were also engaged in business and different types of handicrafts.

History depicts several instances of women soldiers and their active participation in different battle fields with Muhammad. As an instance the name of Hajrat Umme Huraysh who participated in the Battle of Uhud( 625 A.D.) (Gani, *Nārisamāj*, 114) is worth mentioning. Her efficiency, bravery and decision making capability in crisis had astonished Muhammad. There are many examples of women having engaged themselves in various aspects of war like cooking meals for the soldiers or nursing the wounded ones and so on.

#### **v. Right to religion**

To discuss about the right to religion in Islam we have to understand what is meant by the term 'religion'. Islam as a religion is both belief and legislation which organises even human relationships. Belief in the other world and good deeds in this world, faith in the transcendental world and good deeds in our life -that is the core of religion which should be reflected in our thoughts, speech, deeds and behaviour. The true religion is humanity which is eternal. This truth cannot be achieved through any ritual as it is a realisation which can only be felt by a purified soul. But for the realisation of the eternal truth certain rituals or codes of conduct are prescribed in Islam which helps human beings to purify their souls and help them to be free from the cling of this world. In order to acquire a pure soul one has to inculcate certain self disciplinary measures. He has to fulfil the prior requirements i.e. self discipline and self –restraint. For that an individual must perform the behaviour recommended under

*fard* (obligatory) ( Afifi, 144-179 & 112-118) with full submission to Allah. Actions in the *fard* category are –

- (i) The ‘*Shahādataya*’ or the ‘testimony of faith’ as: I witness that there is no God but Allah and that Muhammad is His Prophet. It signifies the acknowledgement of Allah and Prophet.
- (ii) Five daily prayers whose inward meaning is the attachment to Allah.
- (iii) ‘*Zakāt*’ or the obligatory charity- one fortieth of one’s income and savings annually to the poor and destitute. It implies detachment from the materialistic world.
- (iv) Fasting in the Holy month of Ramadan annually. The significance of such fasting is to establish the detachment from the body and the ego.
- (v) The *Hajj* or pilgrimage to Mecca. The underlying significance of making Hajj is to return to one’s true inner heart. The mysterious square, black shrouded Ka’ba in Mecca is the outward symbol of this heart.

It is worth mentioning that *Zakāt* and *Hajj* are obligatory only for those who have financial stability and surplus financial eligibility to bear the expenditure after fulfilling the needs of their family.

Right to exercise these obligatory actions may be recognised as the right to religion. Now the question is whether women are equally empowered with men to perform these recommended obligatory actions which are indispensable to purify their souls for the realisation of truth? There is no discrimination between men and women in Islamic law for the performance of obligatory actions. Like men women are also advised to perform the obligatory actions under *fard* category which are indispensable as a prerequisite for the realisation of eternal truth.

### 3. Social impacts of the obligatory actions

All actions under *fard* category have their own social values. Prayer and fasting make Muslims disciplined. Discipline is required for the further development of one's spiritual life. *Zakāt* or the obligatory charity encourages communal cooperation to meet the requirements of the poor in the society. *Hajj* builds the circle of acquaintances and increases mutual understanding, adjustment and cooperation.

So it is evident that there is no discrimination among men and women with regard to their fundamental rights in Islam. Nor is there any discrimination in the enjoyment of social rights. These rights give women in Islam equal importance to that of men in the social and political sphere. Islam has given women not only an important place in society but also recognise that their contribution to construct a disciplined society is indispensable. There is no difference between men and women as human beings. The Creator himself has created two entities as men and women to continue the uninterrupted flow of creation.

In the *Hadith* Muhammad had given women the most respectable status among human beings. Once in reply to the question asked by one of his followers - where does paradise lie? Muhammad said- Paradise lies at the feet of your mother (Afifi, 273).

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