

Wirasat (Succession), Neglected Rights of Woman

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Except Islam which attained its perfection divinely, no other religion grants and honours the share of women in Wirasat (inheritance). According to the Qur'an and Ahadith such laws, are considered and judged to be tyrannical and against the law of nature, which totally neglect the rights of women in Wirasat. Today, the so-called 'Liberals', who in general are also called 'Reformists' are in fact a group of that class who are ignorant of the Shariah. They raise the slogan of equality in the shares of men and women in Wirasat, which is totally repugnant to the Shariah. These inimical forces of Islam totally forget that neither Christians nor Jews or Hindus grant the Rights of Women in the Wirasat, as is bestowed by Islam.

Shariah Law is no longer a difficult to understand in the study of Islam. Today Shariah, its role in political Islam and its impact on the daily lives of Muslim women and humanity has made headlines everywhere, almost daily. The word "Shariah" literally means "the path on sand created by camels walking to water-spots" but spiritually it means Hidayat-guidance. Islam initially restore women's rights by taking the first steps in that desert society by banning female-infanticide, preventing forcing of women into unwanted marriages, allowing women to retain their fathers' names after marriage, permitting women to be witnesses (albeit their testimony counted as half of a man's) and establishing Haq ul Wirasat- their ownership rights to property and their income.

All of these advances in women's rights occurred in the Middle East when Europe was in the midst of the Dark Ages. The term "Fiqh" emerged, which literally means human understanding. "Where an explicit command of Allah or His Rasul already exists, no Muslim leader, legislature or any religious scholar can form an independent judgment not even all the Muslims of the world put together, have any right to make least alteration to it". Believing so is regarded as alliance to Islam itself. All books on Shariah law unambiguous maintain this dictum. The Qur'an and the Ahadith are two of the most important sources of Shariah.

From early days to the present so-called civilized period, women have been a victim of injustice. Fourteen centuries have passed and the benedictions of Islam have covered a large part of the world, and now we are in the 15th century, but women are still deprived of their Right of Wirasat. The major reason for not acting upon the laws of Wirasat, conferred by Shariah, is due to the filthy rich selfish class. This cursed class has set aside the commandments of Shariah so that their property and estate may not get divided, and due to this reason keep their sisters and daughters unmarried. Before the dawn of Islam, daughters, whether old or young, were not given any share in Wirasat. In the days of Jahiliyah, Arabs did not give their own daughters any Right of Wirasat but adopted a

boy of some one else as their own son (Mutabanna in Arabi) and gave him the status of successor. Islam eliminated this injustice and strongly ordered to distribute the due share of their wealth and property to their women. One of the most important differences between the Qur'an and the Bible is their attitude towards female inheritance of the property of a deceased relative.

According to Ayahs 27:1-11, widows and sisters don't inherit at all. Daughters can inherit only if their deceased father had no sons. Otherwise the sons receive the entire inheritance. Prior to Islam, inheritance rights were confined exclusively to the male relatives. The Qur'an abolished all these unjust customs and gave all the female relatives their proper share (see Qur'an 4:7, 11, 12 and 176). It is a matter of sorrow and regret that the practice prevalent before Islam still exists and women are bereft of their share in Wirasat. To dispel this tyranny Ayah 7 of Surah an Nisa was sent down by Allah. The principle was fixed divinely so that both men and women become rightful share holders in Wirasat. Qur'an says:

"For men, there is a share in what their parents and kindred leave behind, and for women a share in what their parents and kindred leave behind, be it little, or be it much: a decreed share".

The cardinal principal of Wirasat is to distribute the wealth among all the near relatives, and not to let it accumulate in the hands of one person--- a wise and effective check on concentration of wealth in few hands. It has been clarified in Surah an Nisa:

"A man would get share equal to two women".

This law of Wirasat contains a clarification of the shares of a man and a woman and is like other laws of Shariah, conferred by the divine institution of Wahi. It is not a law passed by any Council, Senate, Assembly, Committee or Organization, which may be approved today or amended and rejected tomorrow. After the Wahi, the matter does not rest on the opinion of any human will. The distribution of shares and every right of Wirasat has been fixed by the Divine Law of Shariah. It cannot be amended at will by the so-called enlightened or reformist, whenever they wish to do it, and due to the Wahi, their thoughts and Aqaid become null and void in which a woman remains deprived of any share in Wirasat.

If we look at the spirit of Shariah, we will find that the responsibilities of men and women are quite distinct and separate. Their duties and rights are separate and different. Men have been made responsible for supporting women; but not vice-versa. The responsibility of man in regard to the sustenance of woman has been fixed by Islam. A woman has been given half the share of man in wealth/property because there are separate laws for her sustenance, military services and punishment. A woman's special right in the Wirasat is due to Mehar, and the right of Nufuqa (maintenance). If we look at the social order of Islam, we will find that according to the law of Wirasat, a man gets two thirds while a woman gets one third because men are responsible for the expenses of women. Therefore the wealth/property of a woman remains immune from the use or grip of men, while two third share of man is spent on both man and woman. If we

consider this point, we find that a woman gets a substantial share in *Wirasat* as an additional benefit.

In his famous book "*Da'aim al Islam*", Vol. II., Syedna Qazi al Numan has mentioned that *Abi Jafar Imam Mohammad al Baqir* and *Abi Abdullah Imam Jafar Assadiq* have jointly declared that women are not entitled for inheritance in movable property, but are only entitled to their proper share of *Wirasat* according to the Law of Qur'an, the amount being taken for the price of land forming part of the heritable estate. Thus the woman would get her proper share, not in the shape of land, but in other forms of property known at that time. Syedna Qazi an Numan explained further: this is not a general rule, (unfortunately many *Fuquha* (Muslim Jurists) still consider it as general rule and applying the same formula on every case) but restricted

(a) To land which had been dedicated as *Waqf* for the benefit of men, who had undertaken *Jihad* in defense of the Muslims or
(b) To land dedicated as *Waqf* for the benefit of one group of persons (namely men) to the exclusion of the other group (women).

According to the pre Islam customary law, females and cognate were excluded from *Wirasat*. The law of *Wirasat* conferred by Islam is as follows:

The husband, wife and females as well as cognates are recognized as competent to inherit.

Parents and ascendants are given a Right to inherit even when there are male *Wurus'a* who are present.

It is a provision of Qur'an that the daughter is entitled to succeed with the son, as interpreted by the *Ahl al Bait* as applicable to all female *Wurus'a*. *Fuquh'a* takes the provision of the Qur'an as not restricted to individual instances of the daughter or the sister, but as establishing a new principle for the benefit of the women, which is the most important legal reform introduction by Islam when referring to the rights of women.

A summary of our discussion is that:

- 1) Islam has totally eliminated all injustices regarding the *Wirasat* of women.
- 2) The double share of man in *Wirasat* is because the man has to bear other burdens (family) on his budget.
- 3) The aspect of *Wirasat* of a wife is on the basis of her *Mehar* and the right of *Nufuq'ah*.
- 4) If only an economic aspect was under consideration, Islam would not have differentiated in the rights of *Wirasat* of men and women, like the worshippers of the West.

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