

## BOOK REVIEW

### ADVANCING THE LEGAL STATUS OF WOMEN IN ISLAMIC LAW MONA SAMADI, BRILL PUBLICATIONS, LEIDEN-&-BOSTON, 2021, 222 P. ISBN: 978-90-04-44693-9

<sup>i,\*</sup> M. Farooq & <sup>ii</sup> Abuhuraiyrah F. Khan

<sup>i</sup> Shariah and Laws Department, International Islamic University Islamabad, Pakistan

<sup>ii</sup> King's College, London, United Kingdom

\*(Corresponding author) e-mail: [drfarooq@live.co.uk](mailto:drfarooq@live.co.uk)

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## ABSTRACT

This article is a review of a book that presents a detailed and thorough analysis of women's legal status in the Islamic legal system. The book consists of six chapters that include a historical overview of women who held power in Islam, classical and contemporary sources of Islamic law, women's legal status, and measures taken by male-dominated societies to circumvent or restrict women's rights. The author's arguments are based on the position of women in the Islamic legal system, in the light of the sources of Islamic law and Islamic traditions. The book is a valuable resource for scholars, students, and activists interested in understanding women's legal status in Muslim societies. The author argues that it is not Islamic law *per se* but rather the juristic interpretations that cause the inequalities faced by women. The author suggests revisiting laws, policies, and practices to strengthen the legal status of women by incorporating human values such as human dignity, fairness, and justice, as laid in the Quran, as the *jus divinum* for any law affecting women as a class.

**Keywords:** Book review, Mona Samadi, Islamic Law, Women legal status, Brill publications

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The current book consists of six chapters. The introduction contextualizes the main arguments of the book and summarizes its contents in a way that can be understood easily.

In terms of structure, organization, and presentation of the material, the opening paragraph of the book and then presenting ‘a historical overview of the women who held power’ is a good start for the readers to the topic. The reader can deduce the important arguments from the title, main headings, sub-headings, also from the introductions and conclusions of each chapter.

Studying the list of references in this book determines that the research contributed vital ideas to the author's arguments. The references used are recent, which represent important works in the field. Mona Samadi identifies the legal differences between the sexes that “include \_\_ alongside guardianship \_\_ divorce, inheritance, polygyny and witnessing” (p.4), where women face discriminatory treatment. She is succeeded in recommending a fresh interpretation of *Sharia* to address new concerns emerging about the legal status of women. In her opinion, “Muslim women should not be compelled to choose between religious belief and their autonomy” (p.62).

Moreover, the book is a good source of knowledge of classical and contemporary sources. It is helpful to reinforce some of the author's arguments below.

Samadi manages to elucidate a thorough history of how Muslim women are constructed through Islamic discourse, the development of women's status and how women's legal status is detailed in *Fiqh* discussions. The author presents that women's legal status is debated in contemporary Muslim societies, and thus, she convincingly provides various examples. It produces a resource that may prove invaluable to scholars, students, and activists alike.

Samadi bases her arguments on the position of women in the Islamic legal system in the light of sources of Islamic law and Islamic traditions. She goes back in time to examine the overview in history and shows (chapter 3) some model women held power in Islam. She conceivably demonstrates that women and men are equal in their relationship with God (p.2).

Samadi examines some rights granted to women in Islam and the measures taken by a male-dominated society to circumvent or restrict those rights. For instance, she contends that the male guardianship (Farooq, Muhammad, 2019) (ps. 125-129), this very concept undeniably brings the woman legal status equal to that of a child or an insane person (p.3).

Interestingly, from page 130 to 161, Samadi uses the Divine Texts (*Quran* and *Sunnah*) and the jurists' interpretations as the basis for her arguments. In her work, she finds justifications for areas of apparent inequality when she comments on Quran 4:34 (p.132). She states that interpretations of this particular verse became more and more restrictive of women's rights over time, to the extent that by the Middle Ages, it became a slogan of an extreme patriarchal interpretation. Thus, the verse as a whole influenced the position of women drastically. Here, Samadi concludes that the full verse deals with various gender issues such as polygamy, the lesser inheritance, and the woman serving as a judge or a political leader. She posits that the verse neither prescribes a penalty for husbands who do not execute the role as managers, nor it prohibits the women to manage their own affairs (p.193).

In this context, she explores that women are legally incompetent but financially independent (p.130). She questions whether men are the managers of women in matrimonial affairs. She looks at superiority in marital matters, why only women are required to be obedient? What is the aim of male guardianship (p.151), and why a woman can't be so? More importantly, if both genders are created from the same essence, how can one be superior to the other (p.193)? Similarly, the use of analogy of sale's contract by the *Fuqaha* (Muslim jurists) has given a notion of a commodity to women in Muslim marriage that can be ‘traded’, ‘bought’, ‘sold’, ‘owned’ or ‘possessed’ (p.161). This kind of resemblance is not fair, the writer believes. She expresses that a few contemporary scholars have challenged these restrictive interpretations discriminatory to women.

In Samadi's opinion, though attempts are made to traditional Islamic Laws like the gradual changes for abolishing of slavery. It could be used as a model aiming to advance the status of women. In the context of a marital relationship, she suggests that many issues related to men's authority could be practically improved through the strategic use of the marriage contract (p.22). This, to some extent is suitable to cope with emerging contemporary issues in the current debate.

Chapter 5 and the research onwards are relevant here, in which they closely address the theme of the current work.

At the end of chapter 5 (ps. 180-186), Samadi contends that human values such as human dignity, fairness and in particular justice (avoiding *zulm* i.e., oppression) as laid in the Quran, to be the *jus divinum* for any law-affecting women as a class. By this way the writer illustrates the ways in which existing laws, policies and practices could be revisited to strengthen the legal status of women.

In a nutshell, Samadi persists that it is not Islamic law *per se* but the juristic interpretations that caused the inequalities that she is discussing. She describes that Quran and Sunnah are both normative and contextual (p.164). To manifest 'the male authority and women's deficiencies,' some Muslim jurists take the divine texts out of context in their interpretations/assumptions (ps.90-92, 99).

Though Samadi refers to some scholarly works, the first few pages or so except point 3 on p.59 of chapter 2 are mostly superfluous – the points have been thoroughly rehearsed in hundreds of works and to repeat this here adds little to the discussion.

Besides, reference has not been made to the efforts of many Muslim countries where the laws have been modernised, reformed and they been made less gender discriminatory. Modern legislations have opted for judicial intervention in Muslim marriages, separations and divorces, which are now brought under judicial supervision.

The writer spoke of but did not pen down a detailed section for woman's consent in marriage (Farooq, Muhammad, 2021), (an obvious element suppressed by the male guardianship) which has always been the main issue in family law cases, in particular, when there is a blurred line between consent and coercion. The woman's legal status to dissolve the marriage is also not exhaustively analysed. They must have an honourable exit route from marriage, if not, options for most women will remain quite limited where they will be forced to live with trauma, hoping that one day things will take a positive turn.

Further, the work does not verify the distinction between Islamic and extra-Islamic traditions with reference to the status of women. This distinction is of importance to be observed as variety of scholars have erroneously attributed the low status of Muslim women to the institutions of Islam. The author also dealt with the delicate regulation of women's rights, and it is of great help to understand the issue, however, the area requires further elucidation from the human rights' perspective.

In brief, the work is undeniably comprehensive in terms of the subject coverage. However, the reviewers found the discussion to be lacking in the area of gender study that is more evident in debates around the world.

To conclude, Mona Samadi herself being a woman, clearly advocates the case of a woman by showcasing a significant gap between women's *de jure* rights and their *de facto* legal status. For this reason, despite landmark laws enacted and the reforms made so far to grant competent legal status to women, women still continue to confront severe disadvantages.

With all the above said, together with the importance of publishing similar work like this, the reviewer feels that it is a subject matter worth expanding in the future.

## References

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