



Strengthening Women's Legal Empowerment through scholarly interpretations of Shari'ah

Date: 25 February 2015, 10.00am-5.30pm

Venue: King Hussein Club, Amman Jordan

Participants: Civil society actors, legal practitioners, academia, judges, policy-makers

Objectives:

1. To encourage discussion between Islamic scholars, legal practitioners, gender specialists and academia regarding the compatibility between and scope for using shari'ah as a tool to enhance the protection of women
2. Brainstorm modalities and opportunities for using shari'ah to enhance protection of and women's ability to uphold their rights through the justice system
3. Empower legal practitioners and other key actors with knowledge, skills and tools to use scholarly interpretations of Islamic jurisprudence to uphold women's rights in court, undertake strategic litigation and drive advocacy and awareness-raising.

Personal status and family laws are pivotal to the protection and empowerment of women in the West Asia and North Africa (WANA) region. In Jordan, laws concerning marriage, divorce, child custody, and inheritance are based on Islamic Shari'ah and codified in the Personal Status Law (No. 36 of 2010). Other important rights include protection from violence, labour rights and rights to property, which are found in the Penal Code (No. 16 of 1960) and Protection Against Family Violence Law (No. 6 of 2008), Labour Law (No. 6 of 1996) and Civil Code (No.43 of 1976) respectively. Compared to other jurisdictions in the WANA region and Muslim countries in Africa and Asia, this legal protection framework is both extensive and progressive. This said, it is not disputed that women still face serious problems protecting themselves violence and upholding their rights in and after marriage; moreover, women's labor force participation and land property ownership rates are extremely low at 16%¹ and 10% respectively.² The factors driving these phenomena involve a complex combination of legal, economic and socio-cultural dynamics. Certain laws arguably fail to provide women sufficient protection, particularly with respect to sexual and gender-based crimes. Tensions between gender rights and obligations and the accepted cultural-religious framework dissuade some women from entering the

¹ World Bank Data: 26 January 2015, available at Data.worldbank.org/indicators/SL.TLF.CACT.FE.ZS

² Freedom House, Women's Rights in the Middle East and North Africa - Jordan, 14 October 2005, available at: <http://www.refworld.org/docid/47387b6b39.html>.

workforce, becoming property owners or realising their inheritance claims. Violence against women is broadly considered a matter to be kept within the private sphere, because of its direct connection to a woman and her family's reputation.³ Moreover, cultural norms that support patriarchy normalise rights violations and place strong cultural disincentives upon women to refer the resolution of disputes outside of their immediate families. In some locations, it is considered inappropriate for women to attend court, police stations or government offices unaccompanied by a man, and justice sector employees may lack insight into the specific constraints and vulnerabilities faced by women in the justice system.

While there is significant work being done on justice sector reform and women's access to justice, there has been less attention paid to the connection and complementarity between Islamic shari'ah and women's rights protection. Donor-led projects have principally focused on aligning law with international human rights standards, expanding women's access to the courts and procedural reform. The shari'ah courts, religious leaders and Islamic jurisprudence more generally have not been regarded as partners and tools in the protection of women's rights. Perhaps as a result, NGO programs largely fail to engage in scholarly interpretations of Islam that are protective of women's rights, refer to Shari'ah provisions in awareness raising, or attempt strategic litigation or lobby for reforms based on Islamic jurisprudence.

Islamic scholars, by contrast, argue that Islam is a key tool for upholding women's rights and facilitating their empowerment. For example, responding to criticisms about mitigating provision article 308 of the Penal Code, Shari'a scholars have underscored that allowing sex offenders to marry their victims contradicts the purpose of marriage in Islam. They argue that the linkages between Islamic shari'ah as a tool and source of women's protection need to be elaborated. Specifically, there is insufficient awareness of and space for debate between Islamic scholars, practitioners, women's rights groups and academia regarding the compatibility between and scope for using shari'ah as a vehicle to better protect women in Jordanian society.

In response, in January 2015, the WANA Institute launched a programme entitled "Strengthening Women's Legal Empowerment: Building an evidence base and mobilizing change-makers". One component of this 3-year program is to investigate the nexus between women's legal empowerment, socio-cultural norms and Islamic legal principles. The project will centre around the development of scholarly interpretations of Islamic jurisprudence from a gender perspective focusing on custody, violence against women, inheritance, labour and property rights. A preliminary discussion platform will be held in February 2015 bringing together scholars, shari'a court judges, gender specialists and civil society actors. The aim is to reflect upon this research, and discuss modalities and opportunities for using shari'ah to enhance the protection of women and their ability to uphold their rights through the justice system. The background scholarly paper will be released the week prior to the conference to inform discussions.

³ 'Women's Rights in Jordan', Report submitted to The Universal Periodic Review *the Human Rights Council*, National Coalition led by the Arab Women Organization (2013).