

MUSLIM WOMEN ISSUES IN THE FAMILY: TOWARDS AN ENLIGHTENED FIQH CONSTRUCTION

By:

*Mek Wok Mahmud
Sayed Sikandar Shah*

Introduction

Family in Islam stands central in building and fostering a strong and harmonious community (*ummah*). Women in this social unit occupy the most significant place as a daughter, wife and mother. Islam with its liberating code of divinely revealed laws (the *Shari'ah*) accorded the highest respect to women. Nevertheless, in due course this spirit of the *Shari'ah* was somewhat eclipsed under the impact of both legal hermeneutics and cultural practices. A body of Islamic law (*fiqh*) as constructed by jurists contained certain interpretations which were demeaning to women. This has given rise to the assumption that Islamic law as whole is discriminatory to women. We do not agree with this. To delineate this, we will first discuss the position of women in the normative sources. Second we will deal with the problem from a pro-women and an anti-women position. Last, we will address major issues with the aim of identifying problems, solutions and the way ahead.

Women in the family: normative law viewpoint

In the normative sources of Islamic law, namely the Qur'an and Sunnah of the Prophet, women are not less human than men. This has been delineated in many Qur'anic passages in various ways including the following:

1. Both men and women by origin are humans. The Qur'an states:

يَتَأْتِيهَا النَّاسُ أَنْتَقُوا رَبِّكُمْ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَنَسَّ مِنْهَا رِجَالًا
كَثِيرًا وَنِسَاءً وَأَتَقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ﴿١٥٦﴾

“O mankind: Reverence your Lord, who created you from a single soul, created, of like nature his mate (*zawj*), and from them scattered countless men and women: reverence God, through Whom you demand your mutual rights”¹

According to this verse God created Adam and his pair (Eve) and from this pair the human species originated. Thus to differentiate between humans on the bias of gender is to split humans which is a single entity.²

2. The honor, dignity and superiority of human lies on righteousness and not on gender. The Qur’ān is clear on this: “Whoever works righteousness, man or woman, and has faith, verily, to him will we give a new life, a life that is good and pure, and we will bestow on such their reward according to the best of their actions.”³
3. Women have to be cared for, respected and endeared be it they daughters, mothers and wives.

- i. Women as daughters.

The Prophet declared:

- “A man who has a daughter and he neither despises her nor buries her alive nor prefers son to daughter. Allāh will admit him in Heaven.”⁴
- “Whoever brought up three daughters and treated them well, Heaven is for him.”⁵

¹ Al-Nisā’: 1

² Nascem Ahmad, *Women in Islam* (New Delhi: A.P.H. Publishing Corporation, 2003) vol. I, pp. 27-28. see also, Riffat Hassan, “Is Islam a Help or Hindrance to Women’s Development”, *Islam in the Era of Globalization*, Johan Meuleman (edit.) (London: Routledge Curzon, 2002), pp. 192-193.

³ Al-Nahl: 97, see also al-Ahzāb: 35, ‘Alī’Imrān: 195; al-Tawbah: 12.

⁴ *Ibid.*

⁵ *Ibid.*