

Islamic Studies

CSS 2017

Q. Write a comprehensive note on the right of inheritance granted to women by Islam.

Ans. Before the advent of Islam, the pagans Arabs used to bury their female children alive and treated women as mere objects of sexual pleasure possessing no rights or position whatsoever. Considering this fact, the teachings of Islam and the Quran were revolutionary. Islam has granted spiritual, social, political, economic and cultural status to women. It has acknowledged the complete personhood of woman and safeguarded her rights. In the divine scheme of regulation of the relationship between man and woman, Islam has assigned a position of dignity and honour to women.

Women in Ancient Civilizations

Describing the status of woman, Encyclopedia Britannica writes:

"In India, subjection was a cardinal principle. Day and night, most women were held by their protectors in a state of dependence. The rule of inheritance was agnatic, that is descent traced through

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makes to the exclusion of females".

In Athens, a woman was not better off either. Athenian women were always considered minors subject to some male that was either their father, brother or some other male kin. In Athens, women were continually under the guardianship of her husband and thus had no right to ownership, earning or inheritance.

Similarly, in Roman law, a woman was completely dependent. If she were married, she and her property passed into the power of her husband. Only in the late nineteenth century did the situation start to improve by a series of acts like the Married Women's Property Act in 1870, through which women achieved the right to own property.

Status of Women Granted by Islam

Preceding the so-called milestones of history, Islam, ^{in 632 AD,} gave ~~the~~ woman her rights in due time as a pioneer. As a fundamental principle of Islam, it holds that woman is a human being equal to a man and as such is entitled to similar and equal rights. Islam regards woman in various aspects:

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spiritually, economically, politically and culturally as a part of society. Mohammed Guth in his opus "Islam: The Misunderstood Religion" writes:

"Islam occupies a unique position in that it recognized an independent economic status of woman and gave her the right to own, use and enjoy it in her own right without any intermediary trustee or mediator".

One of its achievements, is Islam's provision of right of inheritance to women which says "To the male the equivalent of the portion of two females." It also gave women the right to buy, sell, mortgage or lease any of her properties.

Islam's Right of Inheritance Granted to Women Explained

The law of inheritance of Islam follows the fairest concept or standard there is which says, "for every person according to his need", wherein need is the social burden that one has to bear. As in Islam, man is deemed responsible for all financial obligations of his family, the social burden falls on him more than on woman. Due to this ~~proper~~ reason, Islam has given a larger portion to a

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man than in the woman out of inheritance. However, there is no justification for saying that Islam has given a lesser share compared to that of a man, as in reality a woman gets a share out of her husband's property or inheritance too. Thus, in essence, the only reason why a woman receives a one-third of the inherited property is because she is discharged of the financial obligations which a man has towards his wife and then towards his children.

A woman ~~can~~ in Islam, is free to choose whatever she wants to do with the inherited property and is under no obligation to hand it over to her husband. Moreover, Islam tells a man to give his wife the share or bear her financial burden as if she had nothing in her possession to support herself i.e. if she earns or not, has a lot of property or not, her share in her husband's money and property remains the same. If a woman's husband refuses to give her allowance on the basis that she has enough of her own to sustain herself, that woman can lodge a complaint against her husband and go to Court and force him to give her the sustenance allowance. That is how much Islam regards women unlike other religions.

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Islam has granted the woman the unprecedented socio-economic and political rights besides accepting her complete personhood and spiritual well-being that she may attain in communication with God through religious devotion. The current pathetic condition of women in Islam is due to the non-abidance of the teachings of Islam in letter and spirit and absence of Ijtihad.

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Islamic Studies

CSS 2020

Q. Analyze the Madina Accord as a "Social Contract" in detail.

Ans. The Madina Accord or Constitution of Madina or Mithaq-e-Madina is a seminal social, and political document of Islam. It achieved peace in Madina not through the might of arms or the scale of wealth, but through the unyielding principles of Islam - tolerance, pluralism, dialogue and a belief in God (whether God in Bible, Torah or Quran): The Madina Charter, arguably the first ever written constitution, shows that Islam rejects the use of compulsion in religion and violence but rather deems mediation and dialogue as the most effective way to resolve conflicts. The Madina Accord is the reflection of the verses in Quran (Surah Al-Aam : 96:1-5) which states that the Lord "teaches by the pen."

Background

In the Prophet's last years at Makkah, a delegation from Madinah consisting of various clans invited him as a neutral outsider to

Madinah to serve as a chief arbitrator for the entire community. The clans of Madinah had been in fighting for around 100 years before 620 AD. After the Battle of Buath in 617 AD, the clans realised that the feuds could not be resolved without a third party; and when they met the Holy Prophet (P.B.U.H), impressed by his message, character and previous peacemaking efforts, they chose him as the trustworthy outsider.

To settle the disputes, the Prophet (P.B.U.H) drafted the Constitution establishing an alliance between the eight tribes of Madinah^{and} and Muslim emigrants from Makkah, and specified the rights and duties of all citizens. The Constitution was written in 622 AD and includes 47 clauses.

Medina Accord as a Social Contract

A Social Contract is an actual or hypothetical agreement among individuals forming an organized society or between the community and the ruler that defines and limits the rights and duties of each (Merriam-Webster Dictionary).

Following the principles laid down in the above definition, the Madina Accord

Achieved a Social Contract by:

1) Formation of a Sovereign - Nation State

The Madina Accord formed a nation with a common citizenship that consisted of various communities of Muslims & Arabs from Makkah (Muhajirins), Muslim Arabs from Yathrib (Ansars) and Jews of Yathrib. The Madina Accord formed one Ummah having equal rights and responsibilities, separate from the rest of the world. This is stated in Clause 2 of the Constitution:

"They shall constitute a separate political unit (Ummah) as distinguished from all the people of the world."
Translated by Dr. Muhammad Hamidullah.

2) Provision of a Federal Structure

The Charter provided a federal structure consisting of a centralized authority with the various tribes in districts enjoying autonomy in regards to social, cultural and ~~regor~~ religious matters, stated in Clause 3 to 11 of the Madina Accord with clause 3 stating:

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The emigrants from the Quraish shall be (responsible) for their own ward; and shall pay their blood-money in mutual collaboration and shall secure the release of their own prisoners by paying their ransom from themselves, so that the mutual dealings between the believers be in accordance with the principles of goodness and justice.

The rest of the clauses from 4 to 11, mention the same for the Arab and Jewish tribes of Yathrib. Moreover, the Charter also states that the matters of security and national defense are not autonomous but rather with the central authority. The Charter states in Clause 36(a):

And that none of them shall go out to fight as a soldier of Muslim army, without the permission of Muhammad (PBUH).

The subjects that were the provisions of the centralized authority are further elaborated in the Charter and it also states that if a dispute could not be resolved by the units, they should be referred to the Holy Prophet (PBUH), thus indicating levels of hierarchy as well as extent of autonomous

powers.

3) Equality and Protection to All

The Madina Accord or charter ordained social equality to all its citizens which is stated in Clause 26 to 35 which says that each tribe along with the emigrant Muslims should enjoy the same rights as one another. Moreover, the Charter provided protection to its citizens from oppression in Clause 16.

And that those who will obey us among the Jews, will have help and equality. Neither shall they be oppressed nor will any help be given against them.

The Charter also laid down rules to protect its citizens, forbidding killing and giving refuge to a murderer.

4) "Leave No one Behind"

The Charter's significant achievement ~~was~~ in regards to social equality was the extending of help to anyone ~~within~~ of its members with financial ~~difficulties~~ difficulties, in regard to payment of ransom or blood-money. Clause 12 (a) states =

And the believers shall not leave any one, hard-pressed with debts, without affording him some relief; in order that the dealings between the believers be in accordance with the principles of goodness and justice.

5) Peaceful dispute resolution

As mentioned before, the Charter in Clause 3 to 11, gave the responsibility of their tribes and to each tribe to free its prisoners by ^{paying} their ransom from themselves, hence ~~the~~ autonomous power was given to the tribes. However, if any dispute could not be resolved, the tribes were not allowed to take matters into their own hands but rather engage the Prophet (PBUH) as an arbitrator to resolve the dispute by peaceful means. It states in **Clause 23**:

And that ~~whenever~~ ^{whenever} you differ about anything, refer it to God and to Muhammad (PBUH)

6) Religious Pluralism

The Madina Accord reflects pluralism both in content and in history of the document.

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A very important human right is given in the Clause 25 where freedom to practice its own religion was given to each community, by stating, "for the Jews their religion, and for Muslims theirs."

This clause is in line with the clear teachings of the Quran as in Surah Baqarah (2: 256), which says:

"There is no compulsion in religion".

Conclusion

The Medina Charter was the first ever written constitution in history preceding Magna Carta of 1215 and American Constitution of 1787. From the Medina Accord, it is clear that Islam has always promoted pluralism and equal rights to all, which is the opposite of modern view of Islam. Liaquat Ali Khan said that it was a social contract derived from a treaty and not from any individual fictional state of nature or from behind the Rawlsian veil of ignorance. It was built upon the concept of one community of diverse tribes living under the sovereignty of one God.