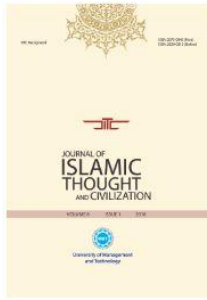


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## Problems and Possibilities in Reconciling Islam and Gender Equality Policies in Pakistan

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### Abstract

The research focuses on the compatibility issues between the notion of ‘gender equality’ and the ‘religion Islam.’ This article investigates, if any, gender policy (s) build around the conciliation developed in the contemporary social scenario of Pakistan. This paper is qualitative in nature and involves textual analysis of policy documents and written teachings of religious scholars. In-depth interviews were conducted by using interview guide from five religious scholars. These scholars belonged to *Hanafi*, *Ahl-Hadith* and *Brelvi* schools of thought. For this purpose, UDHR (Universal Declaration of Human Rights) and CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) were translated into Urdu language for clear understanding about the background and context of the state policies. All the interviews were scripted. Interview data was coded into different inductive themes. Complete draft of the study was shared with the scholars interviewed during the study to maintain ethical standards. Analysis of the interviews conducted revealed that gender equality policies in the Republic of Pakistan are intrinsically incompatible to the teachings and spirit of Islam, hence, few epistemic and practical possibilities exist to reconcile them. Suggestions of religious scholars are corroborated by the long traditions of Islamic history, but such suggestions are condemned and challenged by feminist groups in public offices. In the same vein, feminist ideals have no authenticity among religious scholars.

**Keywords:** gender equality, Hanafi, *Brelvi*, *Ahl-e-Hadith*, feminists

### Introduction

Equality is a multifaceted concept that can be studied and analyzed in multiple contexts and diametrically opposite perspectives. Conceptual meanings of this concept are changed when put in different worldview or outlook of a different culture and society. The current study investigates the compatibility issues between the concept of ‘gender equality’ and Islam. This article excavates existing literature for possible conciliation between the two to recommend gender policy in the contemporary social scenario of Pakistan.

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In Pakistan, traditional religious scholars exert considerable social influence. They have the view that gender equality is Western import and alien to Islamic teachings. They claim that Islam and the West are fundamentally and metaphysically incompatible to each other in every aspect of theory and practice. Pakistan being the member of UDHR (Universal Declaration of Human Rights) and CEDAW (Convention on the Elimination of All Forms of Discrimination against Women), is “legally” bound to ensure gender equality in every social sphere. Predicament of gender policy is the contradictory nature of gender equality and Islamic teachings.

From modern socially constructive perspective, the meaning of equality looks inconsistent with religion.<sup>1</sup> No doubt Muslims are equal before Allah at the level of faith but in practice “strict separation of men and women”<sup>2</sup> is maintained in public as well as to some extent in private spheres. In religious context, individuals following a religion<sup>3</sup> share certain level equality among them as they belong to the same ideological group religion. Majority of Marxist, secular and modernist feminists believe that the core principle of Islam is equality and justice. For instance, Fatima Mernissi asserts that nobody ever has challenged the fabricated criterion of gender hierarchy which “violates the principle of equality.”<sup>4</sup>

## 2. Literature Review

Enlightenment thought spread the notion of equality but this idea and ideal of equality is still resisted in many streams of social and political philosophy and critics reject the equality of men and women.<sup>5</sup> Equality as an ideal and principle emerged from logical strand of philosophy.<sup>6</sup> Logical positivists proposed that all men are naturally equal so the property must be distributed on equal basis.<sup>7</sup>

Descartes (1596-1650) was first to dissolve the dichotomous thought structures. He argued that human reason is autonomous, and all humans are equal because of this autonomous reason, hence, there is no difference between male and female minds.<sup>8</sup> Secular and liberal feminists propagated the idea of gender equality from their own social

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<sup>1</sup>Charles Taylor, “An Issue about Language,” *Language, Culture, and Society* (New York: Cambridge University Press, 2006), 3.

<sup>2</sup>Brian Morris, *Religion and Anthropology: A Critical Introduction* (New York: Cambridge University Press, 2006).

<sup>3</sup>Chris Fowler, *The Archaeology of Personhood: An Anthropological Approach* (London: Routledge, 2004), 26.

<sup>4</sup>Fatima Mernissi, *The Forgotten Queens of Islam*, trans. Mary Jo Lakeland (Minneapolis: Polity Press, 1993), 23.

<sup>5</sup>Jonathan I. Israel, *Enlightenment Contested: Philosophy, Modernity, and the Emancipation of Man 1670-1752* (New York: Oxford University Press, 2006), 545.

<sup>6</sup>Ibid., 546.

<sup>7</sup>Ibid., 550.

<sup>8</sup>Ibid., 572.

and historical perspectives. Their thought was borrowed by Islamic feminists who seek to reconcile their thought both with Islam and the West at the same time they acknowledge mutual diversities.<sup>9</sup>

Islamic feminists challenge the traditional hermeneutical methodologies, rules of interpretation of religious texts and historically established religious and social praxis. Riffat Hassan laments that Qur'ān strongly affirms justice and equality, but it has been wrongly interpreted by classical and modern interpreters.<sup>10</sup> For her, the most important issue of Muslim societies is to legitimize and promote gender equality. She claims that gender justice and gender equality is the pre-requisite of peace and development.<sup>11</sup> This reasoning may have some weight in development theory but Islamic history does not corroborate this view. Because, according to Riffat, Islamic societies denied gender equality hence the logical conclusion is that Muslim societies were unjust, violent and oppressive but historical record denies this conclusion. Asma Barlas claims that since society moves on in evolutionary progression and morality changes at each successive social stage therefore we are unable to decide the “best meanings of the Qur'ān” even if we know Arabic language.<sup>12</sup> It remains debatable whether women demand rights based on similarity or difference. Generally, demanding rights and privileges based on differences is more productive and fruitful approach for women rather than to demand gender equality.<sup>13</sup>

Salih Fouzan, an Arab scholar, argues that the structure of family system will collapse if women leave their homes to participate in public spheres.<sup>14</sup> No woman is permitted to lead congregational prayers and Muslim woman is not allowed to travel long distances unless a *mehram* accompanies her.<sup>15</sup> When socio-cultural policies of modern Islamic states are explicitly contradictory to religion and consensual religious doctrines,<sup>16</sup> resistance to such policies from religious circles explain the antagonistic nature among

<sup>9</sup>Ziba Mir-Hosseini, “Towards Gender Equality: Muslim Family Laws and *Shari'ah*,” In *WANTED: Equality and Justice in the Muslim Family*, ed., Zainah Anwar (Selangor: Musawah, 2009).

<sup>10</sup>Riffat Hassan, “Islam and Human Rights in Pakistan: A Critical Analysis of the Positions of Three Contemporary Women,” *Canadian Foreign Policy* 10, no. 1 (2002): 135.

<sup>11</sup>Riffat Hassan, “Challenging the Stereotypes of Fundamentalism: An Islamic Feminist Perspective,” *The Muslim World* 91, no. 1 and 2 (2001): 55.

<sup>12</sup>Asma Barlas, “Still Quarrelling over the Qur'ān: Five Interventions,” *ISIM Review* (2007): 32-33.

<sup>13</sup>Lambert Priscilla and Druscilla L. Scribner, *A Politics of Difference versus a Politics of Equality: Do Constitutions Matter? Comparative Politics* (Ph.D. Program in Political Science of the City University of New York, 2009), 337-357.

<sup>14</sup>Salih bin Fouzan, *Fiqhi Ahkām-o-Masail* (Islamic Legal Issue and Rulings), trans., Farooq Asghar Sarim (Lahore: Darussalam, 2007), 185.

<sup>15</sup>*Ibid.*, 338.

<sup>16</sup>Mala Htun and S. Laurel Weldon, *When do Governments Promote Women's Rights? A Framework for the Comparative Analysis of Sex Equality Policy*, Perspectives on Politics (American Political Science Association 2010), 8.

the modern state and religion. Religious scholars are suspicious of policymaking process which raised serious concerns about the application, implication and consequences of gender equality.<sup>17</sup>

### 3. Methodology

This research explores the prospects of reconciliation and compatibility between Islam and gender equality policies formulated by the state. Its nature is qualitative, and it involves textual analysis of policy documents and written teachings of religious scholars as well as in-depth interviews. A little research has been done on the issue from the perspective under investigation. Qualitative method allows exploring how the reality is seen by religious scholars and the policy makers of the State. This study is done in Pakistani context from religious perspective. Given the universal nature of Islam and global standardization of gender equality, generalization of the results is possible for Muslim communities though it is not the goal of the study.

Data is generated through the international and state-level documents about gender equality and from the interviews of religious scholars. Five scholars were selected purposively. Decisions for interviews were made based on the convenience and readiness of the scholars. Initially, UDHR and CEDAW articles were translated into Urdu in order to be presented to religious scholars. This was considered necessary in order to provide them full background and context of the issue under study. This helped them to get informed about the state policy and laws on gender equality promotion. Interview guide was developed as an aid during the interview process. All the interviews were written down but not recorded. Interviews continued till the questions were answered and researcher was satisfied about conceptual clarity. A questionnaire guide was prepared in the light of literature review conducted for the study and with the background socio-religious knowledge of the researchers. Questionnaire was presented to a religious scholar for review and response and was revised according to his recommendations.

Selection of religious scholars for interviews was made on background knowledge and interaction of the researcher with religious scholars. Those religious scholars were selected that were well-known for scholarly research works, involved in teaching in seminaries at higher level and conscious of ongoing national affairs and global situation. Each scholar has a wide circle of influence and they regularly held seminars on contemporary issues in religious perspective. Possible and prospective interviewees were approached and only those were selected for interviews who felt confident to have knowledge of the problem and expressed consent to give their own views.

Interviewees were selected through purposive sampling based on the previous knowledge of the researchers and interactions with religious scholars. Well-known

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<sup>17</sup>Adila Abusharaf, "Women in Islamic Communities: The Quest for Gender Justice Research," *Human Rights Quarterly* 28, no. 3 (2006).

religious scholars with academic and scholarly interests were selected for interviews; nature of the questions demanded that interviewees must have knowledge of the contemporary world and conscious of debated issues and the complexities involved in such debates. The selected religious scholars are well-known in society for their discussions on various national and global issues. These scholars belonged to *Hanafi*, *Ahl-Hadith* and *Brelvi* schools of thought. However, prominent female religious scholars could not be interviewed for certain inconveniences.

Intended interviewees were easily approached in their seminaries. Appointments with religious scholars were arranged at their convenience after they consented to give their views. All the interviews were conducted in relaxed environment. Religious scholars were provided the research questions, objectives of the research, literature review and questions to be answered by them. The interview questions were in Urdu language for the ease of the participants. The complete final version of the analysis was shared with the interviewed scholars during the study to maintain ethical standards.

### 3.1. Review of Policy Texts

Second tool for data collection and data generation was textual review of documents on gender equality and Islam. A wide range of literature is available on the issue both from religious and feminist perspectives. Major texts were UDHR, CEDAW and guidelines for policy framework on gender equality in Pakistan. This textual review enabled the researcher to explore the current status of issue under study and new dimensions of the issue. The important result of the document analysis is that policy documents give an impression that religion or religious scholars' interpretations are obstacle in the way of formulation of a comprehensive gender policy.

## 4. Findings

The data was analyzed into different inductive themes. These themes are as under:

### 4.1. Different Sphere of Duties

Men and women are not identical or equal but complimentary to each other. Men and women are equal in their ontological status and spiritual worth. *Shari'ah* commands men and women quite differently because of different genetic, cognitive, biological, physiological, psychological and physical formations. These sex differences are intended to be emphasized and not to be eliminated or blurred because Allah creates with excellence. Allah created Adam first then created Hawwa (Eve) from his rib. Man is deputy (*Khalifa*) of Allah on this earth and woman is for his peace and tranquility. Allah has made men guardians over women and their affairs. Women are called tilth for men. Husband can admonish and beat his wife for corrective measures. Men are responsible to provide all the economic and financial resources to their wives. Husband is entitled give divorce, but woman cannot pronounce divorce to her husband, however, she can demand *Khula* (separation) if she is not willing to remain with her husband. Husband can marry

immediately after giving divorce to his wife, but the divorced wife has to wait at least for three months (*Iddah*).

#### 4.2. Eductaion

Knowledge seeking is a religious obligation for every Muslim. However, since the sphere of duties for man and woman is different therefore there is necessarily difference in the knowledge sought by men and women. Muslim women are supposed to perform their duties inside home however there is no harm according to hadith if they take various disciplines like Engineering, Politics, Science, Mathematics, Journalism and Poly-technique are not deemed fit for women. Since education is aimed at preparing individuals for specific roles and functions therefore, women should be educated with different curriculum. Women are free from economic burdens hence demanding equal opportunities for all types of employment is just a western import to the local economic settings of Islamic societies. Female employment is ruining family system in Muslim societies. Core responsibilities of women revolve around domestic activities that is why women are exempted from financial responsibilities. Women can only concentrate on domestic and family activities if they have no external jobs. Islamic teachings and our long tradition emphasize that women must stay at homes. It will be injustice to women to put them in double roles.

#### 4.3. Politics

According to Islamic teachings, man is supposed to perform his duties in the outside social world, but women are excluded from sociopolitical affairs. Women as Hazrat Khadijah (*RA*) participated in governance and social vigilance. Islamic system of governance does provide any example of female *Khalifa*. Though, the whole chain of *Khilafat* included only men; we can also find debate on the chances of female head of state even in the earliest periods of Islam.

#### 4.4. Worship

*Nabuwwat* (Prophethood) is the exclusive domain of male. All the revealed texts are silent on the prophethood of women; this might be called “gender discrimination” in the first place in feminist paradigm. Holy Prophet (*SAW*) and long tradition after him did not allow women to lead prayers. Even the prayer call is exclusively for men since female voice is supposed to be not heard by others in melodious tone. Similarly, funeral prayer and Friday prayer are not obligatory for Muslim women. Even in general daily prayers, women are not permitted to intermingle with women in consecutive order. Since women are not allowed to travel alone long distances therefore women cannot also perform Hajj without a male relative. Men are encouraged to observe supererogatory fasting (*Nafli Roza*) but women cannot do so if their husbands do not allow them. All these separate sets of worshiping Allah establish that women are not equal to men even at this level; and for females, many acts of worship are mediated by men.

#### 4.5. Norms

Woman's body is called *Aura* which means that she is a thing to be covered. Body exposure norms are different for men and women. Women are allowed to do makeup and adornments but men are discouraged in this regard. Men are permitted only to wear silver ring while women can wear any type of jewelry. Widow is permitted to observe mourning for three days after the death of her husband whereas widowers are not permitted to do so. If baby girl urinates then the cloth is washed whereas if baby boy urinates then the place or cloth is purified by sprinkling water.

#### 4.6. Financial Matters

Islam does not support gender equality is further justified in financial matters. Men cannot give Zakat to the women (and men) whose financial needs are obligatory to him whereas if husband is deserving financially he can take zakat from his wife because husband's fulfilment of husband's needs is not the wife's responsibility. In financial transactions, male witnesses are given double weightage over women but in case of pregnancy, breastfeeding and childbirth even single woman's testimony is more important than any number of male witnesses. Whatever wealth a woman accumulates remains exclusively with her and she is not required to spend it against her own will. Women's source of income is not job or employment but generally dower, dowry, entitlements, gifts and others.

#### 4.7. Right of Marriage

Every adult female has the right to marry with her free consent but parents' permission is necessary. Parents cannot marry their daughters without their free consent. In case of forced marriage women has the right to nullify this marriage demanding separation. On the other hand, marriage conducted without guardian's permission is void. Man can marry with four women simultaneously but woman cannot have more than one husband at one time. In case of abusive and impotent husband, wife can demand divorce but right to divorce is exclusively in the hands of husband and no amount of his depravity can deprive him of this authority.

#### 4.8. Women and Inheritance

Women's inheritance rights are much debated and emphasized in modern Muslim societies but Islamic rules are quite declarative in this regard. Daughter will receive half of what sons will receive from inheritance. It is a fair rule and no discrimination is involved when other things are considered. Woman is not bound to fulfil any financial responsibility in any position but men are to spend on their wives, offspring and parents. Women are entitled to any amount of dower that is paid by husband, in other words, women are free even from the marriage expenses that are shouldered only by men. Furthermore, mother and father are entitled to equal shares from their son's inheritance.



#### 4.9. Equality

In terms of belief and faith in Allah, there is no distinction between man and woman. Islamic teachings and values are equally obligatory both for men and women. Both are demanded of having good character and required levels of morality. Both sexes are shunned from evil and shameful deeds. Protection of dignity, self-worth and chastity are equally required from men and women. Muslims of both sexes are commanded to have enmity with Satan. There is no discrimination in terms of punishment in case of violation of set limits by Allah. In terms of sexuality, wife and husband are called mutual dresses of one another. All men and women are equal being a Muslim.

#### 4.10. Consequences of Gender Equality

The logical outcome of gender equality is that both sexes are treated equal in a homogenous way. Deterioration of social ethics and social morality have correlation with women's coming out of their abodes. Interestingly, women perform those duties in their offices and at workplaces from which they seek liberation.

### 5. Discussion

Strong and solid foundations of any civilization and culture are heavily dependent on fair and just relations among and between men and women. Holy Qur'an and *Sunnah* of the Prophet Muhammad (SAW) guide Muslim community about social and marital relations. Islam grants privileges to women and determines their specific separate sphere of action. This protective sphere for females frees them from social and economic burdens. Certain local and international customs and laws are assumed to be beneficial and just for women but these are against the teachings of Islam. In fact, women's victimization and suppression has increased despite (if not because of) the prevalent presence of feminist movements. Gender theory is based on social construction and claims that society and family are responsible for different nurturing practices for boys and girls. However, social and psychological roles cannot be completely disconnected from biology and anatomy of the individual. That is why despite of so many efforts for gender equality society remains male-dominated. Women's entry into the job market has opened many doors for new forms of exploitation. Even if we accept social construction, foundation for this construction must be considered. Men and women are different in so many aspects despite belonging to the same biological species. In Islamic context such differences in male and female natures are teleological and have certain purposes. Islam restricts women to their abodes and limits their mobility and responsibility in social and economic domains because Islam keeps in view the telos of creation and innate differences between the both sexes. Justice and fairness is what Islam commands for men and women, no matter how much discriminatory it be for modern intellectuals and feminists.

Contrary to Islamic teachings, feminists and policymakers of modern states have quite different notions about roles of men and women. Muslim modernists and feminists

claim that intrinsic values of Islam are justice and equality. They claim that rules that specify women's roles are the outcome of male bias and against the true spirit of Islam.<sup>18</sup> Their fundamental commitment is for change and evolution and based on these notions they argue for change in Islamic teachings because they not consider them divine and revealed but time-bound and production of men. Borrowing from social construction theory they claim that individuals can determine and redefine the meanings of revealed texts.<sup>19</sup> These Islamic feminists and reformers are rejecting classical jurisprudence and hermeneutical methodologies. They claim that teachings of the Holy Qur'ān were only for Arab society and the meanings of the Qur'ān must be determined in the light of ever-changing social conditions.<sup>20</sup>

Republic of Pakistan is a nation-state in global interstate system and being a member of global community, it is bound to ensure gender equality in all spheres of life. Modern nation-state is intrinsically and inherently an enemy of *Shari'ah* laws.<sup>21</sup> Pakistani nation-state has made a number of amendments and several measures have been taken to ensure gender equality in compliance of international laws and standards. Being a signatory to CEDAW, Pakistan is bound to conform to these laws set by international institutions. Dilemma is that the promotion of international standards of gender equality is not harmonious with the teachings of Islam since these standards are not derived from Islam, thus, religious scholars criticize these policies on religious grounds because they consider themselves as the guardian of Islamic epistemology. Their reservations and concerns are loudly expressed in public seminars and institutional organs. They completely reject the notions of gender equality in their speeches and dialogues.

Such atmosphere of conflicting opinions reflects the expansive gulf between traditional jurists and modern legislatures. This conflicting and confusing situation may become dangerous resulting in damaging collision at some point in future because both parties are committed to their views and determined to realize their goals. Modern nation-state is the most powerful entity claiming the exclusive right to conduct violence and create laws according to its own sovereign will.<sup>22</sup> In opposition, traditional religious scholars are embedded in social fabric on daily basis and have power to influence to social thought. A large proportion of our youth is getting education in religious seminaries and these students submit to the religious authority. This discard is not

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<sup>18</sup>Asma Barlas, *“Believing Women” in Islam: Unreading Patriarchal Interpretations of the Qur'ān* (Austin: University of Texas Press, 2002), 41.

<sup>19</sup>Amina Wadud, *Inside the Gender Jihad: Women's Reform in Islam* (Oxford: Oneworld Publications, 2005), 204.

<sup>20</sup>Ziba Mir-Hosseini, “Towards Gender Equality: Muslim Family Laws and *Shari'ah*,” In *WANTED: Equality and Justice in the Muslim Family*, ed., Zainah Anwar (Selangor: Musawah, 2009): 23-63.

<sup>21</sup>Wael B. Hallaq, “What is *Shari'ah*?” In *Yearbook of Islamic and Middle Eastern Law 2005-2006* (Leiden: Brill, 2007), 169, 171.

<sup>22</sup>Michel Foucault, *Society Must be Defended* (New York: Picador, 1997), 250-251, 258-261.

superficial and temporary but ideological that will remain persistent in future or even might get intensified.

Traditional religious scholars are not ready to compromise on any laws other than based on *Shari'ah*. They argue that Islam came to change our norms and customs according to divine will, therefore, our laws, rules, norms, traditions and customs must be harmonious to the teachings of Islam. Customs, laws and regulations against the will of *Shari'ah* are void in the first place. Following the divine discourse and traditional dialectics, religious scholars do not give any consideration to social construction proclaimed by modern sociologists, feminists and gender activists. Their argument is that society must have to follow religion not the contrary of this. Every religion has its own authority and it aims at the formation of social order according to its own terms. However, modern society is dominated by liberal capitalist global order that replaces all other traditional systems. This system of governance and order is inherently anti-religious specifically against Islam. Orthodox religious-minded intellectuals argue that the modern notions and ideas of progress, development, growth, welfare, freedom, equality and egalitarianism are alien to Islam.<sup>23</sup> These concepts cannot be found in Islamic teachings in the sense these understood in modern times. Therefore, religious scholars reject reformist hermeneutics and consider modern interpretations as deviance from the right path of Islam.

Despite of the inherent antagonism and conflict with the modern state religious scholars are not enemy of the state. In fact, they demand hold on state structure so that they can utilize it in the service of Islam. This intention is consistent with long tradition in which religious scholars always served the society and defended the rights of underprivileged. They prioritize life hereafter and Allah's blessings. They claim that their task is to guide society and government according to the teachings of Islam so that every Muslim can be successful in life hereafter.

## 6. Recommendations

Researcher recommends the following possibilities for the gender equality policies in Pakistan. First two recommendations are for policymakers and next two are for academic researchers:

1. If the state is determined to progress and development, then it should adopt the western policies of gender equality with full honesty. This route demands liberalization, modernization and secularization of society and the state. This is because the notions of progress and development are Western in nature and to achieve these goals every society must follow Western nations. Ideas of progress, development and freedom do not exist in our Islamic tradition.

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<sup>23</sup>Zahid Siddique Mughal, *Social Sciences, Jamhuriat aur Islami Bankari: Fikri Pas Manzar aur Tanqeedi Jaeza* [Democracy and Islamic Banking: Ideological Background and Critique] (Lahore: Legacy Books, 2016), 127-138.

2. If the state is committed to Islam and seeks will of the God, then it should completely reject the international gender equality policies. This route demands the enforcement of Shariah Law. This is because of the fact that all the international gender equality policies are liberal and secular in their nature. Islam rejects all forms of liberalism and secularism. Allah's favor can only be won by following the commandments of Shariah not liberalism and secularism. Islam seeks success and development and terms of life hereafter.
3. Academic researchers should explore the factors because of which religious scholars are excluded in the process of policymaking.
4. A common platform must be explored where religious scholars and policymakers should be brought to clear their mutual misunderstandings.

### 7. Conclusion

From the above discussion we conclude that gender equality has its bearings in Western civilization and in its present conceptual and practical meanings it cannot be made compatible with Islam. Seeing the inherent contradictions between the two, point of decision remains which one has to be changed or rejected since both of them cannot go hand in hand. Real contest between religious scholars and the public policymakers is that of legitimate authority and effective and meaningful exercise of that authority. This antagonism and competition for authority between state officials and religious scholars is harmful for social peace and harmony as well as for both parties in conflict. Consequences of this conflict are conceivable but unavoidable if there is no compromise and accord between the state and religion.

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