

BOOK REVIEW
by
(Dr.) Nimat Hafez Barazangi
Visiting Fellow
Women's Studies Program
391 Uris Hall
Cornell University
Ithaca, New York 14853

The Rights of Women in Islam

By Asghar Ali Engineer. London: C. Hurst & Company. 1992, pp. 188.

Engineer's book though not unique in its purpose, the defense of women's rights in Islam, is different from other books that deal with the same subject in its approach to the "question of women." By attempting, in this book, "to separate what is contextual from what is normative" and to "recapture the original spirit of Qur'anic laws with regard to male-female relationship," the author hoped to equip Muslim feminists with a powerful weapon in their fight for equal status with men (p. vi). The author is to be commended for this unprecedented courage to contradict what has been the customary views on women's rights in Islam, whether by Muslims or non-Muslims. His documentation from the Qur'an, Hadith and early Islamic history of issues like sexual equality, marriage, divorce, and others that have been only presented from the Muqallidun's (those who follow the foot-steps of ancestors) points of view is a major step by a Muslim male scholar.

The main argument of the book centers around the misleading interpretation of Islamic Shari'ah (law) as totally divine and immutable (p.6). As Engineer explains, Shari'ah has evolved over centuries and it never remained static, and hence immutable until the A.D. 12th century. The Qur'anic injunctions are the only divine part of the Shari'ah. The Prophet Muhammad's extrapolations in words and practice of these injunctions is the second part and should be used as a guidelines for Islamic behavior. While the prophet's companions' and later jurists' and theologians' interpretations of the Qur'an and the prophetic tradition, the third part, remain limited to the circumstantial context of the time. Engineer states that by mistakenly claiming such a divine status of the whole of shari'ah, not only the different theologians' and jurists' interpretations have become the norm, but these interpretations resulted in transforming some of the Qur'anic contextual injunctions into normative ones. This is exemplified in the transformation of the concept of three divorces in one sitting--"denounced by the Hanafites school of jurisprudence as innovative and sinful form of divorce," but still widely practiced in the Indian subcontinent where the Sunni Muslims follow this school--into the "Muslim personal law" that was enacted by the British and was given the "status of immutable divine law." (p. 7) Another important point of Engineer's argument is the evolution of the concept of *Shari'ah ahkam* (injunctions) and how it was moved from being moral into legal bondage. The incorporation of the principle of *ijtihad* in the Shari'ah methodology which was frozen at some point, rather than keeping *ijtihad* as the overall principle in Qur'anic exegetic interpretation is another important point (p. 8). This incorporation not

only caused the evolution of Shari'ah to come to a standstill, as Engineer suggests, but it also raises the question as to why only the Shari'ah is studied in its last formative stages, while all other philosophical and ontological principles of other peoples and religions have been studied in their historical evolutionary context. Given that Engineer's argument concerning the Shari'ah, and his differentiation between the normative and contextual aspects of Qur'anic injunctions are the core of his discussion throughout his book, I will focus my review on Engineer's argument, its implications, and utility in recapturing the spirit of the Qur'an with reference to women's rights.

The Rights of Women in Islam contains an Introduction and seven other chapters starting with chapter two, "status of women during Jahiliya" (in reference to pre-Islamic societies) and ending with chapter eight, "Muslim Personal Law--the Need for Reform." In the Introduction, the author analyzes the concept of Shari'ah, refusing the argument for its divinity and analyzing the sociological influence in interpreting the divine scripture. Though the author's argument produces a better understanding of women's status in Islam, and presents compelling evidence in favor of women's equality, his argument is limited by overlooking a fundamental Qur'anic principle, the concept of khilafah (human trusteeship of the earth for each individual male and female), and by the framework in which he discusses women's rights. The latter is exemplified in two issues. First, the discussion of the contemporary conscious about women's rights as being a phenomenon only of modern societies. He goes on generalizing from this assumption that "Human consciousness in modern society is conditioned by the concept of human rights and human dignity." (p. 2) This generalization seems to take the idealists view that consciousness determine reality. By accepting this view, one could easily divert from recognizing the purpose of the Qur'an as an assertion of human rights and human dignity in response to the realities of the time.

In this context of human "modern consciousness," Engineer also makes an unacceptable parallel between the institution of slavery and the subordination of women. The Qur'an disapproves both, slavery and women's subordination, evidenced by the principle that no human is superior to other except in Taqwa (i.e., superiority is judged by individual's deeds and only by Allah). The fact that slavery was not abolished totally until modern times does not indicate licensing of slavery by the Qur'an, as was interpreted by some jurists and Western scholars. The same is true with regards to the practice of women's subordination to men. Although Engineer makes these points clearly, his treatment of women's subordination or male superiority becomes unsettled when he attempts to differentiate between the contextual and the normative (e.g, when he attempts to explain the meaning of *darajah*, an edge that a man has "over a woman," in 2:228).

Another important difference between the question of slavery and that of women is that women represent fifty percent of the human society and, thus, their oppression and inferior status have created and continue to create fundamental misunderstandings of male-female relationships, family structure, and human-to-human relation in general. This misunderstanding, in turn, dictates the nature of "master-slave" relationship, and not vice-versa. There seems to be a confusion here, as is the case among some other Islamists. The author attempts to interpret the Islamic framework of human equality within the twentieth century concept of human rights that was introduced to counteract

racial and nationalistic inclinations, ignoring gender and class injustice. For those who are invoking a relationship in the study of gender, race, class, and nationalism (particularly the feminists among them), this parallel between women's rights and slavery could create another confusion regarding the nature of this relationship. Let there be no dilution and diversion from the main problem of female subordination.

The second issue that imposes some limitations on the author's argument, in the Introduction of *The Rights of Women in Islam*, lies in the author's discussion of the "*tafsir bi'al-rai'* (i.e., Qura'nic interpretation according to one's own opinion)" vs. understanding the Qur'an in light of one's own experience and consciousness. Engineer's differentiation between "personal desire, *rai'*, and true opinion that is the product of a new consciousness," (p. 4) does not help explain the basic principles and methodology in Qur'anic exegetic practice as a base for generating public rules that are bound by time and place vs. the Qur'anic injunctions that are universal in their broader meaning, as Fazlur Rahman explains in *The Major Themes of the Qur'an*. Furthermore, the author confuses the reader when he elaborates on certain examples, departing from the main point, and leaving somewhat disjointed evidence, such as his comments on the personal desire of modernists' vs. orthodox' reading of the Qur'an and on the difference between morality and ethics with reference to *purdah* and chastity (p. 4-5). The author, in essence, has overlooked the Qur'anic obligation upon each individual to understand the Qur'an as a prerequisite to practicing its injunctions, and that this understanding should be within the parameters of the Qur'anic worldview and not only in the social context of the time.

Engineer's lay-out of the rest of the book does not differ much from other traditional books that discuss the rights of Muslim women mainly in relation to family or to males. Chapters three, four, five, and six deal with the "concept of sexual equality," "other aspects of equality of women in Islam," "marital rights of women in Islam," and "women and divorce in Islam" respectively. Unlike Amina Wadud-Muhsin's (*Qur'an and Woman, 1992*), treatment of woman's rights as an individual human, *The Rights of women in Islam* devotes only one chapter, chapter seven, to "Islam and the individual dignity of women." Even under this title I remain concerned with the author's treatment of woman having an individual status while accepting some interpretations without questioning their merit. For example, he moves from verse 4:32 which states that "for men is the benefit of what they earn and for women is the benefit of what they earn" to affirming that "it is a clear enunciation of a woman's individuality, dignity and rights" without explaining the relationship. He also adds, "Even if there are certain contextual statements in the Qur'an indicating men having a slight edge over women, in the socioeconomic sense it does not, in any sense, detract from her individuality." (p 145) Engineer seems to interpret verse 2:228, in the general socioeconomic context instead of limiting it to the context of divorce as the verse intends. That is, the *darajah* (degree or edge) that men are told to have in this context means an obligation toward reconciliation with their pregnant ex-wives since they (the men) have initiated the divorce. Therefore, the edge has nothing to do with the socioeconomic benefits that a husband gives a wife as her right, and not as a favor or as a means to make him superior. In chapter eight, "Muslim Personal Law--the Need for reform," Engineer concentrates on the Muslim personal law in India and addresses the views of the major three groups; the reformists, the secularists, and the conservatives.

In summary, the difference between normative and contextual may have clarified an important point, dismissing the claim that the entire Shari'ah is divine, but it lacked a follow-up as to how to change the perception about interpretations. As the jurists' interpretations were also given credence on the same level of Qur'anic injunctions and the prophetic tradition, the entire Qur'anic pedagogical intention--the continuous interpretation of its principles in time and space context--is suspended. Both, the theme and the argument are woven by Engineer through his analysis of issues that have troubled researchers and practitioners as well, but there is not even a contextual superiority to men as Engineer argues. (p. vi) This is so because to accept even a contextual superiority is not only contradictory to the spirit of the basic principle of the Qur'an--that all humans are equal except in Taqwa--but it also gives indirect license to men and others to abuse such relationship even with social superiority.