Women’s Rights in Islam
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Abstract:
Right from the beginning women are entitled to a number of rights in Islam which make them not only equal to men but at certain stages superior to men. Despite this, Muslim women in their practical life are deprived of these rights as reflected in their entitlement to property and inheritance, right to education, divorce, employment, maintenance etc.. The unequal treatment received by women in Muslim societies is widely debated and attributed to certain principles and norms in Islam which however is not true. The paper attempts to examine the nature of rights given to women in Islam i.e., textual sources and Ahadith. The paper also intends to highlight the practicability of these rights in day to day life of Muslim women and the gap in theory and practice. The paper is based on secondary sources such Quran, Ahadith and other relevant literature wherever necessary. The statements will also be supplanted by participant observation of the authors.

Key Words: (Religion, Islam, Muslim, Women Rights, Quran, Gender)

1. Introduction:
It can openly be admitted that in defining religion, most of the Indian thinkers follow the definition given by the western thinkers. As the western thinkers believe that the religious approach is theistic in its nature, so the Indian thinkers maintain that religion is some form of theism. This view of western thinkers seems to be an echo of a Scottish theologian and philosopher Robert Flint. According to Flint, both theism and religion are one and the same thing. In his lecture he says the impossibility of anything more than theism. Similarly, there is no religion which is less than theism. This point is stated by William James in another way. He says, “Anything short of God is not rational, anything more than God is not possible.”

Another definition of religion is given by Galloway which is definitely applicable to theism. According to him, “Man’s faith in a power beyond himself whereby he seeks to satisfy emotional needs and gains stability of life, and which he expresses in acts of worship and service.” By this definition Galloway tries to maintain that the essential feature of religion is a faith in a power beyond men which satisfies the emotional aspect of men. In explaining the meaning of religion Taylor says that religion is the belief in spiritual beings. But his explanation of the meaning of religion does not satisfy a rational mind as he does not give us a clear picture of the nature of spiritual beings. Max Muller, a German born philosopher, gives us a vague definition of religion. While explaining the nature of religion he says that in religion infinite is perceived. There are three different aspects of religious consciousness, viz., intellect, feeling and action. But while defining religion different thinkers emphasizes either of the aspects.

According to Herber Spencer, religion is a type of hypothesis by which people attempt to
comprehend the universe. His definition thus emphasizes the intellectual aspect of religion. Other thinkers like Mc Taggard emphasizes on the emotional aspect neglecting other aspects. Similarly, Frazer’s definition of religion emphasizes only the volition and action. But the definition of religion seems to be more or less satisfactory is put forwarded by Robert Flint, as he embraces all the three aspects of religion. According to him, “Religion is man’s belief in a being or beings mightier than himself and inaccessible to his senses but not indifferent to his sentiments and actions, with the feelings and practices which flow from such a belief.”

The above mentioned definition and analysis of religion is not sufficient. There are so many definitions of religion given by different thinkers at different period of history but none can give us a complete picture of it. “Religion is hard to define, not because there is so little of it, but because there is so much.” It is fact that God is the central element of religion and men have implicit confidence on Him and they exercise all their attempts to make commune with Him. Thus without mentioning this aspect of religion no definition of it can give us a complete picture of religion.

Religion is believed to be one of the most misunderstood and complex phenomena in human history. It not only provides a strong basis for moral conduct in personal and societal life but also defines for humanity the concept of ‘end of life’. Religion is also a central defining characteristic of different cultures and civilizations and most of the great religions are the foundation on which the great civilization rests. In the late twentieth century, there has been a global resurgence of religions consciousness around the world. This phenomenon has intensified religiously inspired movements around the world, which makes it essential to understand the influence of religion within human rights discourse.

There are different aspects of religion such as, internal and external, individual and social. In religious consciousness an emotional element is present. The emotional elements are- ideas, thoughts and feelings. Not only that, it also concerns man’s relation to God. Thus these emotional elements as well as intellectual elements are referred by internal aspect. Apart from this an important aspect of religion is practical activities such as, rites and ceremonies. These practical activities are different ways through which men express their religious feelings. Thus these practical activities are referred in external aspect of religion. But although it is claimed that God is the central element of religion, there are religion without God or gods. Some of these religions are Buddhism, Jainism and Comet’s religion of humanity. Crawley also holds that the fundamental feature of religion is sacred ceremony. He believes that religion is possible without making any reference to God or gods. Bu there are thinkers who are of the opinion that without reference to God the true sense of religion is not possible. Many others claim that those who do not believe the reality of God in their religion, there is reference of communion between man and something beyond man in their religion. Religion is, in fact, an individual matter. It is individual who acquires religious experience and he has conviction on it. He personally realizes religious experiences in his life. He believes that salvation can be attained through performing religious activities. But to a social philosopher, social aspect of religion is more important and carries greatest significance. This social aspect is emphasized by all the great religions of the world. It is because of the fact that religion plays an important role in maintaining social unity, its promotion and maintenance. The religion which emphasizes this social aspect is the religion of humanity, although in traditional sense this aspect is not recognized as religion.

The name “Islam” simply means self surrender to the will of God. It is the way of life that all prophets throughout history have taught, from those known in the western world such as Abraham, Moses and Juses to those send to the other parts of the earth like Salih, Shuaub and Lukman, the African. The last and final guide was Muhammad, may he be blessed. A muslim (i.e. a self surrendered one) is a follower of this faith. Nearly one in every five person alive today is a muslim.

The question of property rights of women in Islam is one of the most controversial issues within the Islamic schema of human rights. The property rights of women as given in the Qur’an and the traditions of Prophet Muhammad were a revolutionary step in the 7th century Arabia. However, the context driven reforms of rights of women in Islam is subject to many challenges in
the traditional Muslim societies. Islam, as a religion, remains one of the most influential factors in Muslim societies. The present study attempts to examine the nature of property rights given to women in Islam i.e., textual sources and Ahadith. The paper also intends to highlight the practicability of these rights in day to day life of Muslim women and the gap in theory and practice.

The aim of the present paper is as follows:

1. To identify and enumerate the inheritance rights guaranteed to Muslim women according to textual sources (Quran and Hadith) and from the tradition of early Muslim society.
2. To highlight and analyze the actual inheritance practices among the Muslim society in general.
3. To produce sociological insights regarding this wedge between theory and practice in inheritance issues among the Muslim societies.

2. Methodology:

The paper is based on secondary sources such Quran, Ahadith and other relevant literature wherever necessary. The statements will also be supplanted by participant observation of the authors. The experiences regarding property sharing about Muslim women in the present study have been taken from Kashmir.

It is generally thought that Islam treats women unfairly and gender justice is not possible within Islamic law known as sharia law. This assertion is partly true and partly untrue. It is true as far as the existing sharia laws are concerned— but untrue in the light of the laws that were codified during the 2nd and 3rd centuries of Islam, when the general perspective on women’s rights was very different from today. The Qur’anic verses, which are quite fundamental to the Islamic law, were interpreted so as to be in conformity with the views about gender rights prevailing then.

The Qur’an does not chronologically present the creation process of man and woman. It, nevertheless, does principally and essentially respect and view woman as just as an important a part of the whole cosmos as man. The existence of woman is considered by the Qur’an to be as urgent as the existence of man. God, The Almighty, as the Qur’an informs us, gives equal rewards to everybody who performs good deeds and gives punishments to those who commit evil deeds. There is no single verse that supports and promotes gender discrimination on the basis of gender. Unfortunately, in most societies, especially Muslim ones, the concept of gender, which is actually a product of a social, construct tends to accord women a low status and often puts them in a non-advantageous position.

In the divine scheme of regulation of the relationship between men and women, Islam has assigned a position of dignity and honour to woman. Such beneficent regulation is essential for peace, comfort, happiness, continuation of the species and progress.

The Holy Quran emphasizes that God in His perfect wisdom has created all species in pairs, and so men and women have been created of the same species; as is said: “He created you from a single being; then of the same kind made its mate.” (39:7) “He has made for you mates of your own kind.” (42:12) “O mankind, be mindful of your duty to your Lord, Who created you from a single soul and from it created its mate and from the two created and spread many men and women.” (4:1) “He it is who has created you from a single soul and made there from its mate, so that the male might incline towards the female and find comfort in her.” (7:190) the textual source of Islam makes women not only equal to men but give them honor and dignity and makes men more responsible towards them.

3. The Inheritance Rights of Woman in Islam:

Islamic inheritance law is called al-faraid. Faraid is constituted by the holy Quran and the Sunnah. It is an important part of Shari’ah. Encouraging Muslims to learn faraid, the Prophet Muhammad (PBUH) said, “Learn faraid and teach them to people, because it is one-half of knowledge and it will be forgotten and the first to be taken up from my community”.

Faraid is very comprehensive compared with other inheritance laws as it discusses the share of different types of heirs. A large body of classical Islamic literature on faraid thoroughly discusses the rules of property distribution among the heirs and solves a number mathematical problems. Faraid was also appreciated by some non-Muslims. Admiring faraid, Rumsey mentioned, “The Muslim law of inheritance comprises beyond question, the most refined and elaborate system of rules for the devolution of property that is known to the civilized world.”

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Man and woman, from the Islamic viewpoint have the same rights. They have the right to work, earn money, own property, and are originally common in inheritance. Husband and wife inherit each other. There are various verses and traditions of the prophet (SAW) that provide women the right to possess property like as follows; The Qur'an says: Men shall have a portion of whatever parents and near relatives leave, while women should have a portion of whatever parents and near relatives leave; no matter how small nor how large it is, a portion is stipulated. (Qur’an 4:7)

According to the above verse that women like men, have the right to inherit and have a certain portion. After that the above verse was revealed, which shows that both, man and woman, receive inheritance and that both of them inherit each other. (Tafseer Kabir, Vol. 9, P. 194) Islam conferred inheritance to the woman, and gave her individuality, and considered her equal to man. But in Islamic legislation, the portion of woman’s inheritance is half of that of man’s. The Qur'an says: Allah instructs you, concerning your children; a son shall have a share to that of two daughters. If the women are more than two, then they shall have two thirds of what the deceased has left; and if there is only one, she has half. And for his parents, each of them shall receive a sixth of what he has left if he has a child. But if he has no child, and (only) his two parents inherit him, then his mother will receive a third. But if he has siblings, then his mother will have a sixth, once his will or his any dept has been settled. You do not know whether your parents or your children, are closer to you in usefulness. This is an ordinance from Allah; Surely Allah Knows, Wise. (Qur’an 4:10)

From the viewpoint of Islam, the son gets double of that of a daughter, and the brother gets double of the sister. An objection to the law of inheritance is: the discrimination between the portions of the woman and man. Is not it injustice and discrimination?

The Islamic scholars have the answer for it. They say it is not injustice. Among the various Islamic scholars, Sharawi and Siddiqi are in agreement that the formula 2:1 of inheritance is fair enough. Both of them thought that it is fair and not discriminatory against women because it is appropriate to the rights and responsibilities between men and women. For instance, men are responsible for supporting financial life both for their wives and children whereas women are free from such responsibilities. Moreover, if women get married, they obtain bride price, whereas men have to pay for the bride price. Men must pay the bride price again if they get married for the second time, while women will receive a new bride price if they get married a second time, etc.

There is a lot of difference between the teachings of Islam and the practices of Muslims particularly in the present day world. This has developed the notion not only among the non-Muslims but the Muslims within themselves that Islam does injustice with women and is the cause of gender discrimination in Muslim societies which is not the realty. On the contrary, Islam has elevated the position of women and given them honor as mother, daughter, sister, spouse and the equal member of society. Coming to the property rights of women, it is the Muslims of the present day world who do not implement the principles of Islam properly which is the cause of gender discrimination and not the Islamic teachings. This was also observed in case of Muslim women in Kashmir.

4. Property sharing among Muslim women in Kashmir:

The valley of Kashmir is comprised of Muslims who have converted to Islam many hundred years before. Jammu and Kashmir State comprises of Muslims and bulk of them are living in Kashmir. They are not exhibiting the characteristics of a true Muslim Ummah yet. Certain cultural norms form the past are still prevailing among them. The Islam which has flourished in Kashmir has been of Sufi nature focusing more on spirituality rather than learning and practising all the principles of Qur’an and Ahadith. That is why there is contrast between what is written Qur’an and Ahadith and what Muslims of Kashmir follow.

Regarding the distribution of property among Muslim women in Kashmir, there are Muslim women from urban areas and Muslim women from rural areas. Women in urban Kashmir receive share from the parent’s property but it is rarely found in the rural areas. The Muslim women from urban areas do not get the actual share in property in the same way as men get. On the other hand, women in rural areas get no share from parent’s property but only rarely. Sometimes
when the sister asks her brother the share from property she is denied or no longer respected as sister. Even if she knocks the doors of the court, it takes a lot of time in doing justice to her. In rural areas if a woman takes the share of property from her brother, she is looked down upon by the people.

The reasons for imbalance in property rights of Muslim women in Kashmir are:

Cultural values and social norms discriminate against women from getting their inheritance property. Because of the strong cultural norms in rural Kashmir, the majority of women are landless. Although a few women are having their own land, they have very little right to control and use their properties. Women are sometimes forced to leave their properties to their brothers. Very few women are able to take legal action for their property rights because they are aware about the legal ways of getting their property. Most of the women are unaware about the Qur’anic laws of inheritance which is great hindrance in their way of becoming property holders. Most of the women are not ready to come forward to raise this issue and work for it.

Therefore, we can put the features of discrimination on women as follows:

1) Most women are completely deprived of their inheritance property.
2) Those who own property lack the power to control and use the property.
3) Cultural norms force a woman to leave her inheritance to her brothers.
4) Those who ask for inheritance property from their brothers are considered odd in the culture and are made to suffer mentally and emotionally.
5) In reality, very few women are able to ask for legal action to get their inheritance
6) Lack of knowledge of legal provisions and Qur’anic Knowledge about their property share helps in retaining them property less.

Because of this discrimination, women are financially dependent on men and are considered a burden on the society. If this practice continues, it will be a barrier in the way of development because women represent nearly half of the population. Thus property sharing in Muslim societies has to be changed. It has to be distributed in accordance with the rules of Qur’an and Ahadith.

5. Conclusion:

Inheritance rights according to Qur’an and Ahadith are entitled to both males and females. Woman in Islam is supposed to cherish all types of rights that are due to a man. However, in practice there are visible deviances as for as inheritance rights of Muslim women are concerned.

Undoubtedly one of the most important issues which confront the Muslim Ummah in the 21st century is that of gender equality and gender justice. The Quran, because of its protective attitude towards all downtrodden and oppressed classes of people, appears to be weighted, in many ways, in favour of women. However, a review of Islamic history shows that many of its women-related teachings have been misused in Muslim culture which is still largely dominated by patriarchal values. It is deeply disturbing that even in the 21st century; many Muslim women are subjected not only to physical and economic subjugation, but also to moral, intellectual and spiritual degradation through a misrepresentation of the essential message of Islam. Islam does not discriminate against women. In fact, in view of their disadvantaged and vulnerable condition, it is highly protective of their rights and interests.

It is important to point out that today an increasing number of Muslims are realizing that if the Ummah is to become worthy of being the ‘khalifah’ (or vicegerent) of God on earth and to actualize its highest potential, it will have to make a strong commitment to establishing gender-justice and gender-equality in all spheres of life. No society can claim to be truly Islamic unless it identifies, in word and indeed, that a man and a woman are equal before God and that each has an equal right to develop his or her God-given capabilities to the fullest.

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