

THE QUEST FOR GENDER JUSTICE EMERGING FEMINIST VOICES IN ISLAM

Ziba Mir-Hosseini

If justice and fairness are inherent in Islam – as Muslim jurists claim and all Muslims believe -- should they not be reflected in laws regulating relations between men and women and their respective rights? Why have women been treated as second-class citizens in Islamic jurisprudential texts that came to define the terms of the Shari‘a?

These are the questions that I came to confront in 1979, when my personal and intellectual life was transformed by the victory of Islamism – that is the use of Islam as a political ideology - in my own country. Like most Iranian woman, I strongly supported the 1979 Revolution and believed in the justice of Islam. But I soon found out that in an Islamic state - committed to the application of the Shari‘a – the backbone of the Islamist project – I was a second-class citizen. This brought the realization that the justice of Islam in modern times cannot be achieved without the ‘modernization’ and ‘democratization’ of its legal vision. For this, Islamic discourses and Islamists must come to terms with the issue of rights – especially those of women. The justice of Islam is no longer reflected in the laws that some Islamists are intent on enforcing in the name of the Shari‘a.

A Painful Choice to Make

This takes us to the vexed relationship between Islam and feminism, and the complex relation between demands for equal rights for women and the anti-colonial and nationalist movements of the first part of the twentieth century.

At a time when feminism, both as a consciousness and as a movement, was being shaped and making its impact in Europe and North America, as Leila Ahmed and others have shown, it also “functioned to morally justify the attacks on native [Muslim] societies and to support the notion of the comprehensive superiority of Europe.”¹

With the rise of anti-colonialist and nationalist movements, Muslims were thrown on the defensive in relation to traditional gender relations. Muslim women who acquired a

¹ . Leila Ahmed, Women and Gender in Islam (New Haven: Yale University Press, 1992), p. 54.

feminist consciousness and advocated equal rights for women were under pressure to conform to anti-colonialist or nationalist priorities. Any dissent could be construed as a kind of betrayal. Western feminists could criticize patriarchal elements of their own cultures and religions in the name of modernity, liberalism and democracy, but Muslim women were unable to draw either on these external ideologies or on internal political ideologies (i.e. nationalism and anti-colonialism) in their fight for gender justice. For most modernists and liberals, 'Islam' was a patriarchal religion that must be rejected. For nationalists and anti-colonialists, 'feminism' – the advocacy of women's rights – was a colonial project and must be resisted. Muslim women, in other words, were faced with a painful choice. They had to choose between their Muslim identity – their faith – and their new gender awareness.

A Paradoxical Outcome Produced

But as the twentieth century drew to a close, this dilemma disappeared. One neglected and paradoxical consequence of the rise of political Islam is that it has helped to create a space, an arena, within which Muslim women can reconcile their faith and identity with their struggle for gender equality. This did not happen, I must stress, because the Islamists were offering an egalitarian vision of gender relations. Rather, their very project – 'return to the Shari'a' – and their attempt to translate the patriarchal notions inherent in orthodox interpretations of Islamic law into policy, provoked increasing criticism of these notions among many women, and become a spur to greater activism. A growing number of women have come to see no inherent or logical link between patriarchy and Islamic ideals, and no contradiction between Islam and feminism, and to free themselves from the straitjacket of earlier anti-colonial and nationalist discourses.

A New Gender Discourse is Born

By the late 1980s, there were clear signs of the emergence of a new consciousness, a new way of thinking, a gender discourse that is 'feminist' in its aspiration and demands, yet is 'Islamic' in its language and sources of legitimacy. Some versions of this new discourse have been labelled 'Islamic Feminism', a term that continues to be contested by both the majority of Islamists and some feminists, who see it as antithetical to their respective positions and ideologies, according to which the notion of 'Islamic feminism' is a contradiction in terms.

What, then, is 'Islamic feminism'? How does it differ from other feminisms? These questions can best be answered by examining the dynamics of 'Islamic feminism' and its potential in the Muslim world. It is difficult and perhaps futile to put the emerging feminist

voices in Islam into neat categories, and to try to generate a definition that reflects all the differing positions and approaches of so-called 'Islamic feminists'. Like other feminists, their positions are local, diverse, multiple and evolving. Many of them have difficulty with the label, and object to being called either 'Islamic' or 'feminist'. They all seek gender justice and equality for women, though they do not always agree on what constitutes 'justice' or 'equality' or the best ways of attaining them. In my view, any definition of 'Islamic feminism', rather than clarifying, may cloud our understanding of a phenomenon that, in Margot Badran's words, "transcends and destroys old binaries that have been constructed. These included polarities between religious and secular and between 'East' and 'West'."²

To understand a discourse that is still in formation, we might start by considering how its opponents depict it, in other words, the resistance against which it has sought to struggle. Opponents of the feminist project in Islam fall into three broad categories: Muslim traditionalists, Islamic fundamentalists and 'secular fundamentalists'. The Muslim traditionalists resist any changes in what they hold to be eternally valid ways, sanctioned by an unchanging Shari'a. Islamic fundamentalists - a very broad category - are those who seek to change current practices by a return to an earlier, 'purer' version of the Shari'a. Secular fundamentalists - who can be just as dogmatic and as ideological as religious fundamentalists - deny that any Shari'a-based law or social practice can be just or equal.

Though adhering to very different positions and scholarly traditions and following very different agendas, all these opponents of the feminist project in Islam share one thing in common: an essentialist and non-historical understanding of Islamic law and gender. They fail to recognize that assumptions and laws about gender in Islam - as in any other religion - are socially constructed, and thus open to negotiation and historically changing. They resist readings of Islamic law that treat it like any other system of law, and disguise their resistance by mystification and misrepresentation. Selective in their arguments and illustrations, the three kinds of opponents resort to the same kinds of sophistry, for example seeking to close discussion by producing Koranic verses or hadiths, taken out of context. Muslim traditionalists and fundamentalists do this as a means of silencing other internal voices, and abuse the authority of the text for authoritarian purposes. Secular fundamentalists do the same, but in the name of progress and science and as means of showing the misogyny of Islamic texts, while ignoring both the similar attitudes to women in other religious scriptures,

² . Margot Badran, "Islamic Feminism: What's in a Name?" [Al-Ahram Weekly Online](#), Issue No. 569, 17-23 January 2002.

and the contexts of the texts, as well as the existence of alternative texts. In so doing, they end up essentializing and perpetuating difference, and reproduce a crude version of the Orientalist narrative of Islam.³

It is against this backdrop that activities of the so-called ‘Islamic feminists’ should be reviewed. By both uncovering a hidden history and rereading textual sources, they are proving that the inequalities embedded in Islamic law are neither manifestations of divine will, nor cornerstones of an irredeemably backward social system, but human constructions. They are also showing how such unequal constructions go contrary to the very essence of divine justice as revealed in the Koran, and how Islam’s sacred texts have been tainted by the ideology of their interpreters. For example, men’s unilateral rights to divorce (*talaq*) and to polygyny were not granted them by God, they show, but by Muslim jurists. They are juristic constructs that follow from the way that early Muslim jurists conceptualized and defined marriage: as a contract of exchange patterned after the contract of sale, which, by the way, served as a model for most contracts in Islamic law.

Un-reading Patriarchy in Sacred Texts

The majority of these feminist scholars have focused their energy on the field of Koranic interpretation (*tafsir*) and have successfully uncovered the Koran’s egalitarian message.⁴ The genesis of gender inequality in Islamic law, these scholars tell us, lies in an inner contradiction between the ideals of Islam and the social norms of the early Muslim cultures. While the ideals of Islam call for freedom, justice and equality, Muslim social norms and structures in the formative years of Islamic law impeded their realization. Instead, these social norms were assimilated into Islamic jurisprudence through a set of theological, legal and social theories and assumptions. Salient among them were propositions such as: “women are created of men and for men”, “women are inferior to men”, “women need to be protected”, “men are guardians and protectors of women”, “marriage is a contract of

³. For instance, see Haideh Moghissi, Feminism and Islamic Fundamentalism: The Limits of Postmodern Analysis (London & New York: The Zed Press, 1999).

⁴. See, for instance, Asma Barlas, Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur’an (Texas University Press, 2002); Riffat Hassan, “Equal Before Allah? - Woman-Man Equality in the Islamic Tradition” in her Selected Articles (Women Living Under Muslim Laws, n.d., 26-9; original in Harvard Divinity Bulletin 7, no. 2, Jan-May 1987); Fatima Mernissi, Women and Islam: An Historical and Theological Enquiry, trans. Mary Jo Lakeland (Oxford: Blackwell, 1991); Amina Wadud, Qur’an and Woman: Reading of the Sacred Text from a Woman’s Perspective (New York: Oxford University Press, 1999).

exchange”, and “male and female sexuality differ and the latter is dangerous to the social order.” These assumptions and theories are nowhere more evident than in the rules that define the formation and termination of marriage, through which gender inequalities are sustained in present-day Muslim societies. In my own work on marriage and divorce, I have tried to engage with these juristic assumptions, to show how the science of Islamic jurisprudence became the prisoner of its own legal theories, which in time came to by-pass the Koranic call for justice and reform.⁵

These emerging feminist voices in Islam are in a unique position to bring about a much-needed paradigm shift in Islamic law. This is so because they expose the inequalities embedded in Islamic law not as a manifestation of the divine will but as a construction by male jurists. This can have important epistemological and political consequences. Epistemological, because if this argument is taken to its logical conclusion, then it becomes that evident that some rules that, until now, have been claimed as ‘Islamic’, and part of the Shari‘a, are in fact only the views and perceptions of some Muslims, and are social practices and norms that are neither sacred nor immutable but human and changing. Political, because this can both free Muslims from taking a defensive position and enable them to go beyond old *fiqh* wisdoms in search of new questions and new answers.

Such an approach to religious texts can in time open the way for radical and positive changes in Islamic law to accommodate concepts such as gender equality and human rights. Whether this will ever happen, and whether these concepts will ever be reflected in state legislation, depends on the balance of power between Traditionalists and Reformists in each Muslim country, and on women’s ability to organize and participate in the political process, and to engage with the advocates of each discourse. But it is important to remember three things.

First, Islamic law – like any other system of law – is reactive, in the sense that it reacts to social practices and people’s experiences; it has both the potential and the legal mechanisms to deal with women’s demand for equality. We must not forget that most often, legal theory follows practice; that is to say, when social reality changes, then social pressure will effect changes in the law.

⁵. Ziba Mir-Hosseini, Islam and Gender: The Religious Debate in Contemporary Iran (Princeton University Press, 1999); and “The Construction of Gender in Islamic Legal Thought and Strategies for Reform,” Hawwa: Journal of Women in the Middle East and the Islamic World, Vol 1, No 1, 2003, pp. 1-28.

Secondly, Islamic law is still the monopoly of male scholars, whose knowledge of women comes from texts and manuals, all written by men, all constructed with juristic logic, reflecting the realities of another age and a different set of interests. This monopoly must be broken; this can be done only when Muslim women participate in the production of knowledge, when they are able ask new and daring questions.

Finally, there is a theoretical concord between the egalitarian spirit of Islam and the feminist quest for justice and a just world. It is perhaps this that makes the feminist project in Islam so unsettling to conventional views and vested interests in the Muslim world and beyond.