

## SOURCE OF ISLAMIC LAW & RIGHTS OF A MUSLIM WOMAN VITAL TO HER LIFE

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In this particular article, the writer intends to visualize the Source of Islamic Law & Rights of a Muslim Woman Vital to Her Life only in the light of Islamic belief. The first and foremost requirement of Islamic belief is the oneness of God - the Almighty Allah. This belief is one of the five pillars on which Islam is based. According to this belief, Allah is the sole law giver in the universe. Everything in this universe is governed by His law i.e, His will and is in perfect balance. However, His best creation i.e, human beings have been given certain (limited) amount of free will to the extent that they have options to choose their ways of living as per their wishes and obsessions, however, they cannot interfere with the natural laws (God's Will) relating to their biological existence as well as physical environment etc. The Quran is complete in itself. It contains all rules relating to the universe including *Sunnas* i.e. the traditions of the Prophet (peace be upon him) play an important role in interpretation of these laws.

As per Islamic belief Quran is the constitution of all human lives and contains all principles and guideline to lead a human live in its fullest and the Quran must be followed in full and not in parts. The Book was revealed on Prophet Mohammad (PBUH) before 1400 years from now in the deserts of Arabia.

Quran has not treated the either sexes differently, rather imposes similar responsibilities and equal rights on them. While pronouncing rights or liabilities He (Allah the Almighty) mostly addresses the mankind as a whole and not as male or female separately. Following are some of the most important rights vital for uninterrupted individual development of human kind (male & female) both mentally as well as physically vis-à-vis to lead a human life in its fullest. Before going to discuss the rights it is to be reminded that while judging any right etc. it must be judged according to the authentic sources, and not what individual Muslims do, or what the Muslim society does.

1. Right of existence (right to be born & live): This is the first & foremost

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right of an individual and then only comes the question of other rights vis-à-vis liabilities. One's existence as human being is the sole requirement to enjoy any human right. By the right of existence the writer means the right by which one is allowed to be inside the mother's womb to its fullest term after being fertilized and then to live in this world as human being so as to complete his/her life cycle.

All life is valued in Islam. Particularly, Islam has placed infinite value on the human life. God tells us in the Qur'an that killing one person would be like killing all of mankind; and saving one person would be like saving all of mankind: "We ordained for the children of Israel that if anyone slew a person, unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole of mankind. And if anyone saved a life, it would be as if he saved the life of a whole people. (5:32)

Before the advent of Islam in Arabia female infanticides were rampant due to the prevalence of certain sets of belief as well as superstitions & social culture (eg. dowry) etc. Quran was the first book which prohibited at the same time condemned infanticide/foeticide and more specifically the female infanticide/foeticide. Killing of the girl child is considered as grievous sin by the Holy Quran.

This was for the first time that the Quran expressly pronounced vide its verse (17:31) "And kill not your children for fear of poverty. We provide for them and for you. Surely, such a killing is a great sin". "When the infant girl is buried alive, is questioned for what crime she was killed" (81:8, 9). These verses ensure the basic human right of a woman to her life which includes right to be born and right to live. Besides several other verses could be cited which ensure her maintenance, love, affection etc. which are essential for her full physical and mental growth & development.

2. Right to education: Next essential right for a human being is the knowledge. To lead a human live in the true sense one must acquire knowledge of earthly as well as other things and such knowledge could only be acquire through the process of proper education. Islam gives a great deal of importance to education & calls for education and knowledge. It is an obligation in Islam to seek education. When Islam commands Muslims to seek knowledge and education, this is a general command for all Muslims, male and female, it is not a command specific for men alone.

The first guidance given to the mankind in the Qur'an was "Iqra" i.e. to read, recite or proclaim. Surah Iqra and Surah Alaq Chapter 96, Verse 1-5. "Read! Recite! Proclaim! in the name of thy Lord .....". The first instruction in the Qur'an is nothing else but to read. This instruction was to both male and female.

According to Prophet Muhammad (Pbuh) "It is obligatory for every Muslim, male or female, to acquire knowledge (Al-Bayhaqi).

3. Economic Rights: These rights are derived from the Quran. According to Islamic law, a woman has full rights in her money, real estate, and other assets. These rights undergo no change when she gets married, and she retains her full rights in buying, selling, and mortgage, as well as in the signing of contracts for rent, enterprise, etc.

In Islam, a woman has a distinct and separate identity. She is not an accessory of her husband. Islam has given her the right to be the owner of her earnings. No one (her father, husband or brother) has a right over them. She can dispose of her earnings and property as she wishes, within the framework of Islam. An adult Muslim woman can own and dispose of any of her property without consulting any one, irrespective whether she is married or she is single.

Women are entitled to accumulate wealth in a variety of ways, such as in their right to mahr, or dowry, their right to work, and their right to inheritance. Islam gives the woman a share of her family's inheritance.

The Qur'an - in its several verses, eg. Surah Nisa, Baqarah and Maidah, it is mentioned that a woman, irrespective of whether she is a wife or mother or sister or daughter, she has a right to inherit. And it has been fixed by God Almighty in the Qur'an. "Unto the men (of the family) belongs a share of that which parents and near kindred leave, and unto women a share of that which parents and near kindred leave, whether it be little or much - a legal share." (Qur'an 4:7).

Again, when a Muslim woman gets married, she receives a dower or a marital gift, which is called as 'Meher'. And it is mentioned in the Qur'an in Surah Nisa, (4:4) which says, 'Give to the woman in dower, a marital gift'. This is a kind of financial support given to the Muslim woman and it has been made compulsory. (4:4; 4:19;4:20).

In case of divorce or if a wife gets widowed, she and her children have a right to financial support for the period of 'Iddah'.

Men shall have a benefit from what they earn, and women shall have a benefit from what they earn. (4:32). This verse addresses men and women in equal terms. This verse, besides giving women the right to earn, right over her income and also supports the economic theory of "equal pay for equal work.". There is no verse in the Holy Quran that says a woman cannot work or have a profession.

4. Right to marriage & divorce: Quran intends to achieve peace and harmony through the institution of marriage between man and woman, based on mutual respect, equality, love and understanding. Actually, marriage in Islam is a

contract between equal partners, where the bride too has exclusive right to stipulate her own conditions (2:229).

At the time of marriage, the husband is supposed to pay for a marital gift. The Quran called it a gift (dower/meher), and it is exclusively the right of the woman. Quran also make provisions to ensure the payment of the gift by the husband to the wife.

During the currency of married life the husband has to meet his legal responsibility to provide full maintenance of the wife & children against the rights he enjoys.

The Quran also gives the wife the right over her husband's monogamy "marry women of your choice, two, or three, or four; but if ye fear that ye shall not be able to deal justly (with them), then only one." (4:3) .with a condition contained in verse (4:129):

"Ye are never able to be fair and just as between women....."  
 "... treating ones wives justly is a sine qua non for the practice of polygamy and since ... a man will not be able to attain justice no matter how hard he tries, polygamy in the end is unlawful or forbidden" (Jawad, 1998:45). Islam does acknowledge the dissolution of marriage; although marriage is considered a life-long commitment, a situation may arise where marriage cease to fulfill its purpose. In such a situation when all else fails, dissolution (in English the word divorce is more commonly used) may be initiated by either side or both the husband and wife (Jawad, 1998:73).

Then, dissolution can be initiated by the husband (*talaq*) or wife (*khula*, if the husband is not at fault). (Quran 2:229). In case of divorce, she and her children have a right to financial support for the period of 'Iddah' and also entitled beyond that period as per prevailing laws of the land.

Divorced women are also given freedom to contract a second marriage. The Quran says, "And when you divorce women, and they have come to the end of their waiting period, hinder them not from marrying other men if they have agreed with each other in a fair manner." (2:232). With regard to widows, the Quran says, "And if any of you die and leave behind wives, they bequeath thereby to their widows (the right to) one year's maintenance without their being obliged to leave (their husband's home), but if they leave (the residence) of their own accord, there is no blame on you for what they do with themselves in a lawful manner." (2:234).

These are the rights vital for human liberation in order to enjoy maximum freedom enshrined in the Quran. At the same time it also contains provisions to ensure performance of such rights.

The issue of women in Islam, is topic of great misunderstanding and distortion partly due to lack of understanding and partly due to misbehavior of some Muslims which has been taken to represent the teachings of Islam. Therefore, it is high time to conduct researches in Quran, especially on the matters relating to women and to bring forward the issues in the right fronts of the entire world. Such findings would undoubtedly differentiate between what actually should be and what is going on in the Muslim society and definitely add to the all-round development of the women at present & future vis-à-vis remove superstitions relating to women, their rights, position within the family as well as in the society. Such researches surely be helpful in establishing equality as well as ensure justice in the family specifically and in the society as a whole. Women liberation in muslim society is possible only when all the directions, guidelines, principles relating to women enshrined in Quran are founded and followed absolutely. Region specific systems are to be evolved based on such principles and guidelines giving regards to the physical, environmental, climatic and other important factors for flexibility and adaptability.

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