



WOMEN'S TESTIMONY IN LEGAL STATUS BASED ON ISLAM POINT OF VIEW: JURISPRUDENTIAL STUDY

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ABSTRACT

The Holy Quran deals with the testimony of women in more than one source and counts it as one of the evidences and structures upon which the legitimate ruler relies in proving the ruling. However, wise Islam did not ignore the formative nature of women - that is why it set controls that would preserve the dignity of women, harmonize with their instincts, and consider their tenderness and compassion. The research will deal with the testimony of women in personal status, marriage, divorce - commandments, breastfeeding ... to clarify the legal ruling in every place - and the wisdom behind the legislation.

Keywords: Islamic women, marriage, breastfeeding, inheritance

INTRODUCTION

Praise be to God who made praise the key to his remembrance, a reason for more of his bounty, and a proof of his bounties and greatness.

And after, testimony is one of the stages of proof in Islamic law, and it comes in the second place, after affirmation. (And do not conceal testimony, for whoever conceals it - his heart is indeed sinful, and Allah is Knowing of what you do) Al-Baqarah [283, and He, may He be exalted, said: ((And bring to witness two just men from among you and establish the testimony for [the acceptance of] Allah)) Al-Talaq [2.

And since the woman has a great status in Islam, he gave her an important role commensurate with her social status and her formative nature. In this research, we will discuss her testimony regarding personal status, marriage, divorce, wills, breastfeeding. and we will stand on the wisdom of accepting her testimony alone or combined with man or refuse it at all.

Praying to God Almighty for success and payment for me and all those engaged in the service of knowledge and religion.





METHODOLOGY

This research deals with different sides of testimony and views of scholars around it. The study will involve for requirement of testimony; i) women testimony in marriage, ii) women testimony in divorce, iii) their testimony in the will, and iv) Breastfeeding testimony of women

RESULTS

The first requirement: Women's testimony in marriage

There are many opinions of jurists regarding the testimony of women in marriage, according to the narrations mentioned in this regard. These narrations can be divided into five groups:

The first - indicates the acceptance of women's testimony in marriage, such as the hadith of Zurara, which is also weak in chain of transmission: "I asked Abu Jaafar (PBUH) about the testimony of women is permissible in marriage?"

The second - what indicates that their testimony is not accepted in marriage at all, which is the hadeeth of al-Sukuni: "Women's testimony is not permissible in divorce, marriage, nor limits... (Al-Amili, 1982, 265).

Finally, the third indicates the sufficiency of the testimony of the two women in marriage without a man with them, and what was reported on the authority of Dawood bin Al-Husayn _ with a complete chain of narrators on the authority of Abi Abdullah (PBUH) who said: "I asked him about the testimony of women in marriage without a man with them if the woman was denied? He said: There is nothing wrong with it Then he said: What do your jurists, say about that"? (Bin-Tawoos, 1439H, 158).

God commanded the testimony of two men in divorce, so they permitted divorce without a single witness. Marriage did not come from God in his prohibition determination (Al-Khoei, 1992, 317-318). The Messenger of God (PBUH) narrated that the two witnesses were disciplined and given that the child and the inheritance would not be denied, and the marriage contract was established, and intimacy was lawful, not to testify, and the Commander of the Faithful (PBUH) permitted the testimony of the two women in marriage. when denying(Al-Amili, 1982, 124).. And it is not





permissible in divorce except two just witnesses, so I said, so how did God - the Most High, mention His saying: (So a man and two women) He said that in religion if there are not two men, then a man and two women and one man and the oath of the plaintiff if there are not two women, the Messenger of God (PBUH) and the Commander of the Faithful (PBUH) decided that After him, you have it” (Al-Amili, 1982, 258). What is in this hadith about the sufficiency of the testimony of two women in marriage without a man, that the testimony of two women be as strong as the testimony of two men is an improbable jurisprudential matter, whether in that is the jurisprudence of Sunnis and Shiites, so his knowledge must be returned to his family.

The fourth is what indicates the detail between the testimony of women in marriage with a man, and it is accepted, or on their own, so it is not accepted, such as what was reported on the authority of Muhammad bin Al-Fadil: “I asked Aba Al-Hassan Al-Ridha (PBUH), I said to him: Is it permissible for women to testify in marriage, divorce, or stoning? He said: It is permissible for women to testify about what men cannot look at when there is no man with them, and it is permissible for them to testify about marriage if there is a man with them....

And what was reported on the authority of Abu Basir _ “It is permissible for women to testify in marriage if there is a man with them.... And what was reported on the authority of Al-Halabi on the authority of Abi Abdullah (PBUH) that he was asked about women’s testimony in marriage, and he said: “It is permissible if there was a man with them and Ali (PBUH) was with them He says: I do not allow it in divorce. I said: It is permissible for women to testify with men in religion? He said: Yes. And you asked about the midwife's birth certificate? He said: It is permissible for the testimony of a single woman, and he said that it is permissible for the women to testify about the souls and the excuse.

Fifth - Evidence for the influence of a woman's testimony without men in marriage with silence about their testimony with a man, which is what was reported on the authority of Ismail bin. He said: I asked al-Ridha (PBUH), is it permissible for women to testify in marriage without having a man with them? He said: No, this is not right (4 Agha, 1983, 307-330) (6).

What appears after presenting these narrations is that the dependent is the fourth sect that elaborates between the testimony of women in marriage with a man and the testimony of women in it alone, so the first saves the second degree. And if the first and second sect were authentic, then this sect would have been a witness for everyone





between them by implying the first as if there was a man with them, and the second as if there was a man with them, just as the fifth sect did not indicate anything that contradicts the aforementioned elaboration, but rather explicitly exposed one of the two sides of the elaboration, even if This was not an intimidation of the other party, as it is a silence that does not harm us.

Yes, the third sect opposes the detail because it indicated with its chest the validity of the testimony of women without a man in marriage and with its tail the validity of the testimony of two women in marriage.

It may come to mind giving it precedence over the narrations of detail, and to carry the narrations of detail on taqiyya. Because the public made it clear that the testimony of women in marriage is not valid at all, and he said in detail in those narrations, so the narration of Dawood ibn al-Husayn is contrary to the public.

However, I knew that the apparent meaning of Dawood bin Al-Husayn's narration could not be considered because no one gave a fatwa that the woman in the testimony is like the man. Two other women, or a man, may complete what we have said about prioritizing the narration of Dawood bin Al-Hussein over the detailed narrations in contradiction to the public.

And if we say: This interpretation is not customary - even by observing the context of the entire hadith, as it is not far away, the knowledge of Dawood ibn al-Husayn's narration was returned to its people, and it fell from the authenticity, and the detail remained without opposition.

It is not said: If it is not possible to take into account the footer of the hadith that indicates the sufficiency of the testimony of two women in proving the marriage, then why do we not take the lead of the hadith that indicates the sufficiency of the testimony of women alone without men, which is carried on the testimony of four women, knowing that the woman is half of the man in the testimony, and this is preceded over the narrations that stipulate the influence of testimony The influence of women's testimony in marriage is with the testimony of a man, because he contradicts the common folk and those narrations agree with the fatwas of some of them? It is said: If the hadith was a quotation of the words of the imam verbally, it cannot be said: that we take the first hadith after carrying it on the testimony of four women. appended to an appendix that does not indicate the sufficiency of the testimony of two women, so there is no objection to taking the source of the hadith, for example, but since the hadiths are usually conveyed with meaning, the narrator does not narrate the text of the speech,





but rather he narrates the meaning, and the meaning of this hadith is the sufficiency of the testimony of two women in marriage, and this meaning is definitely lost according to the hypothesis, so it is not possible Adopting the source of the hadith, because it did not settle for the source of the hadith appearing independently of the appendix. A hadith that was not appended to an appendix or appended to an appendix does not indicate the sufficiency of the testimony of two women.

The second requirement: Women's testimony in divorce

Numerous narrations have been mentioned in the hadith and narration books that indicate the influence of their testimony in divorce. Yes, it was reported on the authority of Muhammad bin Muslim bin Abi Jaafar (PBUH) and on the authority of Abu Basir, Sama'a and Al-Halabi on the authority of Abi Abdullah (PBUH) in the offices that one half of him is freed. Is it permissible to testify in divorce? He said: "If there is a man and a woman with him (Al-Amili, 1982, 266)." (7)

On the authority of Al-Halabi, he said: "I heard Aba Abdullah (PBUH) say in the offices... until he said: I said: Do you think that if half of him was emancipated, his testimony in divorce is permissible? He said: If there was a man and a woman with him, his testimony is permissible (Al-Amili, 1982, 256)." (8) .

And if it is possible to impose the relationship between these hadiths and some of the previous hadiths in general, by saying: This indicates the validity of the woman's testimony in divorce if there is a man with her, then it is restricted to her, which is evidence of the lack of influence of her testimony at all, but there is in the previous hadiths what cannot be restricted to these matters Prior to what was mentioned earlier on the authority of al-Halabi on the authority of Abu Abdullah (PBUH), he was asked about the testimony of women in marriage? He said: "It is permissible if a man is appointed, and Ali (peace be upon him) used to say: I do not allow it in divorce... This is the evidence corresponding to the permissibility of their testimony with the man in marriage, and their testimony does not affect the divorce even with the man.

These are two contradictory sects, and it is not possible to outweigh one over the other by opposing the general public, and that is because each of them is identical to some of the general public and contradicts each other according to what the sheikh said in the dispute that Malik, Al-Shafi'i, Al-Awza'i, and Al-Nakhai said that women are



not testified in divorce, and Al-Thawri and Abu Hanifa and his companions said that the divorce is proven by a witness and two women (Al-Amili, 1982, 255) (9).

And it is possible to give preference to what indicates that women's testimony does not influence divorce, even with men, on the narrations of Muhammad bin Muslim, Abu Basir, Sama'a, and Al-Halabi, with those agreeing to the book and this book contradicting them based on memorizing the verse of divorce, which is an address to men: (And testify those of justice among you, and establish the testimony for God) (Al-Tusi, 1411 1982, 326) (10) The requirement of masculinity in the validity of the testimony in divorce, and not only in the validity of the divorce in the presence of two just witnesses; By invoking this condition in divorce, it was as a prelude to testifying in the event of a dispute. And if this speech was not accepted, and the matter ended in contradiction and failure, by referring to the original principle that explains the ineffectiveness of women's testimony.

And what Sayyid al-Sistani (may his shadow last) went to regarding women's testimony in divorce is that: - There is no consideration for women's testimony and their hearing whether they are alone or joined to the man Al-Sistani, 2021, p. 1451.

The third requirement: Testimony of women in the will

The narrations are of three categories:

The first: What indicates that women's testimony is not effective in the will, such as the narration of Abd al-Rahman bin Abi Abdullah, who said: "I asked... about a woman who is approaching death and has only a wife, is her testimony permissible or not?

Abdul Rahman also did not deter him. He said: I asked Aba Abdullah (PBUH) about a woman who is approaching death and has only a woman, is her testimony permissible? He said: It is permissible for the women to testify in the case of the deceased and the excused.

And what was reported on the authority of Abdullah bin Sinan or Suleiman about a woman who was approached by death, and she did not have anything but a woman, whose testimony was permissible? He said: "It is not permissible to testify about it except in the case of the deceased and the excused.





And what was also reported on the authority of Muhammad bin Ismail bin Bazi' - with a complete chain of narrators - he said: "I asked Al-Ridha (PBUH) about a woman whose family claimed that she bequeathed upon her death from one-third of her slaves to free her slaves. women in this" Al-Talaqh 2.(11)

The second group - evidence of the influence of women's testimony in the will, such as what is reported on the authority of Muhammad bin Qais - with a complete chain of narrators on the authority of Abi Jaafar (PBUH) who said: "The Commander of the Faithful (PBUH) decided in a will that only a woman witnessed, so he decreed that the testimony of a woman be permitted in a quarter commandment."

And in a similar transmission, an addition: (if she is a Muslim who is not suspicious of her religion) (Al-Amili, 1982, 266-67) (12)

And they did not deter my quarter - with a complete chain of transmission: on the authority of Abi Abdullah (PBUH) in the testimony of a woman who attended a man who made a will, and he said: "It is permissible in a quarter of what he bequeathed by calculating her testimony" (Al-Amili, 1982, 396) (13). And it came in another narration: She attended a man who made a will, but there was no man with her. (Al-Amili, 1982, 296) (14)

And what was reported on the authority of Aban - with a weak chain of narrators by Abdullah bin Issa, who is known as Banan, on the authority of Abi Abdullah (PBUH) that he said in a will that only a woman witnessed, so he authorized her testimony in the quarter of the will by calculating her testimony" (Al-Amili, 1982, 261-62) (15)

And Al-Halabi did not deter - with complete support - he said he asked Abu Abdullah (PBUH) about a woman who claimed that he bequeathed a third to her in a country. And she has no proof. He said: Give in charity a quarter of what she claimed (Al-Amili, 1982, 395) (16). Based on the interpretation of lam meaning (to).

And what was reported on the authority of Yahya bin Khaled Al-Sayrafi (or Al-Hussein bin Khaled Al-Sayrafi) on the authority of Abi Al-Hassan Al-Madhi (PBUH) said: "A man who died and had a mother wrote to him, and her master made something for her during his life, then he died? So, he (PBUH) wrote: To her what her master rewarded her with in a life for which this is known, the testimony of the man, the woman, and the unaccused servants is acceptable to that" (Al-Amili, 1982, 396) (17). And the hadith was narrated in Al-Wasail on the authority of the jurist in the name of Yahya bin Khalid Al-Sayrafi, but it was mentioned in Al-Kafi (Al-Amili, 1982, 396) (18) and Al-Tahdheeb (Al-Amili, 1982, 268) (19).





In the name of Al-Hussein bin Khaled Al-Sayrafi, and his name is included in the books of men, and in any case, the hadith was narrated by Ibn Abi Umair, who does not narrate except through his trustworthiness, so the chain of the hadith is complete, and the hadith is not far from looking at the will, not the gift with a presumption that he expressed with the expression: (He made for her Her master) not with the expression: (and give her her master).

And the owner of Al-Wasail said immediately after this hadith, quoting Sheikh Al-Saduq: "In another narration: If there were two women, their testimony is permissible in half of the inheritance, and if they were three women, their testimony is permissible in three quarters of the inheritance, and if they were four, their testimony is permissible in the entire inheritance (Al-Kulaini, 1363 h, 29) (20).

This makes it appear that there is a hadith about the influence of women's testimony in presuming an heir in general, as stated in the will, and regarding what men do not look at, and so on, while what is found in the book of Faqih is the mention of this narration at the bottom of another hadith, and that is in the following form:

Narrated by Al-Hassan bin Mahboub. Zaid said: "I asked Aba Abdullah (PBUH) about a man who died and left a pregnant woman, and after his death a sign was put on her, then the boy died after he fell to the ground, so the woman who kissed him testified that he started and cried when he fell to the ground, then died after that? He said: The imam must allow her testimony to be a quarter of the boy's inheritance." And in another narration: "If there were two women, it is permissible to testify to them in half of the inheritance, and if there were three women, their testimony is permissible in three quarters of the inheritance, and if they were four, their testimony is permissible in the entire inheritance." (Al-Tusi, 1986, 878) (21)

Thus, it is clear that the hadith was not included in inheritance in an absolute way, but rather it was included in the boy's initiation, i.e. in a resource that men cannot look at. In any case, the hadeeth is rejected by transmission.

The third sect - what indicates a detail between if there is a man with them, then it is carried out, and if there is no man with them, then it is not carried out, and, which is what Ibrahim bin Muhammad Al-Hamedani said: "Ahmed bin Hilal wrote to Abi Al-Hassan (PBUH): A woman testified against The will of a man was not witnessed by anyone else, and among the heirs are those who believe it, and among them are those who accuse it? So he wrote: No, except that it be a man and two women, and it is not obligatory for her testimony to be carried out (Al-Amili, 1982) (22). And Ibrahim bin





Muhammad Al-Hamedani did not prove his trust, even if he was an agent for the forelock.

And it is possible to combine these narrations in ways - but none of them can comprehend all the narrations: - Among them - making the last narration - after imposing its correction as a support for the fact that Ibrahim bin Muhammad Al-Hamedani was an agent of the forelock, for example - a witness who combined the first two sects with adherence to what indicated the lack of influence of the testimony if There was no man with them, and influence is indicated by what was with them. And this plural - if the narration of Ibn Muhammad al-Madani was supported - 0 would not accommodate all these narrations; Because in the narrations that indicate the influence of what is contained in the woman alone, and it is the first and second narration of them.

Among them - that after dropping the narration of Ibrahim bin Muhammad Al-Hamedani due to the weakness of the chain of narrators, the first two groups remain, and we restrict the first to the second; Because the first is absolute, and the second is specific to the will in money, so it is between what was mentioned in the question regarding the imposition of money, as in the last narration, and what is carried on the money by the presumption of what the Imam (PBUH) mentioned of execution in the fourth, as in the rest of the narrations, so the first group that indicates the lack of influence is concerned. By will in non-money. This plural also does not accommodate all the narrations, because in the narrations that indicate the lack of influence, what is contained in the will in money, as in the narration of Ibn Bazie. With her influence, Nader is singled out, and the commandment of guardianship is unimaginable in a woman that she has no guardianship.

And among them - that we carry the first group that indicates non-influence with the meaning of the non-influence of a testimony to the extent of influence

A woman is equal to half of a man's testimony.

This combination also does not accommodate the narration of Ibn Bazie, which assumed that the deceased was a woman who died among the women, and carried on the assumption that the women were less than four and the will not to influence the whole will because the woman is half the man, not customarily. Rather, this pregnancy does not take place even in the previous narrations on Ibn Bazi' the evidence of limiting the acceptance of women's testimony to the virgin and the invalid.



Since accepting the testimony of women in the virgin and the invalid does not mean that the testimony of the woman in it is like the testimony of the man, but rather it means that her testimony in it is accepted in the sense that her testimony is half that of the man.

And if the contradiction between the narrations became entrenched, the Nuba reached the burden of the first and third sect on Taqiyya, because the common people are between those who issue fatwas that the testimony of women does not influence the will at all, and who separates between if there is a man with them and if there is not. He said the second sect is contrary to the general public, and it is indicative of influence, so I refute the influence of women's testimony in the will regarding money. Because the influence narratives contained in the money.

Sayyid al-Sistani (may his shadow last) decided in accepting the testimony of women between the supplementary will and the covenantal will as follows: The complementary will is that it confirms the testimony of individual women, so a quarter of it is established by the testimony of a just Muslim woman, half of it by the testimony of two just Muslim women, three-quarters of it by the testimony of three just Muslim women, and its completion by the testimony of four just Muslim women No need to swear an oath in two testimonies.

As for the covenantal testament, the testimony of women alone or joined to men is not accepted in it (Al-Sistani, 2021, p. 1433).

The fourth requirement: Breastfeeding testimony of women

This is considered an independent resource based on its not being included in what men may not look at through the possibility of being looked at by mahram, otherwise it is included for the absolute influence of women's testimony in what men may not look at.

In any case, what can be inferred from it has been reported. The influence of women's testimony in breastfeeding, which is what was reported on the authority of Ibn Bakir Ghulamah on the authority of some of our companions: "On the authority of Abi Abdullah (PBUH) about a woman who breastfed a boy and a girl who knows that other than her? He said: No. He said: He said: Do not believe if there is no other woman" (Al-Qaimi, 1984) (23). As it can be said: It indicates in its meaning that it is true if there is someone else with it.





It is true that if we do not include breastfeeding under the heading of what men are not allowed to look at, there is no evidence of the influence of women's testimony in it. Likewise, if we included breastfeeding under that heading, there is no evidence that it is excluded from the releases of the influence of women's testimony regarding what men are not allowed to look at.

Yes, it was stated in the testimony of a single woman regarding breastfeeding what indicated her lack of influence, and this - as you can see does not indicate the lack of influence of the testimony of women regarding breastfeeding, and that is similar to the same previous narration, i.e. transmitted by Ibn Bukayr, and similar to the narration of Salih bin Abdullah Al-Khathami: I wrote to Abi Al-Hassan Musa (PBUH) asked him about why he was born to me. She mentioned that she breastfed a girl for me. He said: "Do not accept what she says and do not believe her" (Al-Amili, 1982, 397) (24).

And on the authority of Al-Halabi - with a complete chain of transmission - on the authority of Abi Abdullah (peace be upon him) he said: "I asked him about a woman who claims that she breastfed the woman and the boy / and then denies it after that? enjoyment" (Al-Amili, 1982, 304) (25).

And the lack of acceptance of her testimony in the source of this hadith is natural - even based on the inclusion of breastfeeding in the title of what men are not allowed to look at (Al-Amili, 1982, 304) 27.

First: Because she contradicted her words, this may make her fall short of justice.

Second: Because she is one woman.

And it became clear with all that we have mentioned that the narrations on the topic of breastfeeding do not benefit us with anything, neither benefit nor proof. The balance is its entry under the heading of what men are not allowed to look at, or not entering it under this heading (Al-Amili, 1982, 303) 27.

This is what made Sayyid al-Sistani (may his shadow last) be confusing in the testimony of women in proving breastfeeding joined to men or individually. It was mentioned in issue (151) ... the testimony of two just men on its occurrence, and in proving it by the testimony of a man with two women or the testimony of women in four forms, so he does not leave Taking precaution in it (Al-Sistani, 2021, p. 1451-1452).



CONCLUSION

At the end of the research, which would not have been completed without the care and success of God Almighty, it is possible to put the most important results that have been reached. On the issue of accepting the testimony of women in marriage, there is a difference of opinion among the jurists. Many of them are of the opinion, and even attributed to the well-known fact that marriage is not proven by the testimony of a man and two women, as is the case in divorce. Some of them were attributed to saying that their testimony was accepted, joining the men, but some of them claimed that there was consensus. The origin of the dispute is different narratives. There is no consideration for the testimony of women in divorce, whether they are alone or joined to men, and some jurists have corrected their testimony in divorce by khula' as it is a financial matter. As for their testimony in the will, it is confirmed by the testimony of a just male with two just Muslim women, and by the testimony of four just Muslim women. A quarter of the bequest is confirmed by the testimony of a just Muslim woman, half of it by the testimony of two just Muslim women, and three-quarters of it by the testimony of three just Muslim women. What most jurists hold is that the testimony of women regarding breastfeeding is not valid, and there are jurists who accepted it regarding breastfeeding.

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