

# The Rights of Women in Islam: Reconstruction of Haifa A. Jawad's Thought

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**Abstract:** Women have equal status with men. Before the advent of Islam, either in Arab countries or other countries, women were treated as servile and worthless creatures. A woman could not live freely or treat and organize her life by herself. Then Islam came to provide the rights and freedom of women and honor them without oppressing them. Women deserve education, work, and marriage to whoever they want, offering divorce when it is impossible to continue marital life, stipulating monogamy in marriage, returning circumcision to women because it is an unjust process for women, and they deserve a share in the inheritance as Islam divided it without injustice, and participation in the political issue. This research aims to present the rights of women granted by Islam based on points summarized by Haifa A. Jawad in her book "The Rights of Women in Islam".

**Keywords:** rights, women, Islam, Haifa A. Jawad.

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## Introduction

Before the emergence of Islam, either in Arab world or non-Arab world, women were deprived of their rights. They were not honored and could not live freely. Before marriage, she belonged to her father, brother, or whoever was in charge of her. She is sold to whoever pays the price to the guardian. In Greece, women were part of the guardian's property. In the Romans, women were treated like children or the insane, so they had no capacity or personality. The head of the household had the right to sell his women as he pleased, and the woman remained under the authority of her guardian from birth to death. In Jewish society, women were considered servants and were deprived of inheritance if the deceased had males. In Chinese law, women have no value and must work the most menial jobs. In India, women were always followed by their father when they were young, by their husband when they were young, and by their children when their husband died. In England, men sold their wives between the fifth and eleventh centuries. Church courts have

enacted a law to allow a husband to give his wife to another man for a fee or without a fee (As-Sya'rawi, n.d.: 8-9).

God has equalized men and women in reward and the basic requirements of Islamic law, and God has forbidden what the Arabs used to do before the advent of Islam, which is to hate the birth of a girl. The Qur'anic texts clarify that women are equal to men in terms of basic rights and obligations. And that the difference between them in the appearance of rights and obligations is of the nature of functions and characteristics. And this difference is not a depreciation of a type of human race or a distinction of one type over another (Muhammad, 2006: 14). Islam viewed that the male and female are honored and exalted in his life and after his death. Islam has liberated women from the injustice and tyranny that they were experiencing as a result of the beliefs of some ignorant and extremists who pride themselves on the male-dominated society and control the rights of others (Al-Haddar, n.d.: 20-21).

Islam is the first to give women their rights and freedom and restore their dignity before women in America and Europe gained equal rights. Women have their independent legal personality like men because Islam has laid the foundations of this equality between men and women in rights and obligations with precise controls (As-Sya'rawi, n.d.: 10). The Qur'an has determined the independence of women from a man, the right to act on her own, and it still elevates the status of women and instills in her confidence and belief in her rights (Atar, 2003: 28).

## Findings and Discussion

### Rights of Women in Education

Education is a human need. Knowledge is the noble goal that everyone who seeks material and spiritual happiness strives for. Knowledge is the only way to raise the status of man from the lowest ranks of inferiority and degradation to the heights of dignity and honor. Women need education to be rational and intentional beings (Amin, 2002:20).

Muslim women have the right to education as much as Muslim men. Women are obligated to seek knowledge that is beneficial to them in religion and in the world. God Almighty said in the Qur'an in Surat Taha, verse 114, "My Lord, increase me in knowledge." The Prophet said, "Seeking knowledge is obligatory for every Muslim." The guidance of the Qur'an and Sunnah applies to men and women alike. Therefore, Islam has made it obligatory to seek knowledge for women as it has made it obligatory for men. Women are equal to men in obligatory and optional sciences since the emergence of science in the Islamic community. The women of the Ansar were asking the Prophet to teach them because the men had defeated them. So he decided on an appointment and came to them and advised them, reminded them, and taught them. Therefore, Muslim women are seeking knowledge, and in the past they were not ashamed to ask about religion and truth. Many texts have been reported that talk about the courage of Muslim women and the maturity of their personality (Al-Hashimi, 2009:118-119).

In the time of the Prophet, women would race men to circles of knowledge and attend councils of updating, education, and guidance. In the time of the Prophet, the councils of knowledge for the rulings of religion were not exclusive to men, but women had the greatest chance of all (Al-Bouti, n.d.: 83). Women in the time of the Prophet would attend prayer with the Prophet in the mosque and learn from him. The education and enlightenment of women on the right path is the most successful treatment for the diseases of the nation (Al-Haddad, n.d.: 126-128). When the Prophet married Lady Hafsa bint Umar ibn al-Khattab, the Prophet brought a woman from the Banu Adi tribe to teach her reading and writing. The Prophet married her after she had learned, and asked that the woman continue to teach her all the knowledge (As-Syarawi, n.d.: 15).

Islam has raised the status of women, as they are half of society, or even more than half. Women are the makers of society. Therefore, the Prophet ﷺ encouraged the care of raising girls and the effort and money in this way in order to instill in them the meanings of emotional tenderness, compassion, and pity that the perfect woman possesses. Women must develop their natural talents through education in order to be truly the makers of the nation (Atar, 2003: 35-40).

Lady Aisha was the first reference in hadith and sunnah, and she was the first jurist in Islam. Senior companions learn from her about the fundamentals of religion and the details of the Holy Quran. Her knowledge was not limited to religious issues, but she was also proficient in narrating poetry, literature, history, and the sciences known in her time. She is also eloquent and eloquent (Al-Hashimi, 2009: 124-126).

Among the famous women who excelled in science are the daughter of Sa'id ibn al-Musayyab, who was the wife of one of her father's students, Abdullah ibn Waada'ah. She is the most beautiful of people, the most knowledgeable of the Holy Qur'an, and the most knowledgeable of the Sunnah of the Prophet and the rights of marriage. And also Fatimah bint 'Ala' al-Din al-Samarqandi, the author of *Tuhfat al-Fuqahaa'* who died in 539. His daughter Fatimah was a jurist and a scholar who learned from her father and memorized her gift.

There are countless women of fame (Al-Hashimi, 2009: 127-128).

### **Rights of Women in Work**

In fact, work is only permissible for men because they have a family to support. Women have the right to engage in any lawful work, whether it be industry, agriculture, trade, or otherwise (Al-Bouti, n.d.: 64). The Sharia does not prevent women from working at any time or in any condition. However, they must avoid mixing with non-mahram men (Al-Haddad, n.d.: 30).

Work is a right of women that Islam has granted them. Women have the right to work, earn a living, and dispose of what they earn by buying and selling, etc. In addition, Islam preserves the dignity and honor of women. Therefore, Islam has set limits on women working outside the home, which are that they must work with the permission of their guardian, that the work does not harm their marital rights, that the work is lawful, that they cover their private parts, and that they do not be alone with a non-mahram man (Al-Hadar, n.d.: 31-32).

The Quran has clarified the work of women in the story of Shu'aib and Moses, peace be upon them. Moses left Egypt for Palestine and crossed the Sinai desert and reached the well of Madyan. Then he noticed two women who wanted to water the cattle and could not even help them. This story shows us that those women worked outside the house, but in the presence of a mahram or not alone (Al-Shaarawi, n.d.: 262).

During the early period of Islam, women often helped men in work outside the home and were allowed to move freely among men. Khadijah was a successful merchant in her time. Asma bint Abi Bakr often helped her husband in the battlefield. Caliph Umar ibn al-Khattab appointed Shifa bint Abdullah as the supervisor of the market. Therefore, it is possible for women to work as doctors, teachers, lawyers, employers, senior managers, or judges (Jawad, 1998: 28).

There are conditions for women working outside the home, which Al-Jarullah (1983) summarized as the permission of the guardian, either from a father or husband, to work in lawful work, avoiding mixing with non-mahram men,

avoiding showing off adornments that are provocative of temptation, not using perfume when going out, and wearing the Islamic hijab that covers her private parts.

### **Rights of Women in Marriage**

Marriage in Islam is a contract between a man and a woman that makes them lawful to each other. Islam has honored women by giving them the right to choose their spouse. It is not permissible for parents to force their daughter to marry someone she does not want.

There are many texts in the Quran and Sunnah on the issue of forcing women to marry. One example is the story of al-Khansa bint Khudam, who complained to the Prophet Muhammad because her father wanted to marry her to her cousin, but she did not want him. When the Prophet saw that her father wanted to force her to marry, he prevented him, out of concern for the happiness of daughters and to give daughters the freedom to choose their spouses. It is unjust for a father to force his daughter to marry someone she does not feel comfortable with. Islam does not neglect women, and it does not want them to live with a man they hate (Al-Hashimi, 2009: 153). Al-Haddad (n.d.: 239) states that Islam requires the consent of the guardian and the daughter in marriage.

A marital life cannot be based on coercion and force. If a marriage is initiated by force, this is contrary to what God has made of love and mercy between spouses. Parents should advise, guide, and direct their children, but they do not have the right to force them. Islam has taken an interest in the issue of choice between spouses because of its interest in the basic nucleus of the family. The family has a great impact on the creation of civilization, as good children come from happy families. Women are important in the formation of Muslim society (Muhammad, n.d.: 35-37).

### **The Right of Women to Divorce**

Just as Islam gave women the freedom to choose their spouse, it also gave them the freedom to stay with their husband or divorce her when the relationship between them deteriorates and it is

impossible to continue the marriage due to incompatibility between the spouses.

It is commonly understood that divorce is 100% in the hands of the husband and that women do not have this right fully, but the reality is not at all like that. A woman can stipulate to her husband that the *khulu'* be in her hands, meaning that the woman can divorce herself as she pleases and also deserves all of her rights (Muhammad, n.d.: 37).

Divorce in Islam is a harsh and disliked thing, as the Prophet (peace be upon him) said that divorce is the most hated of lawful things to Allah. Before making the decision to divorce, the spouses should try to resolve their problems, the husband should first examine himself if he feels aversion from his wife. Maybe there is good in patience that he does not know in this passing aversion. The family should also be a mediator to deliver the marriage if the attempt between them does not succeed. After all attempts, the husband should not hasten to a revocable divorce but starts with a reversible divorce (Al-Aqqad, n.d.: 93).

After the divorce, the wife practices the waiting period for three *quru'*. The goals of this waiting period are to give the spouses more time to think about their choice of separation and the opportunity for reform, and also to confirm that the wife is not pregnant because pregnancy may cause matching. The benefit of a reversible divorce is the possibility for the husband to review the wife before the end of the waiting period and continue the marital life without a new contract and a new dowry (Jawad, 1998: 85-86).

The divorce in Islamic law is related to the issue of maintenance and dowry. Divorce is divided into two parts according to will, whether it is the will of the spouses or the will of one of the parties, either the husband and the wife does not want it or vice versa. If the divorce is chosen by both parties, the dowry is all for the wife and a pleasure is added to it, the amount of which is decided by the judge. The husband must continue to support the divorced wife until the end of the waiting period. If the divorce is chosen by one of the parties, the judge will look at the reasons for this will. If the reasons are injustice or disobedience from the husband and it is impossible to reform the means possible, the judge accepts the presentation of the

divorce and she has her full legal rights. If the reason is a mood or a transient psychological hatred, meaning the problem is not from the husband, the judge accepts the presentation of the divorce after he convinces the husband of that. The wife must return part of the dowry or all of it according to an agreement between the parties (Al-Bouti, n.d.: 137-138).

### **Women and Polygamy**

Marriage is a legitimate bond between spouses. Islam did not create polygamy, nor did it impose it, nor did it recommend it. But Islam allowed it, provided that it is just and sufficient (Al-Aqqad, n.d.: 69). There is a hadith that the Prophet said (Choose four of them), so this hadith is not intended to command, but the man may marry again for other and public interests. The verse mentions about polygamy, it was revealed for the sake of the existence of orphans and widows. In the Qur'an, there is no open and explicit call for polygamy without those restrictions (Muhammad, n.d.: 29).

For those who want to marry multiple wives, they must meet the conditions. The conditions of polygamy as explained by Sheikh Ramadan Al-Bouti (n.d.: 131) are to separate the wives in an independent house, equalize the wives in spending, sleeping, and treatment, which includes conversation, simplicity, and its methods. The ruling of this is first that justice should prevail in the marital relationship, and second, so that only those who have been forced to it will take it on, meaning that they are in a problem that can only be solved by marrying another wife.

Dr. Wahbah Al-Zuhaili said in his interpretation book, *Al-Munir*, Part 2 (2009: 575-576) about polygamy, if there is no acceptable need or necessity for a man to have one wife because jealousy is common between husband and wife. The permissibility of polygamy is for exceptional cases, including the wife's infertility and the husband wants offspring, the abundance of women after the crises of wars, so that polygamy becomes a realization of the woman's chastity and purification of society from the effects of adultery, and the sexual condition means the wife's lack of response to it.

A woman who stipulates in the marriage contract that she is married to one man is allowed to file for divorce if the husband practices polygamy. The practice of polygamy is a voluntary act, not a compulsory one, and if the wife is subjected to loss and injustice, she may seek protection and justice from the judge. The wife can also protect herself by delaying the dowry, which she can claim in the event of divorce. This is a specific means of defense that Islam provides for women (Jawad, 1998: 52).

### **Women and Circumcision**

There are several reasons for practicing circumcision, the first of which is health. People believe that the external genitalia should be removed to maintain hygiene. The second is sexual reasons, as circumcision is believed to be an attempt to preserve a girl's virginity for marriage. In addition, circumcision is considered to reduce a woman's excessive sexual desire so that she can be protected from shame. Bloating is considered a sexual pathology for men, as the vaginal opening narrows so that the woman can win her husband. The third is the social factor, as circumcision is considered an obligatory ritual and leaving it is a stigma. Uncircumcised women find it difficult to find a husband. Fourth, religious reasons. Many Islamic countries believe that female circumcision is prescribed by religion (Jawad, 1998: 58-60).

The Qur'an does not mention circumcision in any verse. As mothers of believers, we have seen the life of the Prophet, peace and blessings be upon him, and none of the hadiths narrated had anything to do with female circumcision. The Prophet, peace and blessings be upon him, did not circumcise his four daughters because he glorified his daughters' femininity. Circumcision for women is contrary to religion because religion is mercy and circumcision is an evil and merciless procedure. Circumcision is the process of changing God's creation and cutting off some of the infallible organs, even though God created man in the best manner, and this process is one of Satan's threats to mislead the children of Adam into their livestock. Circumcision is torture for girls, and Islam forbids torture (Montaser, 2003: 12, 98).

Dr. Shawqi summarized regarding circumcision that it is not permissible to take the legislation of circumcision from a weak hadith because the weak hadith is either a lie or fabricated for some purpose, and the medical opinion regarding the harm of circumcision for women is taken because the doctor is more understanding and knowledgeable in his specialty, and there is a hadith (no harm, no harm) meaning Any issue that causes harm to Muslims, according to the opinion of specialists, should be abandoned and avoided (Montaser, 2003: 100).

### **Women's Right to Inheritance**

Inheritance is the transfer of something from one people to another people, meaning inherited. It is also said the estate. The statement that Islam has oppressed women because their share of inheritance is half that of men is not true. Because this difference in shares follows three criteria: the degree of kinship between the heir and the deceased, the position of the heir generation, and the financial burden. As for the cases of inheritance in which the woman inherits half of the man, they are: the daughter with her male brothers or the son's daughter with the son's son, the father and mother without children or the husband, the full sister with the male brothers, the paternal sister with the male brothers. Cases of inheritance in which a woman inherits like a man: father and mother with a son and the son's son, brother and sister on the mother's side, sisters with the sisters and brothers on the mother's side, a daughter with her paternal uncle or the closest relative of the father with the absence of a custodian, father with the mother's mother and the son's son, a husband and a mother and two maternal sisters and a brother. Brother, husband with full sister, and maternal brother with full brother. In cases of inheritance, women inherit more than men: the husband with his only daughter, the husband with his two daughters, the daughter with her paternal uncles, and other examples (Muhammad, n.d.: 19-28).

Women can inherit from their position as wife, daughter, and mother. Women get half the share of men because a woman can demand a living from her husband. Women are also not required to

spend their wealth on family needs. In addition, she also received money on her wedding day which is called dowry (Jawad, 1998: 72).

### Women and Politics

Islam encouraged the principle of consultation between the ruler and his subjects, and did not differentiate between men and women. The Prophet used to consult his wife, Umm Salamah, may God be pleased with her, in concluding the peace treaty of Hudaibiyya after he wrote the reconciliation treaty between the polytheists. The Egyptian Fatwa House issued a fatwa ruling that a woman may be a member of the House of Representatives or the People's Assembly (Muhammad, n.d.: 47).

Hamza (2022) said that women have the right to participate in the political process because there is no objection to them participating in politics throughout the country. Women have the right to participate in elections and give their vote, as well as to be nominated for parliamentary councils and others. There is no difference between men and women in political positions, provided that they cover their private parts, do not show their adornments, and adhere to doctrine and faith. Not all men are fit to rule, women usually contribute to political decisions with their opinions.

There are traces of women holding political positions or the so-called Islamic jurisprudential heritage. Against this background, some Muslim scholars permitted women to assume sensitive leadership positions in the Islamic State. During the era of Caliph Omar bin Al-Khattab, there was a woman who gave him advice. Then Asma bint Abi Bakr, who used to admonish Al-Hajjaj bin Yusuf Al-Thaqafi after the killing of Abdullah bin Al-Zubair (Muhammad, n.d.: 49).

Political activities are considered broad areas for both men and women in Islamic law. When the Messenger of God, peace and blessings of God be upon him, said what was narrated by Al-Bukhari, Ahmad, Al-Tirmidhi, and Al-Nasa'i from the hadith of Abu Bakr (No people will succeed if a woman is in charge of their affairs), it indicates that Shiroyeh ruled over the Persians and her daughter Buran continued (Al-Bouti, n.d.: 69).

Women ruled some Islamic countries at different times. However, the woman is not called "Caliph," but rather "Sultana," "Malika," "Al-Hurra," and "Khatun". More than fifty women assumed power, including Shajarat al-Durr, who ruled from Egypt to the Levant in the seventh century, Aisha al-Hurra in Andalusia, the Fatimid Sharifa, Sitt al-Arab, Sitt al-Arab, Ghalia al-Wahhabi, the Khatun Khatla Tarkan, the Khatun Badshah, Ghazala al-Shabiba, and others. There are also women judges, including Qahramana Shaghab Umm al-Muqtadir. Women also participated in the battle, including Asma bin Abi Bakr, who took care of the armies' food, and women who participated in the battle as an army, such as Umm Sulaym bint Milhan, Umm Haram bint Malhan, or Al-Harith Al-Ansariyya, Al-Rabi' bint Muawdh Afra, Umm Sinan Al-Aslamiya, or Salit, Laila Al-Ghafariyya, Mu'aybah bint Saeed Al-Aslamiyah, Hamna bint Jahsh, Rufaydah Al-Ansariyah, and Umm Ziyad Al-Ashja'iyah (Muhammad, n.d.: 55, 61).

### Conclusion

Islam grants women full rights while honoring them and not oppressing them. Islam and the Prophet, peace and blessings of God be upon him, changed the customs and traditions of pre-Islamic times that humiliate women and did not treat women as human beings even though they were honorable. After becoming pure, women have the right to education, to work, in matters related to marriage, and to inheritance.

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