

RIGHTS OF MUSLIM WOMAN AND CULTURAL VALUES

1- Sobia Nosheen.

2- Dr. Muhammad Muawia

Lecturer Dept. Of Islamic Studies, G C University, FSD.

Assistant Professor, Dept. Of Islamic Studies, Institute of Southern Punjab, Multan.

Email: Sobia616@gmail.com

Email: muhammadmuawia@isp.edu.pk

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Abstract

After getting married both the men and women have rights to live a happy married life. However, it is emphasized that Islam has granted specific and distinct rights to married women, which are unparalleled in their nature. Within married life, a woman has the right to receive alimony and maintenance from her husband. Additionally, Islam has provided various avenues for women to seek separation from their husbands for different reasons. In the supercontinent, especially in India and Pakistan, due to different religions, less knowledge, regional culture, and immoral justification. But, for achieving their rights women are facing so many complications. This study analyzes how ineffectual women are in their rights and how much powerlessness is due to culture, lack of knowledge and misconceptions. Such as the rights of dowry, maintenance, alimony and Khula, etc.

Key Words: Married woman, Dowry, Khula, Maintenance, Religious, Social.

It is observed that Islam, is a complete code of life that operates according to its own system. It covers moral, social, political, economic, legal and religious spheres. It cannot be denied, on the other hand, that rarely customs and culture of a society remains prominent. They overpowered our lives privately and hide the true spirit of Islam. As a result, they imbalance the rights and obligations.

INSPITE OF THE FACT if we study sources of jurisprudence then we come to know URF is one of them but it is valuable fact that total customs can not attain the same value. They can not be adopted at every cost. Anti religious customs are not adopted by Islam.

“The word urf is usually associated with the word ma ruf (good) an texts. In this same, it is what the Shariah considers to be good and not what human reason or the prevalent practice consider to be good”¹

It is mandatory that THE CUSTOMS must be approved by Shariah to Beaccepted as on the other hand they are not acceptable if they are contradicted to Islamic teachings. Actually, Islam gives us introduction of a peaceful state in which oppression, violence and injustice has no place. In keeping in view this peaceful statesome customs are not allowed to attain the status of law in order to avoid violation and to make the

¹ Imran Ahsn Khan NaiazeIslamic Jurisprudence, Islamic: ,(2000) International Institute of IslamicThought in Research institute, p 257

society. Pure and healthy

Subhi Mahm Sani reveals the fact that:

Custom and culture are not supposed to be authentic if we have solid evidence. It is clearly mentioned in Mu. jama. The custom cannot be accepted as a source of law when it is not according to jurists' Prudence.²

It means if Nasoos-a-Shariah (clear command) are adopted it will nullify the contradictory customs automatically. Nasoos-a-Shariah is an authentic source of law comparatively and helps a society to get purified. So, in a society both male and females are equally important because they have to play their respective roles, so the obligations and rights of both these pillars are quite clear and definite. So, Allah Almighty says in Quran:

“The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise.”³

It means, woman's rights are clearly mentioned by Allah almighty in the Holy Quran and the Hadith. Provides the explanation of the divine commands. Let us have the comparative study of the allocated rights and the true condition of the Muslim woman in the sub-continent and try to reveal the hidden causes of this gap.

Dower

It is an evident truth that a number of rights are bestowed upon the Muslim woman. Dower is an important one. In fact, the Dowry is an economic protection and social grace provided by her husband at the occasion of marriage.

“Mahar dower is a sum of money or other property which the wife is entitled to receive from the husband in consideration of the marriage”.⁴

This money or property that is given as Dower is, actually a social protection of a woman that is why it is strongly recommended

In 290 of Muhammadan law types of the dower are described:

“The amount of dower is usually split into two parts, one called “Prompt” which is payable on demand and other is called “deferred” which is payable on dissolution of marriage by death or divorce”.⁵

² SubhiMahmsani , Translator Ahmad RazaAzmi, *Phalspha –a- Shairiat Islam*, Lahore: Sh. Bashir & Sons, page 1654-165

³ AL-Quran, Toba 9: 71

⁴ Article 258

⁵ Ibid 290

Being the important and fundamental responsibility of the husband. dower must be paid with pleasure. Because it is not only recommended but obligatory also

So, we have clear commands in Holy Quran regarding the dower as Allah says:

“And give to the women (whom you marry) their Mahr (obligatory bridal money given by the husband to his wife at the time of marriage) with a good heart, but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm (as Allah has made it lawful).”⁶

Molana Modudi elaborates the fact in the Tafheem-Ul-Quran:

“If a woman forgives her right of mahr and after it”. Again, she wants to emphasize the right then husband should have to give back on her demand. Actually, it indicated that she did not withdraw her right happily”.⁷

It means Woman is entitled to this right i.e., Dower and she can use this right whenever she wishes.

“It is misconception among a few people that mahr is not payable if they get married with mother of an orphan but it is against the justice.”⁸

This articulation allows that even if the beneficiary of marriage is woman, in spite of this she will reap the benefit and it is obligatory for him to pay. Molana Muhammad Shafi provides a deep glimpse over the Arb society:

“In pre-Islamic Arb culture Rights of the woman were crashed in different ways the vali of the woman was supposed owner of the dower but Holy Quran condemned the custom and persuaded to hand over the lady who is getting married”⁹

The blessing may be a personal right of the female indicated within the marriage contract, and she alone merits this financial advantage. Islam emphatically condemns male individuals who look for to infer any commercial advantage on sake of a female part. The explanations talked about over illustrate that the rights of Muslim ladies are foremost and non-negotiable.. The Quranic lessons gives a step ahead that in case you wed a slave young lady, pay her dower.

In Surah An Nisa Allah Says:

“And whoever of you have not the means wherewith to wed free, believing women, they may wed believing girls from among those(captives and slaves)

⁶ *AL-Quran*, An-Nisa4: 4

⁷ Moudedim, Syed AbulAla, *Tafheem-ul-Quran*, Lahore: (1983 AD) TarjmanUl Quran, p322

⁸ Ameen Ahsan Islahee, *TadaburUl Quran*, Lahore: (1983) Mattaba Jadeed, p 254

⁹ Muhammad Shafi,) *Muraf-Ul-Quran*, Karachi: Adara Al Muraf, (1983) Vol.2, p297-298

whom your right hands possess, and Allah has full knowledge about your Faith, you are one from another. Wed them with the permission of their own folk (guardians, Auliya' or masters) and give them their Mahr according to what is reasonable; they (the above said captive and slave-girls) should not be chaste, not adulterous, nor taking boy-friends. And after they have been taken in wedlock, if they commit illegal sexual intercourse, their punishment is half that for free (unmarried) women. This is for him among you who is afraid of being harmed in his religion or in his body; but it is better for you that you practise self-restraint, and Allah is Oft-Forgiving, Most Merciful.”¹⁰

To safeguard women right, Islam allocates the right of dower to Kitabi woman and it is mandatory that a man will have to pay the dower to a Kitabi woman who is in contract of marriage.

“Of the people of the Scripture (Jews and Christians) is lawful to you and yours is lawful to them. (Lawful to you in marriage) are chaste women from the believers and chaste women from those who were given the Scripture (Jews and Christians) before your time, when you have given their due Mahr (bridal money given by the husband to his wife at the time of marriage), desiring chastity (i.e. taking them in legal wedlock) not committing illegal sexual intercourse, nor taking them as girl-friends.”¹¹

This indicates that the right of dower is fundamental and significant for a Muslim woman, whether she is a Kitabia or even a slave girl. The right of dower must not be denied under any circumstance. Molana Modudi describes that:

“It is right of the woman to refuse from the matrimonial rights of the husband if he is not ready to pay the fixed mahar during the matrimonial contract”¹²

means there is no alternative but to pay as it is clear that Islam gives the right of dower to a Woman but even in the present modern age the Muslim woman is deprived of this right sometimes.

Anees Ahmad Akbar describes customs of Pakhtun that:

“There is no white and black Nikah Nama so it is not possible to claim for the mahar.”¹³

This is very piteous and severe situation that the right of dower is not in written form and she is not entitled for dower. This very local culture snatches the fundamental

¹⁰ *Al-Quran*, Sura An-Nisa4: 25

¹¹ *Al-Quran*, Al-Maida 5: 5

¹² Moudedi, Syed AbulAla *Haqooq-e-Zojain*, Lahore: , (1989 AD) *Tarjman Ul Quran*, p 32

¹³ Anees Ahmad Akbar, *Janubee Asia mian Islam, Nasal prastior Quaidat*, Karachi: Noor Rehman Press, (1988 AD) p53

right of a woman. It appears that men aim to financially weaken women to assert their dominance over them, thereby preventing them from claiming other basic rights as well. The condition of women in Pakhtun culture was described by Shaheen Sardar Ali as:

“She is considered the property of her male agent (father, brother) to be bartered away at a suitable bride price known as surprise”¹⁴

It is a harsh reality that male agents, such as fathers or brothers, exploit daughters or sisters for financial gain. This reflects the societal dilemma where women are still treated as commodities. Furthermore, another reprehensible behavior towards female members is noteworthy.

“There may include a demand for a girl from the murder’s family to be handover in marriage to the aggrieved family.”¹⁵

Hand over the female to the murder’s circle of relatives is as to give her punishment because of sin of the male member. How are we able to have justified it religiously and ethically anyone is answerable for his or her very own phrases and moves? That girl is destined to stand and bear the oppressive and inhuman deportment of the enraged family.

After stated assessment about Pakhtoon woman, i'm going to proportion the condition of Punjabi female that i've observed. Even in Punjab the lady isn't always given a proper dower. In some a long way fling areas dower is considered an insult. In my private reports and conferences, i found that human beings had determined a fake quantity of dower and that they time period it as “Shari-Haq-Mhar” i.e., non secular dower and it amounts 32.25 rupees best. In some regions i have found, there's no idea of dower even. i have personally witnessed such marriages myself, consisting of one involving an Assistant Professor from a university. On my enquiry about dower the groom said, “it's miles towards our custom to pay appropriate dower. that is why I can't pay”. it's miles obvious that our society continues to be grappling with the predicament of adopting customs on the fee of sacrificing spiritual values. As a end result, primary human rights are being violated. The merciless reality is that at act of violations are from time to time dedicated with the aid of educated people. any other misconception runs in our society that at the call of spiritual dower fake dower is being brought. They argue that this is 32.25 rupees simplest. a few sections in Punjab have everyday this ridiculous amount on the name of spiritual dower.

Maintenance:

¹⁴ Nighat Said Khan, Rubina Saigol, Afiya Shehar Bano Zia (1995) “Woman Rights & Human Rights in Tribal Area” Shaheen Sardar Ali, *Aspects of Woman development*, Lahore: ASR Publisher, p.77

¹⁵ Ibid p-79

In Islam, over Women, man is given dominance because responsibilities on male more home expenditure. This is why he is head of the state i.e. home. This superiority obligates him to fulfill all financial responsibilities. It is clearly stated in the Holy Quran that:

“Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard”.¹⁶

This verse of the Quran sets up him as the defender and maintainer of a lady. It is officeholder upon him to supply upkeep to a lady who is in his Nikkah. It would be useful to talk about the suppositions of different researchers on this matter.

“Peer Karam Shah describes in his tafseer Zia-Ul –Quran: “a husband” is a person who is responsible to provide not only necessities of life but. To guard and protect the people and to keep them in a well-organized way. It is just like commander of an army or king of the state who organizes the people and the whole system and people have to obey him”.¹⁷

This tafseer reveals the fact that this dominancy is in lieu of responsibility to maintain his wife and children. In the same way another famous writer Ameen Ahsan Islahi writes down that:

“Being the physically strong aman can fulfill his duties easily due to the fact he is blessed with dominance.”¹⁸

The statement suggests that according to Allah, men have been endowed with physical strength to work hard, endure hardships, earn money, and maintain their families. Molana Mufti Muhammad Shafi describes fact another law of succession:

“Man is considered dominant or guardian, it is because they spend their money. That is why male issue gets two-fold shares in inheritance. It is because unmarried woman is responsibility of her father and married woman is responsibility of her husband.”¹⁹

This uncovers the truth the male isn't getting a charge out of this dominance and twofold share in property for allowed. He is required to fulfill the part of a gatekeeper and head of the family, which is outlandish without monetary steadiness. Molana Modudi clearly expressed that:

¹⁶ *Al-Quran*, Sur An-Nisa,4: 34

¹⁷ Peer Karam Shah (1402 AH), *Zia-UL-Quran*, Lahore: TabaBukhtair, Vol. I, p. 341-342

¹⁸ Islahee, Ameen Ahsan (1983) *TadaburUl Quran*, Lahore: Mattab-a- Jadeed, vol.2 p.291-292

¹⁹ Molana Mufti Muhammad Shafi, (1983) *Mar-Ul-Quran*, Karachi: Adara Al Muraf, Vol.2, p.397-398

“There is not specific quantity mentioned in religion it depends upon the financial condition of the male. But all it does not mean if there is no maintenance then woman should be compelled to live with him.”²⁰

So, we can evaluate that dominance and strength is due to his responsibilities which are unavoidable and he has to provide these rights.

The whole discussion in the light of the statements of the great scholars, it turns upon us that maintenance is religious and legal responsibility of a husband. But in contract to it, a woman has to work as well in sub-continent. She has to fulfill a dual responsibility. She has to work in a farm, in an office, in a school, in a college, in a bank, in a court, at a shop to help a male member in finance while she has to fulfill her domestic duties as well. She gives birth to children and grows them. Biologically she is suitable for this job.

RIGHT OF KHULA

It is a known fact that Islam promotes Nikkah to prohibit adultery. It is suggested that the act of Nikkah promotes and fosters love and affection between husband and wife. If the purpose of the Nikkah contract is not fulfilled, then both parties have the right to terminate the contract.. Allah Tall’a says:

“If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she give something for her freedom. These are the limits ordained by Allah.”²¹

Prophet PBUH has settled a good example in this context that is:

“The wife of Thabit bin Qais came to the Prophet and said, "O Allah's Apostle! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim, dislike to behave in un-Islamic manner (if I remain with him)." On that Allah's Apostle said (to her), "Will you give back the garden which your husband has given you (as Mahr)?" She said, "Yes." Then the Prophet said to Thabit, "O Thabit!

Accept your garden, and divorce her once.”²²

The circumstance of females within the sub-continent was more regrettable when the legal framework was beneath the control of non-Muslim judges. It was observed that women started grant up">to grant up their confidence to elude their spouses. In such severe conditions, the Marriage Disintegration Act was seen as a positive step to defend the rights of the spouse. Dr. Muhammad Iqbal, Molana Ashraf Ali Thanvi and Molana Modudi played avital part in this context.

Actually, Hindu culture has affected the Muslim society so separate is considered

²⁰ Moudedi, Haqooq-e-Zojain, p.74-75

²¹ Al-Quran, Al-Baqarah2: 229

²² Al- Bukhari, Muhammad bin Ismail (256 AH) *Al-Jama, Al Sahi*, Kitab Divorce.

an damaging act indeed within the cutting edge age. Hazrat Aisha herself portrays:

“Narrated 'Aisha: Allah's Apostle gave us the option (to remain with him or to be divorced) and we selected Allah and His Apostle. So, giving us that option was not regarded as divorce”.²³

It was pointed out that if a husband is dissatisfied or has reservations, he has the option not only to divorce a woman but also to keep her with him while marrying a second wife. Even though second marriage is not allowed for women, they still have the right to seek khula, though society considers it a sin.

After having the deep study of the women rights, we come to know that this type of cultural values is nothing to do with religion but practically condition of the woman is not satisfactory but by having deep study of the religious commands and objective of sharia we can devise a way to get rid of the trouble.

A few suggestions can be helpful for us:

Suggestions

1. It is emphasized that the obligations and rights of both genders should be determined based on the Quran and Sunnah rather than on self-made social values and culture.
2. It is suggested that religious ethics should be taught in schools and colleges by knowledgeable and research-oriented scholars. It is emphasized that we should focus on Ijtihad to address emerging challenges.
3. It is argued that the notion that women are meant to devote themselves is merely a misinterpretation.
4. We should have empathy for working women, share their domestic responsibilities, and emulate the example of the Holy Prophet (PBUH)
5. In instances of domestic conflict, courts should intervene and assist women in ending unwanted unions.
6. It is proposed that as an initial measure in this regard, marriages conducted without a written contract should be identified, and individuals engaging in such practices should face punishment.
7. It is imperative that courts ensure the safety of inheritance for females.
8. N.G.O.s can provide awareness of the women rights.
9. It is advocated that in exchange marriages, the dower of both brides should be handed over to them.
10. Parents who are sailing their daughters must be sentenced.

²³ Al Termizee, Muhammad bin Isa, (279 H) Sunnan At Tirmizee, Chapter Divorce

11. It is suggested that the Jirga System be reformed, and the implementation of judicial laws should be prioritized as the norm.

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