386457 - Response to those who say that fiqh (Islamic jurisprudence) favours men

the question

Is what I think correct? When I read fiqh and the different views of jurists, when the matter has to do with the rights of women, you will see that there are many different views, and some scholars' views are biased towards men to make them easy for their own gender, whilst others are fair-minded. Thus men will adopt the view that suits them. I think that with regard to men's rights over women, there are fewer differences of opinion. Don't you think that jurisprudence is pro-men, which gives the world the impression that Islam is a religion that favours men, and that is because jurisprudence is masculine in nature, because in it you find views that most of the time do not pay attention to the situation of women, and most of the time it only pays attention to the situation of men. So ordinary people think that Islam favours men, when in fact that is not the case, for Allah, the Most Holy, is far above all of that, and Islam has nothing to do with some of these sexist views which stem from personal opinion. The problem is in the way some people present Islam, which gives the impression that it is a religion that favours men.

Detailed answer

Praise be to Allah.

Firstly:

Accusing the jurists of being biased towards men

It is not permissible to accuse the jurists of being biased towards men and paying attention to their situation and not that of women. This is casting aspersions on their character, religious commitment and honesty.

There is no such thing in Islamic jurisprudence as fiqh that is pro-men and fiqh that is pro-women; rather the scholars strive to understand the texts of the Qur'an and Sunnah and explain them to people, whether it is in accordance with men's whims and desires or not.

If an issue is controversial or subject to various views or is unclear, it is not the fault of the jurist that it is like that, and it has nothing to do with whether the matter under discussion concerns women or men.

What the ordinary people think carries no weight. Whoever thinks that the jurists are biased towards men is undoubtedly wrong in his thinking.

Some of them are even more misguided than that, as they think that Islam itself is biased towards men. This is a transgression against sharia and a fabrication against Islamic teachings, and there is the fear that whoever believes that or utters such words has put himself completely beyond the bounds of Islam, because he is accusing Allah, may He be exalted, and is accusing His Messenger and His Book of being unjust.

A woman is not only a wife concerning whom people think that the jurist favours her husband over her. The woman is also a mother to whom Islam gives greater rights to respect and honour than the father.

A woman is a sister, a daughter and a grandmother, and Islam has stated how great their rights are and has enjoined kindness towards them, as it has also enjoined kindness and respect towards wives, and has enjoined giving them their rights.

We wish that you had given two or three examples of issues in which you think there is a bias, so that we could explain the reality of the matter.

Secondly:

It is essential to believe with certainty in the knowledge and wisdom of

Allah

The Muslim must believe that Allah, may He be exalted, is Most Wise, All-Knowing, and that He has singled out men for some things and has singled out women for others because He knows the nature of each of them and what is appropriate for each.

Allah has singled out men with regard to jihad, Jumu‘ah prayer, prayer in congregation, spending on the family’s maintenance and giving the mahr (dowry), all of which are obligatory for men. He has put them in charge of women and given them the power to issue talaq (divorce).

Allah has excused women from these obligations and reduced their burden, as He has waived all these obligations in their case.

Islam emphasises the importance of chastity and protecting women from being tempted or being a cause of temptation to others; it forbids women to speak softly or show their beauty to non-mahrams; and it has stipulated that a woman should be accompanied by a mahram when travelling and that she should have a guardian (wali) in the case of marriage.

The one who does not know the nature of men and women, and is not certain of the knowledge and wisdom of Allah, may object on the basis of his reasoning to some of the issues mentioned above, and thus demand equality between men and women in these regards and claim that Islam is biased towards men.

As for people of faith, they do not doubt for a moment that what Allah, may He be exalted, has prescribed is perfect and beautiful, and is based on wisdom and mercy.

Our advice to you is not to listen to the specious arguments of the enemies of Islam, and not to repeat their sinful rhetoric, for we have no such thing as fiqh that is pro-men or fiqh that is pro-women; rather it is a divine system of law that Allah has guided and enabled the scholars to explain and transmit, and He has honoured them thereby. So if a scholar strives hard to work out an issue and reach a verdict, but gets it wrong, he will still earn reward, and the correct verdict will never be obscured from other scholars; the ummah will never unanimously agree upon this

guidance.

And Allah knows best.