

**AN EVALUATION OF WOMEN'S RIGHT TO PARTICIPATE IN GOVERNANCE  
UNDER ISLAMIC LAW**

**By**

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**ABSTRACT**

The paper assessed the right of women from Islamic Law context on their right to participate in governance and defended that Islamic Law has promoted women and gives them a very magnificent position. The study was predicated upon the issues arising out of serious allegation leveled against Shari'ah that it has denied women their right to participate in politics and negated fundamental human right of movement. It is contended that women should fear Allah (SWT) in demonstrating their right and they have to limit themselves within the terrain of the Shari'ah limitations and accordingly desert from any other option such as women liberation which is misrepresentation of their true nature in order to avoid exploitation of their body. The methodology adopted was basically doctrinal and oriented by consulting different literatures both primary and secondary sources related to the topic. The aim of this work therefore, is to provide an evaluation of the right of women pertaining their participation in governance under Islamic Law with a view to highlight their position on right to leadership. It is therefore observed that, there is abandonment of their primary responsibilities by virtue of engaging themselves in demonstration of the so called woman's liberation. It is recommended that women must abstain from imitating the value and ideas propounded by certain ideologies usually propagated to castigate Islamic principles on women's rights to leadership. The paper concludes that Shari'ah allows women to participate and play active role in leadership except executive offices that are exclusive to their men counter-part.

**Keywords: Islamic Law, Women's Right, Leadership, Abandonment, Politics.**

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## 1.1 Introduction

Women have been endowed with love, kindness, sympathy, care and affection in order to carry out their duties to their children in dignified manner. Based on this natural predisposition and delegation of responsibility and based on the unique qualities of male and female, it is only natural for men to work outside of their home for the sustenance of the family, and for the women to work indoor to take care of the children and the family in general. Under Islamic law, the rights and duties of men are equal to that of women but not necessarily same or identical.<sup>1</sup>

With this different nature, the Almighty Allah (SWT) places affection, sympathy and love between them. He branded men with power, strength and endurance to make them capable of discharging their responsibilities. On the other hand, he granted women with ability to conceive and reproduce the progeny of mankind and being possessed with the necessary appliance to bear children, deliver, nurse and care for them. They enjoy rights and obligations as women, they enjoy full political rights except nomination to the head of state and that of a judge in which the Muslim jurists have divergent views on its permissibility or otherwise.<sup>2</sup> Enjoying good and forbidding evil is an important political function of an Islamic state and women have also been enjoined to discharge this duty along with men.<sup>3</sup> The problem that this paper intends to address is people with western orientation have adopted the idea of attributing inequality to religion as regards to the women's right to participate in governance particularly to the Islamic Law, arguing that, it discriminates against women and that there is no gender justice between men and women in human right to leadership. However, if this wrong conception continuous to persist within the society, it will create a black image on the *Shari'ah* regarding women's rights in Islamic law.

It is undisputed fact that Islamic Law makes abundant provisions for the promotion and protection of women's rights including rights to participate in public life within the tenants and ambit of the *Shari'ah*. These provisions are generally understood from various verses of the Holy Qur'an and the prophetic traditions of the Prophet Muhammad (SAW).<sup>4</sup> Thus, under the Islamic law, women

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<sup>1</sup> Haroun, M.A.S. (2006) *Morality in Islamic: Sexual Issues in Modern Era and its Solution in Islam*, Adams Publishers, New Delhi, p. 63

<sup>2</sup> Badamasuiy, J. (1998) *Statute and Role of Women under the Sharia*, Zakara Publishers, Kaduna. P. 36 p. 36

<sup>3</sup> Haroun, M.A.S. (n 1) p. 96

<sup>4</sup> Badamasi, J. (2003) *Statues and Role of Women under Sharia. A Paper Presented at a Workshop on Women's Rights under Sharia vis-à-vis International Instruments*, Held in Dutse Women Centre, Jigawa State on 7<sup>th</sup> -8<sup>th</sup> August. p. 47

have political rights such as right to express their view on the public affairs, right to elect and participate in the state discussion for the development of the nation.<sup>5</sup> The aim of this paper is to discuss the women right to participate in governance under Islamic law and the extent or limit of such rights. The objective of this paper is to examine the impact of women's rights to participate in governance and to highlight the correlation between gender justice and available limitation to the women's right to leadership, with a view to highlight the established socio-economic rights of women under Islamic law.

## 1.2 Conceptual Clarification of Key Terms

For a better understanding, the paper will start by defining some key concepts as follows:

### 1.2.1 Definition of the Term *Haqq* (Right) under the *Shari'ah*

***Haqq***: is an Arabic word which literally means right. It may also mean confirmation or compulsion. The Almighty Allah said:

The Unbelievers will be led to hell in rows: until, when they arrive, there, its gates will be opened. And its keepers will say, 'Did not messengers come to you from among yourselves, rehearsing to you the Signs of your Lord, and warning you of the Meeting of This Day of yours?' The answer will be "True: but the Decree of Punishment against the unbelievers."<sup>6</sup>

Technically, based on the background of its literal meaning, the jurists have considered it to be anything that is confirmed based on the *Shari'ah*.<sup>7</sup> According to Al-Khyayyat, legal definition of the term right (*haqq*) means a legal bond by which the law authorizes a person to possess

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<sup>5</sup> Ibid

<sup>6</sup> Ali, A.Y. (1975), *Translation of the Glorious Qur'an Translation and Commentary in English Language*, Islamic Foundation, London, p. 235.

<sup>7</sup> Zaidan, A. (2000, *Al Muffassal Fi ahkam al-mar'ah wa bait al Muslim fi al shariatu –al Islamiyyah*, Al-Resalah Publishers, Beirut, (3<sup>rd</sup> Ed), vol. 4, p.147.

something such as assets, cash, property, etc.<sup>8</sup> According to *Zamakhshary*, the word *Haqq* (right, responsibility, truth, etc.) means an established matter that cannot be denied.<sup>9</sup>

Many modern western writers on legal rights, start with Human Rights, thereby presupposing that Allah has no right on us. In Islam, the right of Allah shall prevail over human rights since the purpose of creating all beings is to glorify and worship Allah who created everything in this world. Allah has said, “The seven heavens and earth, and all beings therein, declare His Majesty: there is not a thing but celebrates it praise; and yet understand not how they declare glory: Verily he is oft-forbear most forgiving!”<sup>10</sup> He also said, “I have only created Jinns and Mankind that they may serve me alone.”<sup>11</sup>

Therefore, we are duty bound to worship Him as the first duty to be discharged. In corroboration of these verses, the Prophet (SAW) asked Mu’azu Ibn Jabal “Do you know Allah’s right on his servants and servants’ right on Him”. He answered: and said Allah who is free from all imperfections, Exalted and His messenger know best. The Prophet (SAW) said: Allah’s right on his servants is that, they should worship Him without associating anything with Him, and the right of His servant on Him, is that he will not punished those who do not ascribed partner to Him.

### **1.2.2 Concept of *Hurriyah* (Freedom)**

The term *Hurriyah* is an Arabic word which means the state of being free. It may also be defined as liberty embodied in the exercise of one’s rights, which is known as freedom of choice<sup>12</sup>. Islam has given men and women the freedom that enables them to develop a balanced and upright personality that allows them to do anything that is good and beneficial, and guarantees them rights as prescribed in the *Shari’ah*. Hence, freedom in *Shari’ah* covers all aspects of life be it religious, economic, political, social, etc., subject to the condition that this is guided by human reason and applied for their own benefit in particular and for the benefit of the society in general<sup>13</sup>.

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<sup>8</sup> Al-Khyayyat, A.A. (2002), *Human Right and Racial Discrimination*, as translated by Khalifa Ezzat and Heather Show, p. 4, cited in Abubakar, M. S. (2005), Concept of General Right in Islam, *Journal of Islamic and Comparative Law*, Center for Islamic Legal Studies, Institute of Administration A.B.U. Zaria, Vol. 25, p. 58

<sup>9</sup> Abubakar, M.S. (2005) *Concept of General Right in Islam*, Ibid, p. 57

<sup>10</sup> Qur’an, 17:44 Ali, A.Y. (n 6) p.706

<sup>11</sup> Qur’an, 51:56 Ibid p. 1429

<sup>12</sup> Bryan, A.G., (ed), (2004), *Black’s Law Dictionary*, Thomson West Publishing Co., USA, 8<sup>th</sup> edition., pp. 688-689

<sup>13</sup> Muhammad, A.A. (2007), *The Ideal Muslim Society as Defined in the Qur’an and Sunnah*, Translated by Nasiruddin

Freedom in its Islamic perspective does not mean that one can attack or challenge the belief and basic teachings of the *Shari'ah*. The notion in which Islam is established must adhere to the Islamic belief (*aqeedah*) and other socio-economic system which is the basis on which the society is built and developed. This *aqeedah* is based on belief in Allah and submission to Him alone, and to follow the provisions of the *Qur'an* and authentic *Sunnah*<sup>16</sup>.

### **1.2.3 Concept of *Amal* (Work or Employment)**

The term *Amal*, is an Arabic word which means physical and mental exertion; to attain an end especially as controlled by and for the benefit of an employer<sup>14</sup>. The term employment means relationship between master and servant; it is a work for which one has been hired and being paid by an employer<sup>15</sup>. It can also be defined as an occupation, trade or profession carried on for the purpose of receiving compensation. Compensation may be in form of wages, salaries, commission, fees, or profit. Most compensation is in the form of money, but some may be in form of goods or services. For any work to be considered employment, it must be for the purpose of receiving compensation<sup>16</sup>. The term work, employment, labour, hire and services are synonymous and considered to be the same for the sake of this work because the end result is to be rewarded in cash or in-kind<sup>17</sup>.

### **1.2.3 *Al-Qiyadah* (The Leadership)**

It's derived from Arabic word *Qa'ad* i.e. led.<sup>18</sup> Technically, Leadership placed on the apparatus of influencing other and this can be done when a person enjoyed particular characteristic that making Him capable of exercising that influence effectively, thereby distinguishing himself as a leader.<sup>19</sup> There are some key elements related to the definitions of the term leadership such as; (i) Leadership is a process (ii) it involves influence (iii) it is established within a group and (iv) it

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Al-Khattab, International Islamic Publishing House, Riyadh, pp. 111 – 112

<sup>14</sup> Black's Law Dictionary, (n 12) p.1685

<sup>15</sup> Ibid p. 566

<sup>16</sup> The World Book Encyclopaedia, Field Enterprises Education Corporation, United States of America, (1977) Vol. 6, p. 212

<sup>17</sup> Bambale, Y.Y. (2007), *Acquisition and Transfer of Property in Islam Law*, Malthouse Press Limited, Lagos, p.17

<sup>18</sup> Lisan Al-Arab, (1997), *Maktabah Al-Khanji*, Cairo, 4<sup>th</sup> Edition vol. 3, p. 83

<sup>19</sup> Maher, A. (ND), *As-Suhuk al-Tanzimi*, Daral-Jami'iyya, Alexandria, p. 304.

entails goals achievements. In a nutshell, the term leadership can be defined as a process in which a person influences a group of people in order to achieve a common objective.<sup>20</sup>

### 1.2.5 The Concept of Governance

Governance means the manner in which something is governed or regulated i.e the method of management. It can also be said that governance involves vetting power on some individuals (men or women) with authority to manage the conduct of public affairs and welfare to the best of their abilities at a given period.<sup>21</sup>

### 1.3 Women's Political Rights in Islamic Law

Political rights means, rights that an individual can claim, being part and parcel of the political affairs; a person has the right to participate in political activities. One is also entitled to exercise his franchise.<sup>22</sup> According to Jabir Abdurahman, political rights are rights that give an individual opportunity to partake in political leadership or decision making process.<sup>23</sup> The nature of the right in the opinion of Abdulkarim Zaidan is that, the term *Haqq* in this context does not mean *Wajib* or *Laazim*, i.e., compulsion, but *Mubah* meaning that it is permissible for him to partake in the political leadership. In buttress this position, the following Hadith can be cited in which Abu Musa Al-Ash'ary and two others from his people met the Prophet (SAW), one of them asked the Prophet to appoint him as a leader and the other applied for the same thing. Then, the Prophet (SAW) said: "We do not assign authority of ruling to those who ask for it and those who are keen (anxious) to have it"<sup>24</sup>. If leadership is a right (Wajib) due to an individual Muslim, it would have been granted to both of them out rightly. Therefore, whether it is sought for or not, it would still be granted if it is a right in ordinary meaning.

According to Yusuf Al-Hajj Ahmed, any person who asks to be appointed as a judge or who is keen in getting the position should not be appointed, because judicial position is a heavy burden and a great responsibility. It is only sought by someone who is ignorant of its importance, is likely to betray its trust and not ready to fulfil its obligations, thereby causing an indescribably great

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<sup>20</sup> Al-Huzarin, Y.U. (2011), *The principle of leadership in the light of Islamic heritage and the American experience*, Dar Assalam, Riyadh, p. 25

<sup>21</sup> Bala B., (2006), Challenges and Prospect of Promoting Women's participation in Governance: the Sharia perfective, *Journal of Islamic and corporative law CILS institute of administration ABU, Zaria*, Vol 26, p. 159

<sup>22</sup> Zaidan, A. (n 7) p. 299

<sup>23</sup> Ibid p, 301

<sup>24</sup> Bukhari and Muslim, cited in Ahmed, A. Y. *Encyclopaedia of Islamic Jurisprudence Concerning Muslim Women*, Darussalam, Riyadh, vol. 3, p.138.

corruption in religion, in the community and among the people within such community.<sup>25</sup> The leader in an Islamic state does not only administer the affairs of government but has to fulfil a much wider and strenuous duty. As a leader has to be able to face the public day and night, meet ministers and foreign dignitaries. He shall also lead the country in political crises and war, and be able to lead the people in congregational prayers.<sup>26</sup> A woman cannot fulfil all these duties while having primary responsibilities at home. According to Abdul Ghaffar Hassan, she cannot fulfil most of these duties anyway such as leading the people in congregational prayers or in battle, avoiding free-mingling and seclusion with the non *Mahram*. A women are under the protection and maintenance of a men, they are not expected to maintain their own home, how can they be expected to maintain and protect the interest of government of a state?<sup>27</sup>

With regard to the eligibility of Muslim women to be leaders or judges in an Islamic state, the majority of jurists are of the view that a leader or a judge must be a male. A female can never be appointed as such. This is the view of Malik, Shafi'i, Hanbali and some of Hanafi jurists. This view is supported by Ibn Hazam, Imam as-Shaukany,<sup>28</sup> Ibn Qadamah and Qarafi.<sup>29</sup> They supported this view with the following authorities from the Qur'an and Sunnah:

1. Allah Says: "Men are the protectors and sustainers of women, because Allah has made one of them to excel the other and because they spend (to support them) from their means ..."<sup>30</sup>  
In this verse, Islam gives the leadership to men as maintainers and protectors of women in its various levels; this is because of their nature.
2. The second reason is that, two women stand as one man in bearing testimony because of their weakness. On this point, Allah said: "And call to witness two witnesses of your men, and if the two be not men, then a man and two women of those you agree upon as witness, so that if one of the twains errs, then the other will remind her".<sup>31</sup> This is the nature of a woman in

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<sup>25</sup> Ahmad, Y.A. Encyclopedia of Islam Jurisprudence, (n 24)., p. 138

<sup>26</sup> Hasan, A. (2003) *The Rights and Duties of Women in Islam*, Dahrul Salam, Riyad, p. 28

<sup>27</sup> Ibid, p. 29

<sup>28</sup> Al-Shaukany, M. A. (n.d), *Nail al-Autar Sharh al-Muntaqa al-Akhbar min Hadith Sayyid al-Akhbar*, Dar al-ihya'i al-Turath al-Arabi, Beirut, vol. 8. P. 265

<sup>29</sup> Al-Dasuqi, M.A. (n.d) *Hashiyat al-Dasuqee*, Dar al-Fikr, vol. 1, p.129, Ibn Qudama, Al-Mughni, vol. 9, p. 39; Al-Qarafi, S.A. (n.d) *Al-Zakhirah*, Dar al-Garb, vol. 10, p. 116

<sup>30</sup> Qur'an 4:34 Ali, A.Y. The Holy Qur'an, (n 11) p. 190

<sup>31</sup> Qur'an 2:282 Ali, A.Y. Ibid, pp. 113 - 114

bearing testimony. For that, the other women stand to remind her on the issue.<sup>32</sup> With regard to the Queen of Sheba, there was no reason to doubt that she was a historical person who ruled a prosperous and well-organized kingdom. Thus, Allah narrates: “I found a woman ruling over them, and provided with every requisite: and she has a magnificent throne”.<sup>33</sup>

Had it been that she was eligible to that position, Suleiman (AS) would have authorized her to continue ruling over the nation with her diligence. In another verse, Allah said: “And stay in your houses, and do not display yourselves as did the pagans of old...”<sup>34</sup> According to Ibn Kathir in his Tafsir to this verse, women should remain indoor and should not go out except under necessity.<sup>35</sup> In the hadith the Prophet’s statement on this issue was very clear, thus: “the people who hand their rule over to a woman will never be prosperous.” This is because of their weaknesses. In another tradition narrated by Imam al-Bukhari in his Sahih-al-Bukhari regarding the weakness of women in both psychological and religious aspects:

The Prophet (SAW) went out on the festival day to the prayer’s ground he bypassed a group of women, and He said “Oh! Women folk, I enjoin you to be giving alms, because I witnessed that, most of the dwellers of Hellfire are women. They (women) asked why was it so ? The Holy Prophet answered, it was because they are fond of scolding and for their being ingrate. He added that, women are naturally created spiritually and mentally weak. They further inquired, what is it that negates us mentally and spiritually? He answered that, is the testimony of women not half of that of a man? They replied in the affirmative. He then said, that is an indication of her mental weakness. He further continued, is she not relieved to pray and fast while observing her monthly period? They answered in the affirmative. He said that, this is also an indication of her spiritual weakness.<sup>36</sup>

The statement of the Prophet on the issue of women’s leadership was very clear when he received the information that the people of Persia had appointed the daughter of Khosrau their ruler. He said: “Never will such a nation succeed that makes a woman their ruler”.<sup>37</sup> In his comment on this hadith, Ibrahim Ahmad Aliyu said, this Hadith is not categorical on prohibiting women from

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<sup>32</sup> Quran, Ibid, vol.1, p 205 vol.3 p. 295

<sup>33</sup> Qur’an 27:23 Ali, A.Y. Ibid, p. 983

<sup>34</sup> Qur’an 33:33 Ali, A.Y. Ibid, p. 1115

<sup>35</sup> Ibn Kathir, A.I. *Tafsir al-Qur’an al-Azim*, Dar-al-Fikr, Beirut, (1970, 2<sup>nd</sup> ed) vol. 5, p. 51

<sup>36</sup> Al-Bukhari, Sahih al-Bukhari, Dar Ibn Kathir, (n.d) vol.1, p. 116

<sup>37</sup> Aliyu, I.A. (2010) *Protection of Women’s Rights Under the Shari’ah*, Corner Bookstore, Saudi Rabia pp. 106-107

occupying the position of headship of state, that is, even where the system is Islamic, the hadith is in the nature of observation made by the Prophet (SAW) when he received the news of a Persian Princess's ascension to the throne.<sup>38</sup> He then concludes by saying:

Moreover, some scholars are of the view that the Persian rulers, at the time of the Prophet (SAW) showed enmity towards the prophet (SAW) and toward his messengers to them. The prophet's response to this news may have been a statement about the impending doom of that unjust empire, which did take place later and, not about the issue of gender as it relates to the headship of the state in itself. Thus to interpret the *hadith* so as to exclude women from the leadership of a state may not be acceptable.<sup>39</sup>

However, this of course, is the cause of revelation of this *hadith* but the principle under Islamic law in this respect is that: "*Al-Ibratu bi umum al-lafazi la bi khusus as-sabab*" meaning that the content and the general meaning of a text is what is to be considered not the cause of the revelation of the text. Therefore, this *Hadith* is not limited to the daughter of Khosrau as leader it is rather applicable to the generality of women folk as leaders.<sup>40</sup> In a nutshell, as per the view of the majority, a woman cannot be appointed as a judge and she may not be elected to the office of headship of a state, regardless of her eligibility to take care of the household as wife and expected to give training to the children as a mother.<sup>41</sup> Shaukany said woman is not entitle to be elected as head of a state (Ri'aasatu ad- daulah).<sup>42</sup>

While Abu Hanifa is of the view that, a woman can be appointed to the office of judge regarding matters in which she can testify as witness, which is in civil cases only with exception to criminal cases (*Qisas* and *Hudud*). While according Ibn Jarir Al-Tabary, a woman can be a judge in both civil and criminal cases without limitation. His reason being that, the office of a judge is like that of a Mufti (Jurist). According to him, since it is not a condition that a Mufti must be male, same thing applies to a judge.<sup>43</sup>

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<sup>38</sup> Ibid, p. 107

<sup>39</sup> Aliyu, I.A. *Protection of Women's Rights Under the Shari'ah*, (n 37), pp. 106.

<sup>40</sup> Al-Kattanee, A. *At-Tarteeb al-Adaliyah wa Nizam al-Hukuma al-Nabawiyya*, vol.1, pp. 285–286, in Zaidan, A. *Al Muffassal Fi ahkam al-mar'ah wa bait al Muslim fi al shariatu –al Islamiyyah*, (n 22), p.301.

<sup>41</sup> Zaidan, A. Ibid, p.301.

<sup>42</sup> Al-Shaukany M.A (n 28).

<sup>43</sup> Zaidan, A. (n 42).

These reasons may not stand, because in the case of testimony, she is not even a party to the suit, she is only to testify and be discharged while as *Qadhi*, she is expected to settle disputes between two or more parties through binding judicial decision. In the case of *Mufti*, the judgment made by *Qadhi* in a case has a binding nature unlike in the case of *Mufti*. She is also expected to implement the prescribed punishment in a given judgment concerning criminal cases (*Qisas* and *Hudud*). Before a judgment can be passed, the litigants and/or their representatives must appear and try to establish their case. All these and many other characteristics are not expected from the *Mufti*. As *Mufti* can even pronounce his *Fatwa*, (rule of law), through any means for example, Telephone, Radio, Television and Social Media. However, before a woman enjoys the political right under Islamic law she must fulfil the following conditions:-

- I. The demonstration of this right shall not be in conflict with primary duty (*Wajib*). This condition entails that primary duty such as managing the house, training the children, remaining indoor and the general observance of her husband's rights must not all be in conflict with that political right which is only permissible (*Mubah*). In other words, the exercise of permissibility should not be at the expense of an obligation. In plain language, the two cannot be exercised without relegating her primary duty to the background.<sup>44</sup>
  
- II. It shall be a legal means for sustenance and maintenance; the aim of enjoying this political right is to sustain oneself legally. This hinged upon his diligence and commitment to the office of headship. The woman's natural and primary career is her home, husband and children. This is in itself an extremely demanding role.<sup>45</sup> According to Maulana Wahiduddin Khan under the caption "women in positions of power" he said: a film called *Kisses for My President*, made in Hollywood in 1964, tells the story of a married American Women who is elected the U.S. president. She almost immediately became pregnant and finds herself faced with so many problems, because of that, she decides to leave the presidential home and go and live in her own home. Finally she resigns from the office of the president.<sup>46</sup> In a poll taken in 1972, the majority of American voters said that they would rather have a black man than a woman as president. The idea of a woman president

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<sup>44</sup> Zaidan, A. Ibid, p. 303

<sup>45</sup> Hasan, A. *The Rights and Duties of Women in Islam*, (n 26) p.29

<sup>46</sup> Khan, M.W. (2010), *Women Between Islamic and Western Society*, The Islamic Centre, new Delhi, p. 145

was ridiculed. Someone, Joked: “When the lady president delivers her child, the hospital bulleting will have to announce that ‘the president and baby are doing well’”<sup>47</sup>

In reality, has there ever been a female U.S president? No, the U.S has never had a female president, but women have made historic runs for the position or served in high-ranking exclusive roles, for example, in 1872 Victoria Woodhull was the female to run for president, even before women had the right to vote nationwide. In 2016 Hillary Clinton was the first woman presidential nominee of a major political party (Democratic Party) in which she won the popular vote but lost the Electoral College vote to Donald Trump.<sup>48</sup>

The researches of the modern age now testify to the truth of this time-honored principle laid down by Islamic Law. Recent researcher has testified to this law as being perfectly natural. A UPI report quoted a soviet scientist as saying that men have a greater ability to memorize and process mathematical information than women, but females are better with words. According to V/Adimir Konovalov men dominate in mathematical subject due to peculiarities of their memories.<sup>49</sup> Fourteen hundred years ago, Islam held that a woman was not fit for so high position as that of a sovereign. While until very recently this could have been regarded as a mere assertion made a very long time ago. Today it is accepted as a scientific fact. What the Prophet had said as a matter of inspiration has now been established, after a long period of study and research, as a reality. This is clear proof that Islamic principles are based on facts of nature and not just on supposition and conjecture.<sup>50</sup> On the other hand, as a woman (mother, wife or daughter) her maintenance which includes food, clothes, shelter and even medical treatment is upon her husband, father, male relative or *Bait al-Mal* (Islamic Public Treasury).

With this, a women are secured, maintained and protected by men who are responsible to discharge such duties.<sup>51</sup> Therefore, women with this right, need not go out for whatever type of work. But with *darurah* they are allowed to go out for permissible work under the *Shari'ah*. In going out of the house, they should observe the Islamic code of dressing, the rules concerning *mukhalatah*

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<sup>47</sup> Khan, M.W. (2015), *Women Between Islamic and Western Society*, The Islamic Centre, new Delhi, p. 44

<sup>48</sup> Center for American Women and Politics ([Women and the Presidency: History & Facts](#) ) Visited on 11/12/25 09:36.

<sup>49</sup> The terms of India (New Delhi), January, 18, 1985 in Khan, M.W women in Islamic Sharia (n 47) p. 47

<sup>50</sup> Ibid p. 146

<sup>51</sup> Iqbal, S. (2004), *Woman and Islamic Law*, Adam Publishers and Distributors, New Delhi, p. 204

(free-mingling between men and women) and the rules governing the issue of *Khalwah* (seclusion with a man) who is not *Mahram*. All these rules and many others must be observed in order to enjoy the permission of going outside the home under the provisions of Islamic Law.

From the above authorities, according to the opponent of women leadership, a woman cannot be a leader or head of state as provided under Islamic law as seen above. Those who support the proposition that a woman can become head of a Muslim state or chief executive relied on the following verses of the Holy Quran:

And covet not the thing in which Allah hath made some of you excel others. Unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned. (Envy not one another) but ask Allah of His bounty. Lo! Allah is ever Knower of all things.<sup>52</sup>

Another reason they gave is the Qur'anic verse that said:

And the believers, men and women, are protecting friends one of another; they enjoin the right and forbid the wrong, and they establish worship and they pay the poor- due, and they obey Allah and His messenger. As for these, Allah (SWT) will have mercy on them. Lo! Allah is Mighty, Wise.<sup>53</sup>

They also relied on another Qur'anic verse that says: "And those who answer the call of their Lord and establish worship, and whose affairs are a matter of counsel, and who spend of what we have bestowed on them."<sup>54</sup> Through all these Qur'anic verses and the prophetic traditions mentioned above, we can easily develop some arguments for and against women as head of state. We can also examine the arguments of both sides very carefully. Those who say that a woman can rule a country advance the following arguments:

- a. There is no verse in the Qur'an regarding the permission or prohibition of a woman's rule in a country. The Qur'an is silent on this particular point. The silence of the Qur'an on this

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<sup>52</sup> Qur'an 4:32, Ali, A.Y. (n 34).

<sup>53</sup> Qur'an 9:71, Ibid

<sup>54</sup> Qur'an 42:38, Ibid

crucial issue means that it has been left to the Muslim community to decide according to the circumstances. However, the proponents fail to understand that Qur'an is not the only source under Islamic law, Sunnah is also serves as primary source.

- b. Women have rights similar to those of men.<sup>55</sup> If man have the right to become head of states, then why can't a woman aspire for this office? In this regard, though the proponents cited Qur'an 2:228, they fail to take cognizance of the last part of the same verse. Which read ".....and men are a degree above them Allah is Mighty, Wise".<sup>56</sup>
- c. The story of a woman ruler, *Bilqis*, (the Queen of Sheba), has confirm the view that a woman can be a leader or head of states.<sup>57</sup> From the description of the Holy Qur'an, we come to notice that her rule was not that of an autocrat and authoritarian. She had the very good quality of consulting others on all important affairs of the state. She was a very wise woman and her sound opinion could not be ignored. Prophet Suleiman (A.S.) tested her judgment by miraculously producing her throne in a disguised form and she recognized it. And on top of all, she accepted Islam when she met Prophet Suleiman (A.S.), despite the fact that she was the ruler of disbelievers and had lived all her life among the polytheists. Although they emphasis on *Bilqis* good qualities, they fail to considered the fact that Prophet Sulaiman (AS) didn't authorized her to continue ruling over the nation. Had it been that she was eligible to that position, Suleiman (AS) would have authorized her to continue ruling over the nation with her diligence.
- d. The Qur'an has not talked of the rule of the Queen of Sheba with disapproval and condemnation. Rather, her habit of consulting others before taking decision on vital issues, her wisdom and sound judgment and her readiness to accept Islam at once rather than persisting in disbelief, have found special mention in the Qur'an.
- e. According to the Holy Qur'an (9:71), both Muslim men and women are protecting friends of each other, they are to enjoin the right and forbid the wrong which is primarily the duty of the state and one needs to have a position to discharge it effectively. For performing this duty, Allah has made women as much protecting friends of men as men are of women. The Holy Qur'an directs women to discharge the duty of enjoining good and forbidding

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<sup>55</sup> Al-Quran 2:228, Ibid

<sup>56</sup> Ibid

<sup>57</sup> Aliyu, I.A (n 39) p. 106.

wrong which can be discharged most effectively by the *ulil amr* (persons in authority) who symbolizes the state. The verse paves the way for women to become the repository of state authority including the authority of the head of state.<sup>58</sup> There is misconception here, because the verse they cited established the right of women in politics in general with the exception of becoming head of the state or executive. In this respect the hadith of Abu Bakra can be cited as an exceptional situation.

- f. The functions of an Islamic state have been outlined by the Holy Qur'an in chapter 22 verse 41 which include establishment of prayer, collection of *Zakat* and enjoining good and forbidding wrong. The responsibility of discharging these functions has been laid on the shoulders of both Muslim men and women.<sup>59</sup>

The Supporters of the Women's headship have questioned the authenticity of the narration (*riwayah*) pertaining to the daughter of Kisra since its reporter Abu Bakra was found guilty of given false evidence and was even punished by Umar (R.A.). Regarding the second narration (*riwayah*) Maulana Abdul Halim opines that the tradition has no origin. According to Nawawi, it is fabricated and false. Mutawalli gave his opinion that this tradition is one of the many forged and fabricated traditions.<sup>60</sup> In whatever narration they argued that Abu Bakra was found guilty of given false evidence. It is a settle fact that Abu Bakra was among the Sahaba companions of the Prophet (SAW) and all of them were just.

There are a number of precedents in which women were consulted or their opinions prevailed. It is widely known that Prophet Muhammad (SAW) consulted Ummu Salama (R.A.) on the occasion of Treaty of Hudaibiya and he followed her advice. Prophet Muhammad also followed the advice of Khadija (R.A.) at the very beginning of revelation when he was frustrated. Aisha (R.A.) corrected Abu Huraira (R.A.) in respect of traditions on the basis of their contradicting the Quran. A lady interrupted Umar (R.A.) successfully with regard to his proposal about fixing the dower

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<sup>58</sup> Zehayli, V. (1990), *Enlightening Interpretation of Religious Beliefs & Approach* , Contemporary Thought Room, Beirut p. 34

<sup>59</sup> Ibid

<sup>60</sup> Ibid

(*Mahr*) at a low level. After the assassination of Umar (R.A.) the board appointed by him for selection of a Caliph consulted women too.<sup>61</sup>

Therefore, women during the life of the Holy Prophet (SAW) and his Companions were consulted on socio-political affairs of the state. They were even given freedom in open or public to challenge the Caliph. There was a situation when a woman proved her point to Caliph Umar in one occasion in open mosque, who there and then declared that the woman is right and Umar is wrong.<sup>62</sup> Consequently, it can be said that in the textual authorities and the *ijtihad* of Muslim jurist, women under the *Shari'ah* can aspire for and hold public office in the society.<sup>63</sup> The above view, however, is predicated upon the fact that any Muslim woman who participates in public life or governance must abide strictly with Islamic mode of dressing (*Hijab*), comportment, ethics and morality. She also need the support of Muslim men who are expected to lower their gaze when speaking to them (women) and avoid touching and seclusion with women who are not their wives or *Muhram*, i.e., relations outside the marriageable degree such as mothers, daughters, etc. Muslim women in public life are not supposed to loiter and wander aimlessly. When they go out, they should go and fulfill their legitimate needs and return to their matrimonial homes.<sup>64</sup>

#### 1.4 Conclusion

In the whole, it can be argued that women in Islamic law can participate in governance and public life within the rules and regulations laid down by the *Shari'ah*. They can go to public service provided they have perfectly discharged their primary responsibilities enshrined by the Islamic law. Hence, it maybe rightly concluded that seeking and maintaining the additional public responsibilities by women should not be at the expense of their primary responsibilities as decreed in the Islamic law. It is a settled fact that Islamic law makes abundant provisions for the promotion and protection of women's rights including rights to participate in governance within the tenants and ambit of the *Shari'ah*. These provisions are generally understood from various verses of the Holy Qur'an and the prophetic traditions of the Prophet (SAW).<sup>65</sup> Thus, under the Islamic law,

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<sup>61</sup> Fazlol Allah, S.M.H (2002), "*Women's Character & Active Role in Life from Quran Viewpoint*", translated by Ismail Baghestani, *Quran's Research's Journal*, No 25&26, summer & spring, 226-241.

<sup>62</sup> Qur'an 60:12 (n 56)

<sup>63</sup> Badamasi, J. (2003) (n 4) p. 49

<sup>64</sup> Salbiya, A. (2008), *Gender Equality Under International Law*, Butterworth Publications, London p. 79

<sup>65</sup> Badamasi, J. (2003) (n 43) p. 47.

women have political rights such as right to express their view on the public affairs, right to elect and participate in the state discussion for the development of the nation. In practice and in reality however, there are some situations and restrictions that women must abide with as indicated above.

From the preceding discuss in the paper, the following findings were made:

- a. It is found in the course of this study that there is abdication by women of their responsibilities to children by virtue of engaging in work as a head of state outside their matrimonial homes. There is no doubt that the responsibility of training children is based on affection, honesty, foresight and long period of togetherness without which moral training would be an illusion.
- b. It is also found from the foregoing that the issue of woman's right to become a leader is a contentious issues under Islamic Law because what is supposed to be asked is whether Islamic Law permits her to participate in governance and work as a leader or not. This is because they are naturally assigned with indoor responsibility as their primary duties.
- c. It is also found that, most of the authorities cited on women rights to participation in governance has been misinterpreted upside down by proponents to defeat the lofty ideas and philosophy behind them. The assertion that the Qur'an has not disapprove or condemned *Bilqis* as a leader is misunderstood as it is not only the Qur'an is considered as primary source. The paper founds out that most of these verse were unfortunately misinterpreted.

From the above findings, the paper made the following recommendations:

1. It is recommended that since the role assigned to women is indoor, and she is commanded to remains at home in order to discharge her duties effectively. So any other work outside her matrimonial home is considered as secondary duties. Therefore, she should concentrate on her primary duties such as training of her children which is based of affection, honesty, intimacy and proper child upbringing by mother.
2. The writer therefore recommend that the "permissibility" which is the legal position of women's right to work outside matrimonial home should not be allowed to overshadow her obligatory responsibilities which is the primary duty under Islamic Law. Therefore, Muslim women should desist from imitating the values and ideas propounded by western

feminists to delude Islamic morality in the name of women rights. This is because as against western society, Muslim women are guaranteed means of sustenance which is comparably unobtainable among women in the western society.

3. It is recommended that, proper interpretation of the *Qur'anic* verse and *Hadiths* regarding the position of women as well as their political rights to participate in governance as a leader needs adequate attention, since the sources of Islamic law is not limited to Qur'an alone it include Sunnah as a primary source. Islamic scholars should be pro-active in the interpretation of Qur'anic verses relating to women participation in Public and incidental matters. The scholars should completely move away from narrow and prejudicial interpretation to contextual interpretation of such verses in order to avoid misinterpretation.