Women in Islam
Islamic Feminism, the Veil, Politics, and Love

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Probate Law

- Women as heirs instead of asaba
- Women receive half of inheritance
- Sunni jurists – improve agnate system, women’s position
- Shia jurists – reject agnate system
- More than two daughters, 2/3 inheritance
- Wife without children, 1/4 inheritance
- Wife with children, 1/8 inheritance
- Two or more wives, share inheritance
Probate Law: The Qur’an

“In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave; their share is a fourth, if ye leave no child; but if ye leave a child, they get an eighth; after payment of legacies and debts. If the man or woman whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two, gets a sixth; but if more than two they share in a third.”
— An-Nisa 4:12

“To the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents a sixth share of the inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth.”
— An-Nisa 4:11
Family and Divorce Law

- Divorce recognized, but discouraged
- Divorce last resort
- If husband initiates, cannot take wedding gifts
- Wife can end marriage (khula), may return gifts
- Wife can sue for divorce
- Men told to be kind to wives

“But if ye decide to take one wife in place of another, even if ye had given the latter a whole treasure for dower take not the least bit of it back: would ye take it by slander and a manifest wrong?”
— An-Nisa 4:20

A divorce is only permissible twice: after that, the parties should either hold together on equitable terms or separate with kindness. It is not lawful for you (men) to take back any of your gifts (from your wives), except when both parties fear that they would be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she gives something for her freedom.
— Al-Baqara 2:229
"The believers who show the most perfect faith are those who have the best character and the best of you are those who are best to their wives" (Sunan al-Tirmidthi)

Wife-beating temporary measure in open lewdness

Woman may seek same redress in court
Family and Divorce Law

- Until two years old, father fully financially responsible
- 2 to 7 or 8, Muslim mother favored, must not remarry, father financially responsible for both
- 7 or 8 to puberty
  - Maaliki and Zaahiri: Mother always has more right
  - Hanbali: Boys have choice, father has more right for girl
  - Hanafi: Father has more right for boy, mother has more right for girl
- Child’s rights are first

“And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties let another woman suckle (the child) on the (father's) behalf.” — At-Talaq 65:6
Polygamy

- Polygamy permitted
- Up to four wives
- Polygamy discouraged in Qur'an


Debra Mubashshir Majeed (Beloit college): Less than 1% of American Muslims practice polygamy

“Ye are never able to be fair and just as between women, even if it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practise self-restraint, Allah is Oft-forgiving, Most Merciful.”
— An-Nisa 4:129

“If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice.”
— An-Nisa 4:3
Sex Crimes

- All women must be respected and protected
- All cruelty prohibited in Qur’an
- Violating woman’s chastity forbidden
- Rape is *hiraba*: crime of violence or theft
- Civil redress (*jirah*): financial compensation, including *diyya*
- Women own their bodies
- Marital rape forbidden

“But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life. But if anyone compels them, yet after such compulsion, is Allah Oft-Forgiving, Most Merciful (to them).”

— Al-Noor 24:33

وَلَيْسَ لِعَفَافِ ٱلَّذِينَ لَا يَجِدُونَ نِكَاحًا حَتَّىْ يُغۡنِيَہُمُ ٱللَّٰهُ مِن فَضۡلِهِۦ مِن فَضۡلِهِ ۚ وَٱلَّذِينَ يَبۡتَغُونَ ٱلۡكِتَـٰبَ مِمَّا مَلَکَتۡ أَيۡمَـٰنُكُمۡ فَکَاتِبُوهُمۡ إِنۡ عَلِمۡتُمۡ فِيہِمۡ خَيۡرًٌا ۖ وَءَاتُوهُم مِّن مَّالِ ٱللََِّْ ٱلَّذِىٓ ءَاتَٮٰكُمۡ ۚ وَلََ تُكۡرِهُواْ فَتَيَـٰتِكُمۡ عَلَى ٱلۡبِغَآءِ إِنۡ أَرَدۡنَ تَحَصُّنًٌ۬ا لِّتَبۡتَغُواْ عَرَضَ ٱلۡحَيَوٰةِ ٱلدُّنۡيَا ۚ وَمَن يُكۡرِهِهِنَّ فَإِنَّ ٱللَََّ مِنۢ بَعۡدِ إِكۡرَٳهِهِنَّ غَفُورٌ ٌ۬ رَّحِيمٌ
Sex Crimes

- Wail bin Hujr: Woman accused man of rape in the mosque, Muhammad (alayhi salaam) forgave woman, rapist was stoned to death
- Umar bin al-Khattab (second caliph)’s son accused of rape and punished, woman not punished
- Abu Bakr Ibn al-Arabi, Maliki scholar (1076-1148): Hiraba with “the private parts” worse than hiraba involving stealing money
- Shaykh Ibrahim al-Husaini al-Dasuki, Shafi’i scholar, later sufi (633-676): Forcing a woman to have sex is hiraba.
Sex Crimes

- Fiqh-us-Sunnah by Sayyid Sabiq (1915-2000): “[Hiraba is] a single person or group of people causing public disruption, killing, forcibly taking property or money, attacking or raping women (hatk al ‘arad), killing cattle, or disrupting agriculture.”

- Ibn Hazm (994-1064): “[Hiraba is o]ne who puts people in fear on the road, whether or not with a weapon, at night or day, in urban areas or in open spaces, in the palace of a caliph or a mosque, with or without accomplices, in the desert or in the village, in a large or small city, with one or more people… making people fear that they’ll be killed, or have money taken, or be raped (hatk al ‘arad)… whether the attackers are one or many.”
Sex Crimes

- August 2010: Taliban give Bibi Sanubar, pregnant widow, 200 lashes and shot three times in head for having “illicit affair.” Man involved not punished.

- Taliban: Four male witnesses for rape; otherwise women were flogged or stoned for “adultery”

- November 2007: Saudi court doubles sentence of gang-rape victim for being in car with unrelated men; rapists given 1-5 years in prison

- Saudi Arabia allows death penalty for rape