

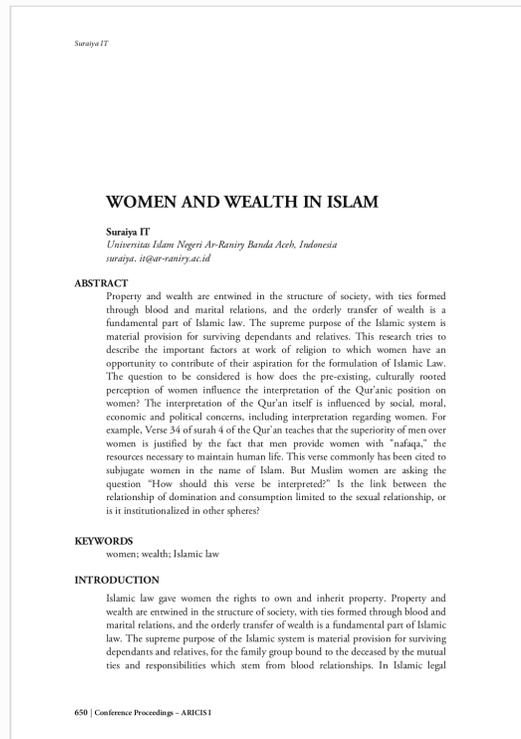


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WOMEN AND WEALTH IN ISLAM

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ABSTRACT

Property and wealth are entwined in the structure of society, with ties formed through blood and marital relations, and the orderly transfer of wealth is a fundamental part of Islamic law. The supreme purpose of the Islamic system is material provision for surviving dependants and relatives. This research tries to describe the important factors at work of religion to which women have an opportunity to contribute of their aspiration for the formulation of Islamic Law. The question to be considered is how does the pre-existing, culturally rooted perception of women influence the interpretation of the Qur'anic position on women? The interpretation of the Qur'an itself is influenced by social, moral, economic and political concerns, including interpretation regarding women. For example, Verse 34 of surah 4 of the Qur'an teaches that the superiority of men over women is justified by the fact that men provide women with "nafaqa," the resources necessary to maintain human life. This verse commonly has been cited to subjugate women in the name of Islam. But Muslim women are asking the question "How should this verse be interpreted?" Is the link between the relationship of domination and consumption limited to the sexual relationship, or is it institutionalized in other spheres?

KEYWORDS

women; wealth; Islamic law

INTRODUCTION

Islamic law gave women the rights to own and inherit property. Property and wealth are entwined in the structure of society, with ties formed through blood and marital relations, and the orderly transfer of wealth is a fundamental part of Islamic law. The supreme purpose of the Islamic system is material provision for surviving dependants and relatives, for the family group bound to the deceased by the mutual ties and responsibilities which stem from blood relationships. In Islamic legal

philosophy the ²⁸ rules of inheritance set-forth the ideal way for the deceased to fulfill his duty to his surviving family.

¹¹ In the Muslim tradition, it is often said that women and family are the foundations of the Islamic community, the heart of Muslim society. That centrality is reflected in Islamic law, the ideal blueprint for Muslim society, within which family law has often seemed sacrosanct¹. The Qur'an and the *sunnah* of the Prophet provide the textual sources for the development of law. ² The word of God, however, is interpreted and applied in socio-historical contexts by human beings.

³² Islamic law today is thus the product of divine law (*syari'ah*) as understood (*fiqh*), interpreted and applied by male religious scholars in the past and preserved in legal texts and manuals. This means that men and men's experiences were included, and women and women's experiences were either excluded or interpreted through the male vision of the perspectives, desires, or needs of woman. ³

Islam provides justice and equality for women. There is equal opportunity for both men and women. ⁴ Nothing in the laws of Islam or in their intention can account for the generally low status of Muslim women. The existing situation is contrary to the law, because originally women in Islam were granted an equal place in human society. ⁵

This research tries to describe the important factors at work of religion to which women have an opportunity to contribute of their aspiration for the formulation of Islamic Law. In this article I focus primarily on theoretical issues related to the rethinking and re-contextualizing of classical Islamic sources and literacy traditions about the position of women on wealth in Islamic traditions. This paper deals with Islamic Law (*Syari'ah*) and jurisprudence (*fiqh*), which from the elements of Islam most directly responsible for the definition of women's roles and the boundaries of women's activities in the Islamic Community. The issues of Islamic law and its interpretation is also the aspect most responsible for many contemporary problems Muslim women face daily, as conservative political Islam reinstitute so-called "traditional" Islamic Law pertaining to women and family.

Women's struggle for change has led to questioning of gender relations. This in turn has challenged Islamic leaders. Whereas Islamic theology and the governments treat women as a unitary category, women's responses to public life and to politics

¹See Amin Rais, "Tantangan Keluarga Dalam Usaha Peningkatan Kualitas Sumber Daya Manusia," in *Keluargadan Peningkatan Kualitas Sumber Daya Manusia*, Yogyakarta, Pimpinan Pusat Muhammadiyah, 1995

² Barbara Freyers Stowasser, *Women in the Qur'an, Traditions, and Interpretation*, (New York: Oxford University, 1994), p.21

³See Marjorie Procter-Smith, *In Her Own Rite: Reconstruction of the Feminist Liturgical Tradition*, (Nashville, Tenn: Arbingdon Press, 1990), chapter 1, pp.13-35

⁴The Qur'an, 4:1

⁵Qasim Amin, *The Liberation of Women and the New Woman* (Cairo: The American University Press in Cairo, 1995), p.8

have been differentiated by their socio-economic position and levels of religious observance.

The interpretation of the Qur'an itself is influenced by social, moral, economic and political concerns, including interpretation regarding women. For example, Verse 34 of *surah* 4 of the Qur'an teaches that the superiority of men over women is justified by the fact that men provide women with "*nafaqa*," the resources necessary to maintain human life. This verse commonly has been cited to subjugate women in the name of Islam. But Muslim women are asking the question "How should this verse be interpreted?" Is the link between the relationship of domination and consumption limited to the sexual relationship, or is it institutionalized in other spheres? What exactly are the rights of the women to *nafaqah*, in marriage, widowhood, and divorce?

Women on Wealth

Sura 4, verse 34, is perhaps the most important Qur'anic verse dealing with the subject of men and women.

.. . Men are the protectors and maintainers of women, because God 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 God would have them guard.. . .⁶

This verse of the Qur'an teaches us that the superiority of men over women is justified by the fact that men provide women with "*nafaqa*," the resources necessary to maintain human life. This verse commonly has been cited to subjugate women in the name of Islam. But more and more Muslim women are asking the question "How should this verse be interpreted?" Is the link between the relationship of domination and consumption limited to the sexual relationship, or is it institutionalized in other spheres? What exactly are the rights of the women to *nafaqah*, in marriage, widowhood, and divorce?

Some translators have translated this verse to emphasize the supremacy of men over women. The word *caiman*, here translated, is a difficult word to render in other languages. Some writers translate it as "protector" or "maintainer," for example in Yusuf Ali's translation, where he says that men are *qawwamuna* (have responsibility) over women. Linguistically, the word *caiman* means "breadwinners" or "those who provide a means of living." According to Riffat Hassan, a point of logic that must be made here is that the first sentence is not a descriptive one stating that all men as "a matter of fact" are providing for women, since obviously there are at least some men who do not provide for women.⁷ What the sentence is

⁶ A. Yusuf Ali, *The Holy Qur'an: Text, Translation and Commentary*, Brentwood, MD: Amana, 1983, (Qur'an, 4:34)

⁷See Riffat Hassan, "Equal Before Allah? Women and Equality in the Islamic Tradition," in *Harvard Divinity Bulletin*, Vol II, no.2, 1987

¹⁴ stating, rather, is that men ought to have the capability to provide (since "ought" implies "can"). In other words, this statement, which almost all Muslim societies have taken to be an actual description of all men, is in fact a normative statement pertaining to the Islamic concept of division of labor in a family structure. The Qur'an states that male and female believers are *each others' walis* (protectors, guardians). ⁸Riffat Hasan argues that:

² It is a profound irony and tragedy that the Qur'an, despite its strong affirmation of human equality and the need to do justice to all of Allah's creatures, has been interpreted by many Muslims, both ancient and modern, as sanctioning various forms of human inequality and even enslavement. For instance, even though the Qur'an states clearly that man and woman were made from the same source, at the same time, in the same manner, and that they stand equal in the sight of Allah, men and women is taken to be self-evident. ⁹

The fact that men are *qawwamun* ¹⁶ does not mean that women are incapable of handling their own affairs, controlling themselves or of being leaders, whether among women, men and women, or even of nations, as has usually been assumed. Rather, the verse's intention is to establish a responsibility of men for the protection and maintenance of women in restricted social contexts or simply that in view of the heavy burden that most women shoulder with regard to family duties, women should not have the additional obligation of providing the means of living. It can certainly be argued that the basic notion involved here is one of moral guidance and caring.

The Qur'an also states that "human beings were all created from the same *nafs* (soul)." ¹⁰ It is reemphasizing their metaphysical sameness. The Qur'an also adds that the most honored humans in the sight of God are those who are the pious. ¹¹

According to Azizah Y. Al-Hibri, thus, at the same time that the Qur'an points out empirical differences among humans, such as those of gender, race and ethnicity, it asserts their natural equality. ¹² It bases any ranking among them on their individual moral choices. Consequently, from the perspective of these Qur'anic passages, no man is superior to a woman by virtue of his gender alone. ¹³

⁸ "The male and female believers are each others' *walis* (protectors, guardians)," Qur'an 30:21. These themes permeate the Qur'an and make it very clear that there is no metaphysical, ontological, religious, or ethical primacy for the male over the female. See Azizah al-Hibri, "An Introduction to Muslim Women's Rights," in Gisala Webb (Ed.), *Windows of Faith*: (2000).

⁹ Riffat Hassan, "Equal Before Allah? Women and Equality in in the Islamic Tradition,"

¹⁰ The Qur'an, 4:1-2

¹¹ The Qur'an, 49:13, "Oh mankind! We created you from a single (pair), Of a male and a female, And made you into Nations and tribes, that ye may know each other (not that ye may despise each other). Verily, The most honoured of you In the sight of God Is (he who is) the most righteous of you. And God has full knowledge And is well acquainted (With all things)." (Abdullah Yusuf Ali Translation)

¹² Azizah Y. Al-Hibri, "An Introduction to Muslim Women's Rights," p.52

¹³ *Ibid*

Furthermore, in *sura* 4:34, we come to the statement that God has given "the one more strength than the other." Most translations make it appear that the one who has more strength, excellence, or superiority is the man. However, the Qur'anic expression does not say that "all men are superior to or better than all women." Nor does it even imply that all men are preferred by God over all women. Advantages are explicitly specified in the Qur'an. Men have a certain advantage materially, resulting in certain responsibilities (or vice versa).

When the Qur'an says that "some (unspecified gender) are preferred by God over others," the expression literally means "some in relation to some," so that the statement could mean either that some men are superior to some others (men and/or women) or that some women are superior to some others (men and/or women). According to Riffat Hassan, what is being stated in this verse is that some men are more blessed with the means to be better providers than are other men.

The next part of the verse begins with a "therefore," which indicates that this part is conditional upon the first: in other words, if men fulfill their assigned function of being providers, women must fulfill their corresponding duties. Most translations describe this duty in terms of the wife being "obedient" to the husband. In Yusuf Ali's translation the word *salibat*, is translated as "righteously obedient,"¹⁴

What are outlined in the first part of this verse are the functions of all divisions of labor necessary for maintaining balance in any society. Men, who do not fulfill the responsibility of childbearing, are assigned the function of being breadwinners. Women are exempted from the responsibility of being breadwinners in order that they may fulfill their functions as separate but complementary; neither is higher or lower than the other.¹⁵

In the Qur'an, responsibility and privileges are linked. Whoever has greater privileges, and other advantages, has greater responsibilities and vice versa. The material responsibility of men in the Qur'an, in which they are invested with the responsibility for support of women, has corresponding advantages (like a greater portion of the inheritance). This verse does not give men inherent superiority.¹⁶ It establishes mutual responsibility in society. Responsibility is not superiority.

From our discussion above, can we see exactly what the rights of women are to *nafaqah* (maintenance)? Islamic law treats property as primarily and naturally individual. The wife can claim to be maintained at the expense of her husband, as her right to maintenance is considered part of the marriage contract. In Islam marriage is a union between two consenting adults. Its aims are to perpetuate

¹⁴ This word, according to Riffat Hasan, is related to the word *salabiat*, which means "capability" or "potentiality," and not obedience. Women's special capability is to bear children.

¹⁵ The law of maintenance is based on the Qur'an, but unfortunately it has been used to assert the general superiority of men over women. See Aziza Y.al-Hibri, "An Introduction to Muslim Women's Rights,"

¹⁶ See *Ibid*

human life and achieve spiritual and emotional harmony.¹⁷ Islam views marriage to be of benefit both to the individual and to society. The Arabic word for marriage is *nikah*, which, according to many Qur'anic commentators and Muslim jurists, means 'unity.'¹⁸

Islam views marriage as an institution in which human beings find tranquility and affection in each other, as the Qur'an states that God created humans, male and females, from the same *nafs* so that they may find tranquility, mercy, and affection with each other.¹⁹ Islam also sees marriage as an instrument which creates a comfortable home for both spouses. Therefore, the Prophet is reported to have advised his followers to choose the right spouses who would help them attain Divine blessings.²⁰ The dowry, a *mahar* in Islamic terms, belongs to the wife; it is her exclusive right and it should not be given away, neither to her family nor to her relatives.²¹

Mahar, therefore, is not a "bride price" as some have erroneously described it. It is not money the man pays to obtain a wife. It is part of a civil contract that specifies the conditions under which a woman is willing to abandon her status as a single woman and its related opportunities in order to marry a prospective husband and start a family.²²

In Islam, a man is bound to maintain his wife and his minor children irrespective of his and her means, if he is not indigent. He is obliged to maintain his other relatives from whom he can inherit, if he has the means to do so and they are indigent.²³

The Arabic equivalent of maintenance is *nafaqa*, which literally means, "What a person spends on his family." In this legal sense, *nafaqa* encompasses primarily the husband's responsibility to provide (*Nafaqa*) the food, clothing and lodging for his wife and children, which is a fundamental responsibility of the husband and father, and this becomes a legal concern in the dissolution of a marriage where it is contended that the husband is not providing adequate support during the course of the marriage.

¹⁷See Jamal Badawi, "Women in Islam" in Khurshid Ahmed, *Islam: Its Meaning and Message* (Leicester: The Islamic Foundation, 1980), pp.137-8.

¹⁸Maulana Muhammad 'Ali, *The Religion of Islam: A Comprehensive Discussion of the Sources, Principles and Practices of Islam*, (Lahore, Pakistan: Islamic Publications, 1983), p.607

¹⁹"And among God's signs is this, that God created for you mates from among yourselves, that ye may dwell in tranquility with them, and God has put love and mercy between your (hearts): verily in that (these) are signs for those who reflect" (Qur'an 30:21). Translation used here provided by A. Yusuf Ali (1991)

²⁰The Prophet said: "Seek to have a grateful heart, a sweet tongue and a believing, righteous wife who would help you in your endeavor to succeed on the Last Day." Cited in M.Abdur-Rauf, *Marriage in Islam* (New York: Exposition Press, 1981), p.19

²¹L.al-Faruqi, *Women, Muslim Society and Islam* (Indiana: American Trust Publication, 1988), pp.6-7.

²²See Aziza Y.al-Hibri, "An Introduction to Muslim Women's Rights," p.60

²³*Ibid*

The husband's responsibility to maintain his wife begins at the time of the marriage contract. *Nafaqa* is due to the wife whether she is Muslim or not, rich or poor, and whether or not the marriage has been consummated. Although this point is legally binding, in practice maintenance does not customarily begin until the couple begins to cohabit, which may be some time after the signing the marriage contract. *Nafaqa* is popularly understood to be the price of legal sexual access to the wife. Thus the wife is entitled to maintenance as long as she remains in the house of her husband, or if they are living in her house or the house of her family, as long as she permits him to cohabit with him.

In Islam itself, a woman is a completely independent personality. She can make any contract or bequest in her own name. She is entitled to inherit in her position as mother, as wife and as daughter. She has perfect liberty to choose her husband. Islam does not consider a woman as "an instrument of the devil. "

The Qur'an emphasizes the essential unity of men and women: ".. They are your garments And ye are their garments. God knoweth what ye Used to do secretly among yourselves..."²⁴

Thus, in many contemporary Muslim countries the "low" status of Muslim women does not reflect the spirit of the Qur'an or *hadith*. Rather, it is a result of extra-Islamic conditions, misinterpretations, and abuses of Islamic law. Local "interpretations," have, therefore, usually affected women negatively.

In the case of divorce, a divorced husband must pay for the full maintenance of his revocable divorced wife for the full waiting period. During this period she is still treated almost like his wife. Therefore any proposal of marriage to her during this period, even by allusion, is forbidden.

Although the husband has greater power in deciding on a divorce, a woman has always had the right to add to her marriage contract a term granting her equal power to divorce her husband. Even without that provision she has always had the right to seek a divorce on certain grounds such as cruelty and the failure by the husband to provide her maintenance.²⁵ Although the term *nafkah* is used by Indonesians to refer to maintenance generally, Islamic courts tend to restrict its meaning but also to rely upon broader statutory mandate of the laws to hear

²⁴The Qur'an, 2:187, Abdullah Yusuf Ali's translation.

²⁵ While married, women are clearly entitled to certain kinds of maintenance from their husbands. Among these are adequate food (*nafkah, nafaqah*) and clothing (*kiswah*). When a husband has left his wife without property or support, the courts normally grant a *fasakh* divorce. However, if the husband is capable of providing support, and has in fact provided a house or clothes or other goods which the court consider adequate, then the wife is obliged to follow and obey her husband. See Notosusanto, *OrganisasidanJurisprudensiPeradilan Agama di Indonesia* (Yogyakarta: Penerbit Gajah Mada, 1963), p.87

litigation involving all support responsibilities of husbands toward wives under Islamic law.²⁶

Property and wealth are entwined in the structure of society, with ties formed through blood and marital relations, and the orderly transfer of wealth is a fundamental part of Islamic law. The supreme purpose of the Islamic system is material provision for surviving dependants and relatives, for the family group bound to the deceased by the mutual ties and responsibilities which stem from blood relationships. The law prescribes the manner in which this provision is to be made in rigid and uncompromising terms. In Islamic legal philosophy the rules of inheritance set-forth the ideal way for the deceased to fulfill his duty to his surviving family.

In Indonesia for example; within the *adat*, where the bilineal²⁷ social systems operate, the children born to a couple thereby belong to both sides of the family, and both sons and daughters can inherit property. Among married couple, the “possessions inherited or acquired by either partner during the marriage, become the common property to which they have equal rights.”²⁸ If the couple decides to separate, all possessions that were brought into the marriage by the man remain with his family, while those brought into the marriage by the woman remain with her side. Property acquired since marriage is split so that the wife receives one third of its value, while her husband receives two-thirds.²⁹

Therefore, in considering the position of women in Islam, one must start by drawing a clear distinction between custom and religion. People so often confuse the two that in many cases custom even tries to gain an upper hand over religion.³⁰ Islamic law for example, was never taken over fully anywhere in Indonesia; its influence was mainly over family affairs, this is the case in most Muslim countries. Islamic law operates in the sphere of family and personal status, matrimony and, to some extent, inheritance; Indonesian societies picked and chose among rules that were then adapted to suit their own organizational values and needs.³¹

In Islam, woman is equal to man in all essential rights and duties. God makes no distinction between man and woman. They are to be equally rewarded or punished for their deeds.³² Islam has granted women broad social, political and economic

²⁶These include not only adequate food and clothing, but also a residence, some furniture, and personal effects, all within limits set by the husband's means but never amounting to nothing. See Notosusanto, *Ibid*, pp. 94-98; See also SoewondoSoerasno, *Kedudukan Wanita*, pp.51-52

²⁷In Java, the bilineal system is most common.

²⁸Vreede-de Stuers, *The Indonesian Women*, p.30

²⁹ See Koentjaraningrat, “Tjelapar: A Village in South Central Java,” in *Villages in Indonesia* (Ithaca: Cornell University Press, 1967)

³⁰ See John N. Paden, *Religion and Political Culture in Kano* (Berkeley: University of California Press, 1973)

³¹ See Daniel S. Lev, *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions*, Los Angeles: University of California Press Berkeley, 1972, pp.5-6

³² M. al-Siba'I, *al-Maria Bayn al-FighWal-Qanun*, Al-maktab al-Islami, (Beirut, Damascus, 1972), p.26

rights, education and training rights, and work opportunity rights. To protect these rights from being abused by men, Islam provided firm legal safeguards.³³ Islam has certain religious aspects and has some aspects which concern relations between members of society.³⁴ However, we must remember that Islam has intermingled with many other factors such as local custom, politics, economics and historical conjunction to shape the status of women in different ways in different times and places.³⁵

For example, family law, which is closely related to "Kadi-Justice"-(Muslim judge who renders decisions according to the syariah, the canon law of Islam),- and is very important in the "little tradition" (It comprises of cultural traits or traditions which oral and operates at village level) differs in many societies and in many countries. Religious-ethical codes are important in this field of law, which has many variations and is particularly subject to religious, historical and customary influences. It is well established that *sunnah* or tradition is one of the primary sources of Islamic law. It consists of the sayings of the Prophet and the precedents derived from his actions. In fact, the Prophet himself during his lifetime recognized the source of law based on custom. In many instances, he either gave his expressed sanction to certain pre-Islamic usages (*adat*) or allowed such usages to continue without any expression of disapprobation. However, Islamic family law must be based on divine logic as revealed in the Qur'an and not on some historical worldview foreign to it.³⁶

Patrilineal organization must be understood as the reckoning of common descent (natural or artificial) from one common male ancestor along the male line determined by membership in the functioning and discernible kinship groups, in which the wife generally follows the husband into his family. But the wife may manage her own property, and she has the right to ask for a divorce. (Whether or not she can easily avail herself of these rights in practice is another, more difficult, question.)³⁷ On the other hand, the matrilineal system has been adopted with some modification (in Minangkabau, for example). In these societies the social group based on descent along the female line from a single female ancestor is the important unit in legal relations. Women are "central pillars of the house", the

³³ See S. Mawdudi, *Purdah and Status of Women in Islam*, (Lahore, Pakistan: Islamic Publication Ltd, 1968), pp.150-5

³⁴ Religion and the profession of religion in Islam have such a close connection to human values that the estimation of a man's religious profession is based on what he or she does and how it fulfills his or her responsibility.

³⁵ See Laile Ahmed, *Women and Gender in Islam; Historical Roots of Modern Debate* (1992). And see also Lois Beck and Keddie (eds), *Women in the Muslim World* (Cambridge, MA: Harvard University Press, 1978)

³⁶ See Aziza Y. al-Hibri, "An Introduction to Muslim Women's Rights," in Gisela Webb (ed), *Windows of Faith: Muslim Women Scholar-Activists in North America* (Syracuse, New York: Syracuse University Press, 2000), p.53

³⁷ This arrangement is typical among the Nias (Batak), Gayo, Bali, Lombok, and in the south of Sumatra, Lampung, as well as on several of the Maluku islands. See Vreede-de Streurs, the *Indonesian Women*, p.28

male domain is outside and men have dual responsibilities in the house of their wife and those of their own matrikin.³⁸

In Minangkabau, women are responsible for the welfare of the household and for the maintenance of relations that define the household.³⁹

Male authority in Minangkabau does not follow the same lines as in those societies in which Islam has been superimposed on patrilineal systems that favor the authority of fathers, husbands, and brothers.⁴⁰ In these cases, marriage implies a transfer of male control over women, from father to husband.

The principle of relationship in some groups is based on a system in which relationship is determined by the form of marriage. The marriage form that makes the child belong to the father's clan is called patriarchal marriage.⁴¹ The line of descent shifts constantly from the paternal side to the maternal that makes the child belong to clan of the mother, depending on the form of marriage. Therefore, it is known as an alternating unilateral kinship system. Connected with the unilateral kinship group is the practice of exogamy: the prohibition of marriage to a member of one's own clan or sub-clan.⁴²

The general pattern of local kinship systems is of course influential in determining principles of inheritance. But bargaining still works cases out according to individual need, sympathy, and regard for personal condition and relationships.

Under patrilineal systems, for instance among the Toba Batak in Indonesia, where *adat* rules exclude females from inheritance, daughters are frequently provided with a piece of land or other substantial support as a "gift."⁴³

In Aceh for example, where the influence of Islamic inheritance law is evidently very strong, the trust in Islamic rules is qualified by the practice of presenting daughters with houses when they marry. In wealthy families, land is evidently also sometimes given to daughters.⁴⁴ However, under matrilineal systems, for instance among the Minangkabau of West Sumatra, Islam was accepted in all critical respects but to implement the Islamic inheritance law would turn Minangkabau social organization and authority upside down. The inheritance law became a dominating symbolic focus of conflict there, and when the struggle died down, an effort was made to work out an area-wide compromise on the inheritance

³⁸ See Joke Van Reenen, *Central Pillars of the House: Sisters, Wives, and Mothers in a Rural Community in Minangkabau, West Sumatra* (Leiden: CNWS Publication, 1996)

³⁹ See Lucy A. Whalley, "Urban Minangkabau Muslim Women: Modern Choices, Traditional Concern in Indonesia," in Herbert L. Bodman and Nayereh Tohidi, *Women in Muslim Societies: Diversity within Unity* (London: Lynne Rienner Publisher, 1998), pp.229-235

⁴⁰ Ibid

⁴¹ B. Ter Haar, *Adat Law in Indonesia*, 1948

⁴² Ibid

⁴³ See J.C. Vergouwen, *The Social Organization and Customary Law of the Toba-Batak of the Northern Sumatra* (The Hague: Martinus-Nijhoff, 1964), pp. 60-61

⁴⁴ James Siegel, *The Rope of God*. (1969), pp. 138-139

problems.⁴⁵ Even so, for long periods of time Minangkabau *adat* and Islam have lived in relative harmony, which means that Islamic leaders called off the challenge for the nonce, satisfied with other gains for Islam.⁴⁶

In *Fiqh* Islam, the phrase used to describe the system of inheritance as a whole is '*ilmu al-fara'id*', the science of duties or obligations, and more specifically, religious obligations. The Qur'an gives rights of inheritance to the husband and the wife, to children and to a number of close female relatives who previously had no rights of inheritance at all.⁴⁷ These new "Qur'anic heirs" received fixed proportions from the deceased's estate before the inheritance passed to the close male relatives.

If we define the law of inheritance as the rules pertaining to the succession of a person's property at his death, we must begin by characterizing the Islamic law of property. Proprietary rights can be transmitted freely, almost without any formalities. No difference is made between movable and immovable property, nor between real or equitable rights. Every Muslim who is of age is capable of owning property. Though the personal status of women are in many ways inferior to that of men, this does no way affects her property. A Muslim woman holds and administers her own property, even after marriage. Husbands and wives have no rights to each other's property. A married woman has full powers to contract and to accept liabilities.

The Muslim woman has the right to inherit property after the death of her father. The Qur'an says:

Allah thus directs you as regards your children's (inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half...⁴⁸

The Qur'an thus entitles a woman to inherit half the share given to a man. Since the Qur'an charges men with the maintenance of all the women and children in the family, the half share that a woman inherits may be considered a generous one, meant for her alone.

A woman has full right over her property, and she can dispose of it according to her will and pleasure, without referring to anybody.

Again the Qur'an says:

In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave no child; but if ye leave a child, they get an eighth; after payment of legacies and debts. If the man or

⁴⁵ See Mochtar Naim (ed), *Menggali Hukum Tanah dan Hukum Waris Minangkabau* (Developing Minangkabau Land and Inheritance Law) (Padang: Sri Dharma, 1968).

⁴⁶ See Taufik Abdullah, "Adat and Islam: An Examination of Conflict in Minangkabau," *Indonesia* 2 (October 1966), pp.1-25

⁴⁷ See Reuben Levy, *The social Structure of Islam*, (Cambridge: University Press, 1962), pp.147-149

⁴⁸ The Qur'an, 4:11 (Abdullah Yusuf Ali's translation)

6 woman whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused (to any one) Thus is it ordained by Allah; and Allah is All-knowing, Most forbearing.⁴⁹

In pre-Islamic Arabia, women had no rights to succession at all. Islam brought reform as the Qur'an abolished all these unjust customs and gave all the female relatives inheritance shares: "From what is left by parents and those nearest related there is s share for men and a share for women, whether the property be small or large, a determinate share."⁵⁰

Islam recognized every individual's right to property--men, women and children. The Qur'an declares in unambiguous terms: ".. And women shall have rights similar to the rights against them, according to what is equitable; But men have a degree (Of advance) over them. And God is Exalted in Power, Wise."⁵¹

But what the Qur'an gives, the men take away. It was found in many Muslim countries, the women have lost their rights on inheritance. The whole issue of inheritance in Islam depends entirely on the social and economic context, and the role or function of a particular sex within it. If this crucial contextual factor is borne in mind, a proper understanding of the verses related to inheritance in the Qur'an would ensue.⁵²

Property relations between husband and wife, and in general the rights of women to the estates of their deceased kin, have sometimes been obscured by a simplistic rendering of the dictum that a woman receives one-half that of a man in inheritance. Muslim marriage does not convey community of property between husband and wife, as lineal relations are favored over affinal ties. Throughout a marriage a husband retains full possession and control of his property, as the wife does of hers. However, the husband and wife do have mutual rights of inheritance; if there are no children, he takes half and she takes a quarter. If there are children, he takes a quarter and she one-eighth. In the latter, more frequent case, the children and the close agnatic kin take the largest sum of both estates. Of the nine specifically mentioned Qur'anic heirs (i. e. those who must inherit their portion), six are women, including the wife, the mother, daughter, grandmother, consanguine and uterine sisters. And the remainder goes to the man who lacks strong agnatic ties, i. e. the husband and uterine brother, the intention being to modify and reform the strongly patrilineal system which prevailed before Islam. The half-portion allotted to women stems from the attenuated public economic roles which women play in patrilineal societies, in which some women are denied rights to inheritance.

⁴⁹The Qur'an, 4:12 (Abdullah Yusuf Ali's translation)

⁵⁰ The Qur'an, 4:7 (Abdullah Yusuf Ali's translation)

⁵¹ The Qur'an, 2:228 (Abdullah Yusuf Ali's translation)

⁵². Ali Engineer, *The Rights of Women in Islam*, p.70

The general rule is that the female share is half the male's except for cases in which the mother receives equal shares to that of the father. This general rule, if taken in isolation from other legislation concerning men and women, may seem unfair. In order to understand the rationale behind this rule, one must take into account the fact that the financial obligations of men in Islam far exceed those of women. For instance, a bridegroom must provide his bride with a marriage gift. This gift becomes her exclusive property and remains so even if she is later divorced. The bride is under no obligation to present any gifts to her groom. Moreover, the Muslim husband is charged with the maintenance of his wife and children. The wife on the other hand, is not obliged to help him in this regard. Her property and earnings are for her use alone except for what she may voluntarily offer her husband. Besides, one has to realize that Islam vehemently advocates family life.

In providing for the continuity of the family group as one cell of the universal Islamic community, the law of inheritance appears as a vital aspect of the individual's supreme duty to Islam.

HOW CAN Islam EMPOWER WOMEN TO REDUCE POVERTY?

Globally, poverty remains a challenge: the World Bank estimates that 1.29 billion people live in absolute poverty; the sad fact is that about 70 percent of them are women. Poverty prevents women to improve their lives; pursuing educational opportunities that could open new paths of economic opportunities and empowerment. In Indonesia alone, over half of the population, about 129 million are poor or vulnerable to poverty with income less than off US\$2 a day, 50.2 percent of whom are female. Therefore, in the changing modern social life, Indonesian Muslim women have been continuously struggling to seek proper roles and positions. On the one hand, they wish to hold on to Islamic teachings and traditional values. On the other hand, they want to have active roles in social, cultural, economic, and political life.

The emergence of Muslim women movement in Indonesia for example which focus not just on the role women but has increase women's ability to embrace a compassionate form of Islam over the restrictive. An examples is 'Aisyiyah, the group founded 1917, which is the women's section of the Islamic reformist movement Muhammadiyah. Analyzing Islamic teaching from gender perspective was an innovative initiative to and led to change in thinking patterns on gender issues. The 'Aisyiyah movement seems to have had a significant effect on women, particularly by emphasizing the importance of education in the family and by stressing the role of women in the Muslim community. In term of Islamic framework, the 'Aisyiyah model decreases women's subordination by treating Islam as a dynamic civilization, able to adapt changing conditions by reinforcing specific aspects of Islamic gender discourses and by elaborating on those aspects of women's role which leads to a strengthening of women's power and authority.

There are many obstacles exist that not only impede efforts to improve women's lives, but also turn women as well as men away from Islam because of the

¹³ misinterpretation and misapplication of religious texts. Muslim women experience discrimination at school and in the workplace, particularly in the countries where Muslims are in minority and elsewhere where Muslims are treated with disdain. And also many Muslim women today experience high rates of illiteracy, poverty, violence, exclusion and other problems that are sometimes perpetuated in the name of religion. Several factors are preventing Muslim girls to be educated, such as cost of education and families that prefer to send their sons to school instead of their daughters.

How can Islam empower women to work and reduce poverty? This examples from the Quran and the Sunnah which highlight the achievement of women in all areas of life including the private and public spheres can make clear that women have a key role to play in society and should not be denied their participation. By encouraging women to pursue education and work this can help reduce various forms of poverty. Removing ignorance from a society is a key to reducing poverty, indeed this itself is highlighted in Islam. Access to opportunity such as work and society's attitudes all become important in reducing poverty. Poverty reduction becomes a wider issues not just about money and goods. Dignity in labour, forms the core of Muslim women, which relies on the teachings of the Qur'an and Hadith for empowerment against oppressive-male regimes.

Religion is both a problem, in that its structures of dominance have oppressed women, and a solution, in that its vision of liberation or equality has generated powerful movements for social change. The same religious tradition may be both a problem and a solution. Islam's vision of human equality may be a source of strength even when much of the tradition compromises women's equality of power. It is stated in a verse of the Qur'an that "women have the same rights as those of men over women."⁵³ The Qur'an in addressing the believers, often uses the word "believing men and women" to emphasize the equality of men and women in regard to their rights. Therefore, there is no restriction in Islamic law that says a woman cannot work and have a profession, that her only place is the home.

History shows us that the role of women in Islam is as poorly understood in the West as any other aspect of Muslim culture.⁵⁴ Tracing back through history, it must be noted, even when a Muslim woman is able to acquire an education and secure a job, she is seldom able to free herself from the burden of traditionalism that confronts her on all sides. In the absence of any supportive literature or any

⁵³Qur'an 2:228, see for example A. Yusuf Ali's translation, *The Holy Qur'an* (Washington DC: The IslamicCenter, 1978).

²³ ⁵⁴Local "interpretations" have, therefore, usually affected women negatively. For instance, women's economic position was strengthened by the Qur'an, but local custom has weakened that position in its insistence that women must work within the private sector of the world: the home, or at least in some sphere related to the home. Thus, to the outside observer, Islamic women's economic activities have been disguised throughout the centuries by the customs of seclusion and social segregation. The local practices of veiling, seclusion, and general social segregation of the sexes have helped to maintain two quite different societies: the world of men and the world of women.

social support structure, it is very difficult even for modernizing Muslim societies to respect women's role and place in society. It is also clear that the conceptions, assumptions, and social customs and institutions relating to women that are derived from Middle Eastern traditions at the time of the Islamic conquests entered into, and helped shape, the very foundations of Islamic concepts and social practices as they developed during the first century of Islam. These facts, according to Leila Ahmed, emphasize the importance of considering Islamic formulations of gender in relation to changing codes and cultures, including the Islamic.⁵⁵

For the majority of Muslim women who have been kept for centuries in physical, mental, and emotional bondage and deprived of opportunities to see themselves as fully human, the task of defining what womanhood in Islam is, or even the question, is overwhelming. All this is only possible through a rigorous understanding of Islam's heritage, its context, and its own defined goals.

CONCLUSION

Islam recognized every individual's right to property (wealth)--men, women and children. The Qur'an declares in unambiguous terms: "... And women shall have rights similar to the rights against them, according to what is equitable; But men have a degree (Of advance) over them. And God is Exalted in Power, Wise."⁵⁶

³³ The word of God, however, is interpreted and applied in socio-historical contexts by human beings. It is clear that religion has been used in most Muslim countries not to liberate but to entrench inequality.

Women more than any other group are marginalized exploited and abused. To ensure that women reach their full potential is not just a moral obligation but the most solution we know off to eliminate poverty. Traditionally, the reduction of poverty is measured by increase of material gain. However, a religious approach to poverty means that dignity becomes important. Labour conditions, access to opportunities such as work and societies attitudes all become important in reducing poverty. Dignity in labour, forms the core of Muslim women, which relies on the teaching of the Qur'an and Hadith for empowerment against oppressive male-regime. Providing women with education is one of the most powerful catalysts for reducing poverty. Education for women is regarded as an integral dimension of social development.

The backwardness of women in Islam is not because Islam made them backward, but because of the societies and culture that they live in. The *sharia's* position on women has been historically misunderstood or ignored, to the detriment of women.

Finally, the burden of ensuring the equality of women does not rest on the shoulders of women alone; women should of course, be the most concerned

⁵⁵ Leila Ahmed, *Women and Gender in Islam*, (New Haven, London: Yale University Press, 1992), p.5

⁵⁶ The Qur'an, 2:228 (Abdullah Yusuf Ali's translation)

vanguard of the struggle. However, society in general and men in particular should actively take part in this struggle. The involvement of men can really help to change the views of society. Men can be a part of social change and in achieving recognition of women's rights. This can be done through education and participation.

Any study pertinent to the role of religion on women's issues is naturally great importance. This is because religion is significant not only for analysis of the position of women, but also for understanding social change as well. Spirituality can enable women to adopt a kind and more holistic viewpoint to their work ethic. A spirituality approach can be used to emphasize that all members of society should show kindness and patience and promote a woman's freedom as God gave her free will.

And facing these historical facts, it is necessary that we have to ask not only what religion can do for women, but more importantly: what can women do with religion? In other words, how can women use religious traditions and values to their advantage? How can we meet traditional values half-way, so that the traditions can help change the society?

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