

Women in Islam and its Controversial Issues

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ABSTRACT: *There are more than 1.8 million Muslim living in this world. They constitute approximately 24% of the world population today. Some Muslim is close to Islam and some are far from it. But by, unfortunately, there is no Muslim society at present in the world which is 100% according to the Quran, Hadith and Islamic law. Some people claim that Islam is a religion of man and some claim that Islam is an unjust religion which deprived women of her rights and liberties. There are some incorrect conceptions about women in Islam that have been spread throughout the world. These incorrect conceptions were not for women but rather an attack on Islam. It distorts the beautiful picture of women which throughout the past fourteen centuries of Islam honored, respected, cherished and dignified the women. The constantly blame of scripture, Quran, and religion for the injustices pervaded through ages is completely wrong and unfair. True knowledge and perception are the means which play the role of alleviation in such contexts. If anyone wants to know the women's right in Islam, he or she should not judge Islam according to what Muslim's do and what Muslim societies does or practice. The true women's right should be judged through the authentic sources of Islam i.e the holy Quran and Hadith, not by the Muslim and the Muslim Society.*

KEYWORDS: *Muslim, Women, Rights, Quran, Islam*

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I. INTRODUCTION

In the modern era, the status of women in Islam is one of the crucial topics and dominant themes for the people. Islam doesn't promote inequality between man and woman. Islam is just a religion and like other religion in the world, it depends on what its followers practiced. Generally, people from other communities thought that Islam and the Quran did not allow Muslim women to play a positive and important role in society and decision making.¹ Islam always promotes human brotherhood and equality between both men and women. The Holy Quran affirms that all human are the children of one man (Adam) and one woman (Eve). There are many verses in the holy Quran which addressed directly to women, their rights and duties. Islam also asserts that as a human being both the sexes have the same origin and therefore give equal rights. According to the Islamic principles, women play an integral role in all aspects of society such as the family, the economy, the educational and political system. It also gives both men and women the same duties and rewards. Muslim Woman has the right to maintain her paternal name when she gets married. Islamic law guarantees woman her economic independence by giving her the right to maintain her own property without any interference from anyone including her father, husband, and brother. Islam also grants the woman the right to choose her husband and without her acceptance and consent her marriage is not valid in Islam. Both man and woman are equal before the Islamic law and received equal reward and punishment according to their deeds. But, there are some crucial issues because of which Islam claimed to be an unjust religion for Muslim Women.²

II. POLYGAMY

Polygamy is one of the most crucial issues for which people attack Islam and criticize it. Polygamy is a custom of having more than one wife at the same time. Mostly European writers believed that Islam is the root cause of polygamy. They believed that Islam is mainly responsible for its spread. But the real fact is that this custom is no way related to Islam. It was practiced by all the people of the Earth before the advent of Islam including Jews, Christians and Iranian, Arab etc. Polygamy is not introduced by any religion first. In fact, it is the creation of climate, racial characters and many other causes related to the way of life in the east and west.³

The custom of having more than one wife is a continuation of practice and practiced in previous religion. The custom of polygamy is as old as the history itself. Almost all the previous religion accepted, practiced and condoned polygamy. There are some divine books like Bible that stated such practiced and legalized it. In fact, there were many previous prophets before the prophets Mohammad who entered into the plural marriages like prophet Abraham who had two wives, prophet Jacob who also had four wives, prophet David had ninety-nine wives and prophet Solomon who had seven hundred noble wives and three hundred

slaves wives. Thus, it is to be noted that the issue of polygamy is not a new practice which related to Islam alone. In truth, it is an old practice, as old as like history of man on earth.⁴

Jews continued to practice polygamy till sixteen century. It is regularly practiced by oriental Jews until they arrived in Israel where it is prohibited under the civil law. However, it is permissible under religious laws which overthrow the civil law in such cases.⁵

Islam is not the cornerstone of Polygamy and in fact, invented it. It just tried to restrict it by prescribing some limit to it. It is true that Islam permits Polygamy but it also laid down certain conditions for it. Islam permitted Polygamy as a solution to social ills only within the strictly defined framework of the law. In Islam Polygamy is a matter of mutual consent. A Woman cannot be a force by anyone to marry a married man. Besides, the wife has the right to restrict her husband not to marry another woman as a second wife of him. The Holy Quran says that:

“If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if you fear that you shall not be able to deal justly with them, then only one”. Quran (4:3)

On the contrary to many divine books, the Quran had limited the maximum number of wives to four under the strict conditions. But, there arose one question that, why polygamy is permissible? The issue of polygamy cannot be understood easily. Polygamy is permissible in Islam for community obligations towards orphans and widow. Islam as a universal religion could not ignore the problem of the unbalanced sex ratios which become truly problematic at the times of war.⁶ War brought millions of widows and orphan who really needed a man as a provider for the household in a time of unprecedented misery. The victorious soldiers of the allied army exploited and ill-behaved with women's of victorious parties. To prevent illegal liaison and prostitution Islam give permission of polygamy with certain conditions.⁷

Many people wrongfully accuse Islam and questioned it for the permission of polygamy. No doubt, Islam allows polygamy to man but there are certain conditions which must be fulfilled for the practicing polygamy. International and civil wars in various parts of the world brought an unbalanced sex ratio. Women were becoming widow and children became orphan after the wars. The best example of that was the first and second world wars statistics says that there were more than 7,3,00,000 more women then out of when 3.3 million of them were widow and twenty million men were killed during the war. Islam permitted polygamy to those who have the capacity to practice polygamy according to the condition of Islamic law or holy Quran. The main reason behind the grant of polygamy was to prevent man and woman from satisfying their sexual desire in unlawful ways like adulteration, fornication and lesbian activities.⁸ Some people keep the wrong conception in their minds about Islam that it allowed a Muslim man to keep four wives at one time since keeping four wives is essential physical and psychological need of man. This conception is totally wrong. A family comes into being through the union of one man and one woman. The holy Quran is also the testimony of it, where it is mention that, the Almighty Allah created Adam and made eve for him as his only wife. If it is natural that man physically needed more than one wife, then Allah would have created more wives for Adam instead of one. The issue of polygamy has been mentioned in the Quran to solve a certain social problem that had arisen in those times. As it stated earlier millions of men were martyred in various battles and leaving behind them orphan children and widow women. Islam applied men to come forward for the help of those orphans by marrying their mother for their upbringing. Polygamy is allowed in Islam for the great service of the society and to solve the plight of orphans and widow.⁹ But, Islam not directly granted polygamy. It has put a certain condition for the practice of polygamy. The first and the foremost condition for polygamy in Islam is –

JUSTICE- As per the question, if a person cannot maintain justice between his wives he should not marry more than one wife even for the noble purpose of supporting the orphan. If a man can deal justly, justice to the orphans and justice to the wives etc, that person is able to marry more than one wife.

EQUALITY-The husband must treat all the wives with equality and fairness in treatment for avoiding injustice and practices against wives. This equality is in respect of all the things like food, clothes, wealth, time spent with them etc which is not possible by the normal man.¹⁰

The polygamy is not the advent of Islam nor Islam recommended that the practice of polygamy. Islam just tried to limit the number of wives, as polygamy was practiced and spread all over the world without any limit. It is true that in Islam, a man can have four wives if he can treat all of his wives equally but according to the later in the Quran 4:129 ‘you are never able to be just and fair as between women.....’(4:129), it is impossible for any man in the world to treat all of his wives exactly in the same manner like other. That means indirectly the holy Quran put a restriction on polygamy by allowing polygamy with certain conditions. The practice of polygamy is very difficult according to Quran which repeatedly says that if a man can act fairly towards his four wives, he should marry one, two, three or four but if a man fears that he cannot act fairly towards his all wives he should marry only one.

III. DIVORCE

Divorce (Talaq) also known as dissolution of marriage is the termination of matrimony between the married couple under the rule of law of a particular country or religion. Some religion used their own religious law apart from the rules of a particular country to administer marriage and divorces. Islam is one of the religions, which maintain its own religious law that is Hadith in the cases of marriages and divorce. Islam recognizes divorce, yet it discourages it by all means. Prophet of Islam said the believers that “among all the permitted acts, divorce is the most hateful to God”¹¹

Divorce in Islam is lawful and it can be exercised by man and can be initiated by a woman under certain circumstances. As like the polygamy, Islam allows divorce in the cases where separation is unavoidable but as a matter of principle, Islam strongly opposed the practice of Divorce. In Islam, a man should not divorce his wife just because he dislikes her. The Holy Quran instructs all the man to be kind to their wives even in case of lukewarm emotions or feelings of dislike:

“Live with them (your wives) on a footing of kindness and equity. If you dislike them it may be that you dislike something in which Allah has who placed a great deal of good” (Quran 4:19)

According to Islam, those who take a new wife and divorce the old ones are the enemies of Allah. The Holy Prophet said that the Almighty Allah dislikes and hates those men regularly change wife and divorced innocent wife for the new wife are the enemies of Allah. The Holy Prophet said that:

“There is nothing more pleasing to Allah than the house where the marriages take place and nothing is more displeasing to him than the house where it is served by a divorce”.

According to the holy prophet, Divorce is the only permissible act which Allah dislikes the most. Allah hates separation and dislikes those who resort to divorce. Divorce is the most detestable thing to Allah out of all permissible thing.⁵⁸In Islam, divorce is a disliked act and Allah hates it. It is permissible only if it is impossible for the couple to live together. In this condition, Divorce is permissible for both wife and husband.¹²

Right Of Husband To Divorce

The Husband right to divorce is one of the three modes of dissolution of marriage in Islam. The other two modes of dissolution are by the wife under some circumstances and divorce judicial order. Divorce by Talaq is permissible in Islam but it has limitations. There should be the role of arbiter in Islam but it has limitations. There should be the role of arbiter in the Talaq modes of divorce to makes Talaq a Quasi-judicial proceeding. The Quran in verse 4:35 specified the appointment of two arbiters, one for the husband and one for the wife to re-establish the cordial relation among them when a breach between two is apprehended. Another limitation is the rules of Iddat prescribed in verses of Quran, i.e 2: 228, 33:49, 65:1 and 65:4 which must be observed by the wife after she is divorced by her husband. This mode of divorce is irrevocable only after the fulfillment of the condition of verse 2:229 and 2:30. Iddah or Iddat period is a three months waiting period during which husband can think in his divorce and has the right to take his divorced wife back if they want reconciliation. And if the woman is pregnant her waiting period is until she delivered the child. During the Iddah period husband should behave with his wife kindly and to provide all the material things she needed as like earlier before the Talaq. Both husband and wife have to live similar like before the divorce except the sexual intercourse. These three months waiting period was mainly for the rethinking of separation and for re-establishing of the cordial relation between the couple. This waiting period is also observed to know if the woman is pregnant or not. And if the woman found pregnant husband cannot divorce her before the childbirth. Jurists of Islamic law recognizes three forms of Talaq practiced by the follower of Islam namely.¹³

(i) Talaq Ahsan

(ii) Talaq Hasan

(iii) Talaq Bid

(i). Talaq Ahsan

The only method of Talaq recognized by the Quran is the Talaq Ahsan. This Talaq Ahsan occurred when the husband pronounced the word Talaq only once when a woman is clear from her menstrual cycle and then is followed by the Iddat period. During this period husband get the time to thinking again about his decision of divorce and has the right to dissolve his Talaq decision and get his wife back. This form of Talaq was approved by the prophet Muhammad and it is also called as Talaq-al- Sunna.

(ii). Talaq Hasan

Another mode of Talaq is Talaq Hasan in which husband divorces his wife for the first time in one Tuhr (when a woman is clear from their menstrual period), again in a second Tuhr he divorced her secondly and again in a third Tuhr he divorced her thirdly. In this way, he divorces her slowly by taking time to think again about his decision during three Tuhr of his wife.

(iii.) Talaq Bid (triple talaq in one sitting)

It is that mode of Talaq which was originated after the death of Prophet Muhammad. According to this method, a man can give divorce his wife by pronouncing the word Talaq thrice in one sitting. This form of triple Talaq is mode widely practice among Muslim, particularly in India, Pakistan, and Bangladesh. This triple Talaq is the most controversial issue of Islam between its followers and non- followers. However, triple Talaq in one sitting is not mentioned in the Quran or in the Hadith and nor any Quranic verse has ever supported this triple Talaq. On the basis of Quranic verses, authentic Hadith and the history of Islam, triple Talaq in one sitting cannot be considered irrevocable divorce under Islamic rules because-

(i). Quran did not mention the triple Talaq in one sitting.

(ii). Throughout the history of Islam during the time of the prophet, there is no mentioned of the practice of triple Talaq in one sitting. According to Nesai (one of the collectors of six sahabis) the holy prophet became extremely angry when he was heard about a Muslim who divorced his wife thrice in one sitting and said: “you make fun of Allah’s books and Islam is still there among you”. This means the holy prophet does not accept the triple Talaq, in fact, he condemned it.

(iii). During the Caliphate of Ahu Bakar, there was no practice of triple Talaq.

(iv). During the Caliphate of Umar I, triple Talaq in one sitting was considered as Talaq-i-raj (revocable divorce).¹⁴

Even after the establishment of four schools of Sunni law, the triple Talaq in one sitting received reluctant acceptance. Imam Abu Hanifa and Imam Malik considered triple Talaq bidah which is not permissible. Strangely, again both Imam Abu Hanifa and Imam Malik said that although triple Talaq is not permissible but once pronounced thrice the word Talaq in one sitting would be considered valid talaq and irrevocable. However, both had revised their opinion later after observing the Quran where there is no mention of triple talaq in one sitting and such a divorce is talaq-i- raj which has no legal validity. Hanbali jurist, Imam Ibne Taymiyah in the fourteen century A.D declared his fatwa in support of the view of Imam Ahmed Ibne Hanbal and from that triple Talaq in one sitting has legal validity. History also proved the fact that not even twenty of the disciple (ashabs) of the 100,000 disciples of the prophet’s ever agreed on triple Talaq in one sitting.¹⁵

The Wife Right Of Divorce

The wife’s right of divorce is recognized by the Quran and the Hadith. Although, the Quran makes no reference to women pronouncing Talaq to their husband’s but the woman can claim for the divorce in two forms namely ‘Khula’ and ‘Mubaraa’. Khula is a procedure through which a woman can divorce her husband with her own desire for separation by returning the dower to husband which she received from her husband at the time of her marriage. And the divorce which was done by mutual consent is called Mubaraa. Quran prescribes mutual and peaceful reconciliation or separation on peaceful terms and the wife has the right to repudiating her husband.¹⁶

The issue of triple Talaq has been a subject of controversy and debate in the countries like India. The practice of triple Talaq has raised the issue of Justice, Gender Equality, human right, and secularism.¹⁷ Quran also did not mention triple Talaq in one sitting nor was practiced at the time of the prophet and his disciples. With the passage of time, the trend of triple Talaq increased and in recent times, the man gives Talaq to his wife by electronic means such as telephone, SMS, email or through other social media. They even not present their wife at the time of pronouncing divorce to her It becomes like a game of today’s man that they need not cite any cause for divorcing his wife.¹⁸ The practice of triple Talaq is already banned or prohibited in 22 Muslim majority countries including Pakistan.¹⁹ In India, Muslim family law is governed by the Muslim personal law i.e Shariah Act 1937 which was passed after the government of India Act 1935. The Shariah law was introduced by the class of Muslim legal scholars who considered triple Talaq legal and binding. However, the Ulema of Ahl-i-Hadith Tawler and Musta’s did not consider it as proper.²⁰ Since the early 20th century, the changing social condition around the world and of the various reform undertaken in different countries on triple Talaq, Indian Muslim especially women also raised its voice against the unilateral right of the husband to divorce his wife. The practice of triple Talaq faced opposition from Muslim women. Public interest litigation was filed in the supreme court of India by some women against the practice and terming it regressive and against the article 14 of the Indian constitution.

In March 2017, around 1 million Indian Muslim, mostly women signed a petition to end the custom of triple Talaq. The petition was started as an Islamic organization, the Muslim Rashtriya Manch which is affiliated to the Rashtriya Swayamsevak Sangh, a Hindu nationalist organization.²¹ On 13 May 2017 the supreme court of India during the hearing before its final judgment described triple Talaq as the worst form of marriage dissolution. The Supreme Court is also stated that this custom is banned in many Muslim majority countries like Saudi Arabia, Morocco, Afghanistan, and Pakistan. So, it should be banned in India too.²² On 22 August 2017, a multi-faith bench of five judges of supreme court declared the triple Talaq unconstitutional and

against the 5 (five) the tenets of Islam. The practice of instant triple Talaq was against the article 14 of the Indian constitution which grants equality before law.²³

Hijab Or Purdah

Hijab is one of the most controversial issues among the follower and the non-follower of Islam. For some people, the Hijab represents subjugation and oppression and for some, it is the divine wisdom which is considered for the goodness of the mankind. It is the natural characteristic of every human to look attractive and beautiful yet Islam fear that this attractiveness should not be the source of their destruction. In Islam, The Holy Quran urges the believing men and believing women to lower their gaze and guard their modesty and then urges the believing women to extend their head covers to cover the neck and bosom:

“Say to the believing men that they should lower their gaze and guard their modesty... And say to the believing women that they should lower their gaze and guard their modesty that they should not display their beauty and ornaments except what ordinarily appear thereof; that they should draw their veils over their bosoms...” (Quran 24:30, 31)

Islam believed that prevention is better than cure. Islam said that women should beautify themselves and look attractive in order to comfort and retain their husbands instead of showing their beauty to the world and inciting men to sin. Safety and security is the only reason behind the Hijab and Purdah in Islam and to protect man from sin. That is why in Islam, women are forbidden to wear those dresses which show their body parts, their body structure, transparent and tight dress or to use makeup and scented oil in the streets or any public places. Mostly, people think that veil or Purdah is only for women and men are free from these but it is wrong, In Islam men too have to observed veil. They are also obliged to wear loose fitting clothes and a full dress which do not display their private parts. As we all know that, the high incidence of rapes and sexual harassment perpetrated on women in western society. These incidents are the direct result of the high level of sexual enticement which is present in all levels of western life. Dresses which are made only for covering the body parts of men and women and for the protection of the body now became a means of displaying the body in the most uncouth fashions. Islam only wants the protection of its mankind from the sexual brutality.²⁴ Therefore, Islam has laid down some set of rules in regards to their protection and safety.

(i). Women should turn their eyes away from temptation.

(ii). Women should preserve their chastity or guard their private parts.

(iii). Women should cover their adornments.

Islam does not recognize any disciple of restricting the women movement in the name of Purdah or Hijab. It only inculcated the moral teaching of modesty and chastity.²⁵

IV. CONCLUSION

Truly, Islam treats both men and women with fairness and justice. According to Islam, males and females are equal in terms of humanity and are entitled to the same worldly and hereafter rewards and punishment. It granted the women the same rights in so far as chastity, personal honor, and respect are concerned. According to Quran, Islamic rules, and teaching, a woman equally qualified in so far as financial dealing and can buy, sell, own, earn and undertake any type of financial transaction without any restriction, limitation and guardianship. In terms of education too, Islam grants women the same right as men. It also places women in an equal position in terms of the responsibility of reforming the society. In fact, women enjoy certain advantages from which man is deprived. She is exempted from some religious duties like Namaz and fasting during the time of her menstrual cycle and at the time of confinement. She is free from all financial responsibilities like earning for her living and for her household. As a mother, she enjoys more respect, dignity, and recognition in the sight of God as it is admitted by the prophet that paradise is under the feet of the mother. A mother is entitled to three- fourth of her son's love and kindness in comparison to one- fourths for his father. As a wife, she has the right to demand a suitable dowry that will be her own from her prospective husband. A husband has to fulfill all her legal demand and total maintenance. She need not to works for her living nor to share her property with her husband in the family expenses. She is free to hold whatever she posses before and after her marriage and nobody has the right to claim any of her belongings. As a daughter or sister, she came under the security and provision of her father and brother respectively. And if she wants to work or be self-dependent, she is completely free to do so and nobody has the right to stop her.

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