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WOMEN'S RIGHTS IN ISLAM:

LEGAL PERSPECTIVE AND CONTEMPORARY DEBATES

INTRODUCTION

Islam's legal rights for women are based on the Quran and the Sunnah and cover a wide range of areas. The argument over women's rights in Islam is fierce and includes both legal and modern viewpoints.

Islamic law plays a significant role in shaping women's rights in Muslim societies, reflecting a complex interplay between traditional interpretations and contemporary challenges. The debate surrounding Islamic laws and women's rights often involves contrasting perspectives.

Inheritance, support, dower, employment, education, and the right to choose their spouse are all rights granted to women. The rights of women are stated clearly in the Quran, including the ability to inherit from husbands, parents, and offspring. Wives must also receive a dower and financial support from their husbands, which takes care of their basic requirements including clothing, food, and housing.

THE CONTEMPORARY DEBATE:

A number of significant discussions have surfaced in the current discourse in Islam on women's rights. These conversations frequently center on divisive topics like polygamy, the veil, and differing readings of specific Quranic verses. Muslim feminists actively engage in these discussions in an effort to advance gender parity within the context of Islamic principles. Although the Quran explicitly states that men and women are equal before God, there are continuing disagreements on the degree of equality that Muslim communities allow women, with cultural and religious elements playing a role in these discussions.

THE SPIRITUAL ASPECT:

In terms of her rights and obligations, women are treated equally with men in God's eyes, as the Qur'an unequivocally demonstrates. According to the verses of the Qur'an:

*Every soul will be detained for what it has done*¹ (QUR'AN 74:38)

*And their Lord responded to them, "Never will I allow to be lost the work of [any] worker among you, whether male or female; you are of one another."*² (QUR'AN 3:195)

To whoever, male or female, does good deeds and has faith, we shall give a good life and reward them according to the best of their actions.³ (QUR'AN 16:97)

THE EASE PROVIDED TO WOMEN IN ISLAM:

Women and men have the same religious requirements, including daily prayers, fasting, giving charity, and pilgrimages. It is true that women sometimes have certain advantages over men. For instance, the lady is excused from fasting for forty days following childbirth and from the daily prayers during her menstrual cycle. In addition, if there is a risk to either her health or the health of her unborn child, she is not required to fast while she is pregnant or breastfeeding. Should the skipped fasting be required (during the month of Ramadan), she is free to make up the lost time at any time. For any of the circumstances, she is not required to make up the prayers she missed.

While women could and did enter mosques throughout the prophet's lifetime, they are not required to attend Friday congregational prayers, but men must (on Friday).

Islamic teachings are obviously sensitive to the reality that a woman may be caring for her infant or nursing him, making it impractical for her to leave the house during prayer times. They also consider the alterations in her physiology and personality related to her typical feminine roles.

AN ANALYSIS OF MUSLIM WOMEN'S RIGHTS UNDER PERSONAL LAW:

Islam is the first religion in the world to grant women all the rights that men have and to acknowledge them as legal entities. Islam abolished slavery, granted women the same rights,

¹ <https://quran.com/en/al-muddaththir/38>

² <https://quran.com/3/195?translations=85,84,20,18,95,17,34>

³ <https://quran.com/16/97?translations=51,85>

and acknowledged each woman's individuality as a human being. By establishing rights to property, ownership, inheritance, education, marriage, and divorce, Islam raised the position of women. The Qur'an asserts unequivocally that women are equal to men and that their rights and responsibilities are equal.

The Muslim woman is free to choose her husband, and the legality of the marriage contract depends on her consent. A mature female will be asked for permission to speak about herself; if she declines, she will not be held responsible. Islamic law has given women an advantageous status and recognized them as autonomous, responsible members of society. Even after marriage, a Muslim wife keeps her unique identity and never takes on her husband's name. Islam takes tremendous pleasure in the way it treats women.

LEGAL PERSPECTIVE:

CASE LAWS RELATED TO MUSLIM WOMENS RIGHTS IN INDIA:

1. Shayara Bano vs Union of India and Ors. Ministry Of Women ... on 22 August, 2017 ⁴

The case of Shayara Bano vs Union of India is a landmark legal battle that addressed the practice of talak-e-biddat or instantaneous triple talaq in India. Shayara Bano, a Muslim woman challenged the constitutionality of this practice, which allows a man to divorce his wife instantly by saying the word 'talaq' thrice, without the wife's consent. the Supreme Court of India held that talaq-e-biddat was 'manifestly arbitrary' and unconstitutional leading to the enactment of the **Muslim Women (protection of rights on Marriage) Act** in 2019 which criminalized the practice of triple talaq.

2. Mohd. Ahmed Khan vs Shah Bano Begum and Ors on 23 April, 1985 ⁵

The case of Mohammed Ahmed Khan vs Shah Bano Begum, commonly known as the Shah Bano case, was a landmark legal battle in India that addressed the issue of maintenance for divorced Muslim women. Shah Bano, a Muslim woman, filed a petition in 1978 seeking maintenance from her husband, Mohammed Ahmed Khan, after he divorced her through triple talaq. the case raised significant legal questions

⁴ <https://indiankanoon.org/doc/115701246/>

⁵ <https://indiankanoon.org/doc/823221/>

including whether section 125 of the code of criminal procedure applies to Muslims, the adequacy of Mehr (dower) given by the husband.

This case marked a pivotal movement in the struggle for Muslim women's rights in India highlighting the intersection of personal laws with constitutional principles and the ongoing battle for gender equality within Islamic contexts.

3. Shamim Ara vs State of U.P. & Anr on 1 October, 2002⁶

In the case of Shamim Ara Vs State of UP. involved a significant legal battle concerning maintenance rights for Muslim women under section 125 of the criminal procedure code. the case revolved around the husband's claim of having divorced Shameem Ara through triple talaq in 1987, which led to a denial of maintenance by the family court.

the case highlighted the complexities of divorce practices under Muslim personal law and the importance of ensuring justice and maintenance rights for women in such cases.

⁶ <https://indiankanoon.org/doc/332673/>