

Book Review

Women and Social Justice: Some Legal and Social Issues in Contemporary Muslim Society

By Anis Ahmad. Islamabad: Institute of Policy Studies, 1991, 128pp.

The task undertaken in this book, the development of a "third approach" to the issue of women's oppression superceding both feminism and traditionalism, is much needed and much neglected in the Islamic movement. Specifically, Ahmad analyzes the impact of the introduction of *hudūd* (Islamic penal code) laws in Pakistan and makes policy recommendations for their reform. Although his analysis is not limited in usefulness to Pakistan, it is limited, however, by several shortcomings in argument, structure, and language.

Ahmad's strong points emerge in his empirical study of Pakistani family law. While he attempts to refute the criticism that the *hudūd* laws discriminate against women, he also recognizes that the application of these laws in a legal patchwork fraught with contradictions has not helped women. For example, the Family Laws Ordinance of 1961 requires all marriages to be officially reported but, with common and Islamic opinion being contrary, this law is frequently neglected. So when the *hudūd* laws of 1979 made adultery punishable, women living in Islamic but unreported marriages were reported for adultery by vengeful ex-husbands. This particular problem would be solved, Ahmad argues, by punishing such men for slander, a neglected aspect of the Shari'ah's approach to adultery which is to women's advantage. He argues for an end to "this vicious circle of immediacy, adhocism and temporary solutions" (p. 48) in the application of the Shari'ah, and for a more creative, comprehensive reform. His use of statistics from Pakistani courts is an attempt to ground his analysis in the living reality of Pakistani women, an attempt which is only infrequently made by Islamist writers on women's issues, who usually hide behind obscure generalizations about the ideal society.

It is also edifying to see an Islamist writer admit that "we should not doubt the intent and motive of those who talk on these issues and take a different position" (p. 11). Too often this debate over the status of women results in bitter and useless finger-pointing in which the advocates of change in women's conditions are labelled "Western," as if one had to be Western to see anything exploitative about the present treatment of Muslim women. Unfortunately, Ahmad does not stick to his promise and succumbs to a defensive diatribe against his ideological opponents, calling them "crypto-colonialists" and emphasizing their emergence from the upper classes. The same charge

of elitist class bias could be levelled at the Jama'at-i Islami, for that matter. Such gratuitous name-calling, whether true or not, does not add anything to the analysis.

To be fair, Ahmad levels his attack equally at "the colonial heritage and social customs given the name 'eastern culture'" (p. 26), thus recognizing that, both before and after the colonial presence, there are factors internal to our societies which have been oppressive for women. Nevertheless, the defensiveness into which he slips sometimes hinders a clear-sighted analysis of these oppressive internal conditions. For example, he quotes at length a feminist critic of the *hudūd* laws, Rashida Patel, who argues against the punishment of women for adultery. In the key part of the quote, she says that due to women's extremely dependent condition:

Many cases have been known when women changed hands from one male guardian to another by marriage or even without marriage, and live in adultery or fornication not due to personal desire for such a life but merely as victims of circumstances. Under these socioeconomic conditions, to make women punishable for fornication or adultery had resulted in grave hardships for them (pp. 19-20).

Ahmad immediately interprets this as follows:

Defending the Penal Code of 1860 introduced by the British colonialists in Pakistan, the advocates of "equality" for women maintain that the *hudūd* ordinance deprives women of their "human right" to indulge in fornication. They further think that the *hudūd* ordinance will also deprive women of earning a livelihood through trading their bodies, consequently causing an economic setback to women (p. 20).

Such an evaluation of the reasons behind feminists' opposition to this particular law does not at all follow from the feminist quoted to prove it. Patel's point was that women should not be punished for a sin imposed on them against their will by socioeconomic circumstances. Surely this is a plausible defense in the Shari'ah. 'Umar ibn al Khaṭṭāb's lifting of the punishment for theft during a famine in Madinah shows that if the spirit of the law is to be preserved, extenuating circumstances for the sin should first be ruled out. This is an example of polemic pushing aside analysis.

Ahmad's vision of improvement for Muslim women's conditions is extremely interesting. On one hand, he suggests that women's existing contribution in roles such as agricultural labor, traditional handicrafts, and "home

engineering" (this term should become more widespread!) are undervalued by sexists and feminists alike. No one can argue with this; in fact the latest trend in feminist studies agrees. But he uses this to argue against women's entrance into the wage-labor force. This entrance, as he correctly points out, imposes a double burden on women because they are expected by their families to continue doing their traditional unsung labor in addition to any wage-labor they undertake. Of course, the main reason he finds such labor objectionable is because it would entail the "free mixing of the sexes." But the alternative he proposes, that women reevaluate the role of "home engineer," does not acknowledge the problems hidden in this role for Muslim women today: This role has been stripped by most local customs of Islamic guarantees of dignity and freedom and has been reduced to the level of drudgery under an arbitrary master. We need to investigate if state policies could be developed which would reinstate the dignity of this role.

Interestingly, he suggests as another alternative to the entrance of women into the general wage-labor force the development of all-female labor sectors, such as female-operated factories and shops. But most factory labor by females is already segregated, not because the operators are Islamically opposed to the mixing of the sexes but because they can pay women less than men and exploit them more. And would the owners, executives, managers, and decision-making bodies all the way up the ladder be all-female too, or would this simply be another example of men using women's labor? If they were, and they should be, these top-level women executives would need to meet with other executives, warehousemen, distributors, and government ministers on a nationwide level. In other words, the mixing of the sexes is still not avoided. But early Islamic precedents and justifications for this type of structured mixing are available, so there is no need to paint oneself into a corner by insisting that "no mixing" is an absolute in Islam. And the existence of such female work sectors still does not justify discriminating against an individual woman who for some reason finds it worthwhile to enter an Islamically viable field traditionally occupied by men.

Ahmad believes that the flaws in the *hudūd* system can be ironed out by a more thorough understanding of the purpose and spirit of the Shari'ah and the dissemination of this knowledge to society at large through the media. He recommends direct training of members of the legal system from police officers to judges (including female judges in the family courts) in this comprehensive application of the Shari'ah within the courses already offered to them at the Islamic University in Islamabad.

A few technical flaws detract from the value of the book. The language suffers from rampant Pakitanisms, some of which cause double-takes (i.e., "orally married," "agreeable sex"!). More importantly, terms like "girl" (when

referring to an adult woman), "men of letters," "common man," and "lady" (because it refers to a specific cultural concept of womanhood) are no longer acceptable in scholarly literature, especially since, as Ahmad himself says, "Islam does not use a sexist language" (p. 60). Also, there is an overabundance of Arabic terms and a lack of adequate and consistent translation; this could be remedied by appending a glossary. On a positive note, it is refreshing to see an Islamist mention his wife by name in the preface, acknowledging the value of her labor, whether traditional or direct, in his own work.

This book is useful in opening a new phase of Islamist scholarly work on the issue of Muslim women's conditions because of two factors: 1) With its sociological, empirical grounding, rather than abstract ideological wandering, it begins the type of studies which Islamists have been reluctant to do, a reluctance which has led to our dependence on researchers of other ideological motivations for such data, and 2) It finally faces the fact that Muslim women are grossly exploited and oppressed today, whereas most Islamist literature about this issue has been of the defensive, head-in-the-sand variety. Being among the first in this new phase, it still suffers occasionally from some of the flaws of the previous phase, i.e., defensiveness and polemic. It is an uneven, but serviceable, beginning.

Finally, going along with the current tendency in literary studies to admit one's personal engagement in the text, I must say that reviewing this book was more daunting because the author is a friend of my father, one whom I greatly respect and like. Nevertheless, neither affection and respect for our fathers and father figures nor their desire to protect us should buffer women from the winds of direct involvement in the struggle against oppressive conditions. And the struggle will not succeed as long as our fathers are speaking for us and we are silent. Therefore, here is a challenge to the Islamic movements in Pakistan: Produce a woman with intellectual qualifications as high as those of Ahmad, give her a policy-influencing position commensurate with those qualifications, and then Ahmad's (and the Islamic movement's) argument will be proven without any further debate.

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