

The Right to Divorce for Women: Religious Ordinance, a Human Rights Need

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DOI: 10.22096/HR.2021.134952.1239

[Received Date: 16/08/2020 Acceptance Date: 26/12/2020]

Abstract

The original attitude toward men and women in the rules of Holy Quran sometimes reveals a different religious knowledge regarding the past. In Islamic Law, they often believe in the principle of equal rights for men and women, however, about divorce, the well-established theory is that divorce is performed by husband due to differences between man and woman in terms of creation. But the main question is that as for the acceptance of man and woman equality in dissolution of marriage in International Human Rights Law, whether this opinion is compatible with Islamic Law. The present study shows that women have long had the right to divorce, and the grounds of divorce at the request of the wife or under the agreement of the couple is, in fact, recognition of legal or contractual right to divorce for the spouse. Agreeing on the theory of the necessity of Khul' and Mobarat divorce on husband, and

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exclusion of these two from types of divorce, and its being initiated by the unilateral will of wife is indicative of the claim that we have to put our foot further beyond and “keep her in acceptable manner or release (her) with a good treatment’ should be interpreted in a more modern way: when husband is unable to treat his spouse well, it is necessary (for him) to initiate divorce, and wife reciprocally can get divorced, so she can originally ask the court for it. This is an interpretation which is in line with the rules of human rights on eliminating discrimination against women.

Keywords: Woman’s Right; Islamic Law; The Right to Divorce; Prohibition of Gender Discrimination; Correlation of Right and Obligation.

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