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Evolution of women's rights to property and land

Rafic Khouri, Arab Union of Surveyors

A testimony from the 12th century

- Our society allows no scope for the development of women's talents. They seem to be destined exclusively to childbirth and the care of children, and this state of servility has destroyed their capacity for larger matters. It is thus that we see no women endowed with moral virtues; they live their lives like vegetables, devoting themselves to their husbands. From this stems the misery that pervades our cities, for women outnumber men by more than double and cannot procure the necessities of life by their own labors. **(Ibn Rushd, 12th century)**



Women's status in Islam

the concept of Qiwamah

Islamic jurists have traditionally defined marriage as a contract that automatically places a wife under her husband's qiwamah (authority) and presumes an exchange: the wife's obedience and submission (tamkin) in return for maintenance (nafaqah) by the husband. Wilayah is understood as the right and duty of male family members to exercise guardianship over female members (e.g. fathers over daughters when entering into marriage contracts).

However, the concept of Qiwama has recently been criticized by some eminent Islamic scholars, in particular the Moroccan Ulemas, who wrote in 2018:

“Qiwamah according to traditional interpretation constitutes a major obstacle to any desire to improve the legal status of women and their economic and social condition in an egalitarian sense”.

A more egalitarian approach

This interpretation of the concept of Qiwama opens the way to an approach based on a more egalitarian role for women in Morocco, in line with the Maleki Islamic principles, traditionally prevailing in this country.

- It is close to the approach of the Musawah association, which defines its mission in the following terms: “a global movement for equality and justice in the Muslim family that advances human rights for women living in Muslim contexts”.

The Egyptian Evolution (1)

- The Al Azhar Great Imam, Dr Ahmad El Tayeb, affirmed the need to revive the advisory opinion on "The Right of Hardship and Care" from our Islamic heritage; To safeguard the rights of working women who have made an effort to develop their husband's wealth, especially in light of the recent developments that have obliged women to enter the labour market and to share the burden of life with their husbands. He stressed that the Islamic heritage is rich in addressing various issues. If we contemplate it, we will stand on the extent and depth of this heritage and the Islamic sharia's desire to safeguard women's rights and ensure all that its dignity is safeguarded.

The Egyptian Evolution (2)

- The Great Imam's stressed that married life is not based on rights and duties, but on the friendship, love, and attitudes in which the husband supports his wife and in which the wife has a support for her husband, to build a good family capable of building and contributing to the advancement of her community, and to raise generations capable of making and giving.” (Facebook, Al Azhar al Sharif, 15th Feb 2022)

The Egyptian evolution (3)

- Final declaration of Al Azhar International Conference on Renovation of Islamic Thought (January 2020) included a paragraph about women's inheritance rights:
- 23. Any family member who contributes to the growth of the family wealth, such as the wife who would contribute with her money into her husband's, and the children who work with their father in his business, should be compensated for. In such cases, the individual should be given an equal part of his/her contribution from the inheritance, if the amount of this contribution is known. If it is not, then it should be estimated by experts in their respective fields of activity.
- Final Statement of "Al-Azhar International Conference on Renovation," § 23, January 28, 2020

The Right of Hardship and Care

حق الكد و السعاية

- The recommendation mentioned in the previous declaration refers to a book published in Morocco in the 17th century by scholars belonging to the Maleki legal school, which prevails in Morocco.
- However, the evaluation of the implementation remains to be monitored, in Morocco, in Egypt and elsewhere in Muslim countries.
- The current ongoing debate about the reform of the Moroccan Mudawana tackles the issue of women's rights, among others.

For more information visit:

Rabita Mohammadia des Oulémas, ONU Femmes, *Le concept de la Qiwamah du point de vue du référentiel religieux et des mutations sociétales au Maroc*, 2018 ; <http://www.abhatoo.net.ma/maalama-textuelle/developpement-economique-et-social/developpement-social/societe/familles/le-concept-de-la-qiwamah-du-point-de-vue-du-referentiel-religieux-et-des-mutations-societales-au-maroc-resume-du-rapport-d-analyse-des-resultats-de-l-enquete-nationale>

Final declaration of Al Azhar International Conference on Renovation of Islamic Thought, January 2020, § 29; accessible through: https://www.azhar.org/Files/renovation-islamic-thought/last_word.htm; in Arabic

https://www.musawah.org/wp-content/uploads/2018/11/WomensStoriesWomensLives_En.pdf

or contact:

Rafic Khouri: rk.geoconseil@gmail.com

المملكة المغربية
ROYAUME DU MAROC



وزارة إعداد التراب الوطني والتعمير
والإسكان وسياسة المدينة

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