

THE NECESSARY LINKAGE BETWEEN JUSTICE AND EQUALITY: TURKEY

MARGOT BADRAN

Abstract: I presented this paper at the International Women and Justice Summit organised by the KADEM (Kadin ve Demokrasi Derneği), an NGO, and the Ministry of the Family and Social Policy in Istanbul, November 24-25, 2014. The paper was assigned to Session Two on Social Justice for Women: Different Dimensions of Oppression: Gender! Justice? Or Equality? At the conference in which the President of Turkey Recep Erdoğan in his opening speech spoke against the idea of equality as alien, laying claim to justice without equality. At the Summit opening President Recep Erdoğan gave a speech setting the tone for advocating justice over equality. A small selection of his statements illustrates his position. “You cannot place women and men into equal positions. Their creation, nature and very constitution are different.” “What women need is not equality, but rather equity, in other words, justice.” “Our religion, Islam, puts women in a special position. What is this special position? Motherhood. Motherhood is unique to women. It is something that cannot be attained by men. It is the highest level.” The paper makes an Islamic argument for gender equality grounded in the Qur’anic affirmation that all human beings (*insan*) are created equal observing that this is reflected as well in universal instruments. The paper points out that equality is not to be confused with sameness or uniformity. References to biological difference are found in the Qur’an but it does not ordain different social roles for women and men. This paper examines the idea and practice of multiple social roles that may be freely chosen. It insists that there can be no justice without human equality.

Keywords: gender equality, gender role, Islamic feminism

As evident from the title of my presentation I argue that justice and equality are intrinsically linked. There can be no justice without equality By equality I mean the equality of all human beings (*insan*) in principle and practice. Equality of human beings does not mean the absence of difference; equality does not mean sameness. There are biological

distinctions between women and men. There are constructed social, cultural, religious, ethnic, race, economic, and political differences among women and among men and between women and men fabricated in time and place. With equality comes the dismantling of patriarchy which insists on the hierarchy of *insan* whereby some individuals and groups are elevated above others in a regime of deference and obedience, of ranked social prestige and alleged worth. Women can never be men's equals within a patriarchal order. Justice cannot thrive within a patriarchal framework.

I would like to read from the communication I received from the Summit organisers concerning the panel on Gender! Justice? or Equality? Quote: "Gender justice is based on an approach that stipulates the equitable distribution of gender roles, going beyond gender equality. Equality, in some cases, may form the basis for injustice. Discussion of equality in the values of dominant groups always results in the disadvantaged groups losing out. In this regard, it is important that all human beings are allowed to take on roles based on their natural disposition and characteristics. By removing all obstacles, gender justice ensures that women are able to realise their capacity. In this session these issues will be discussed while taking into consideration our own references; the role of women will be discussed in relation to the values of equality and justice."

I repeat my assertion that justice and equality must go hand in hand. There can be no justice without equality. Without equality there can be no democracy worthy of the name. Equality as a principle and practice must be protected. It must be protected across the spectrum of the private/family and public/society. It may be noted however, that in classical *fiqh* (Islamic jurisprudence) there is no public/private distinction (and accordingly no such terms in the classical lexicon) This distinction is a strictly modern invention. The notion and practice of complementarity of gender roles within the family--applied most stringently to female spousal roles--thwarts the principle and practice of equality: the equal rights of female and male human beings to choose roles and practices. In the session statement announcing that issues will be discussed in accordance with "our own references," to what does this refer? I make my equality arguments within the framework of Qur'anic *tafsir*, which contemporary universal or United Nations instruments reflect.

Many insist that Islam prescribes differential family roles for females and males and employ the notion of complementarity (*takamliyya* in Arabic; *tamamlayici* in Turkish) which is a modern idea. "The family" (*ailain* Arabic and *aile* in Turkish) is a modern construction. The neologism first appeared in the late 19th century to signify what may best be understood as an emergent extended nuclear family in the context of the

modernising reforms in late 19th century Ottoman Turkey. The Tanzimat reforms introduced a new legal framework for the family on a French model that assigned different but complimentary roles, rights, and responsibilities for women and men.

“Complementarity” and “(nuclear) family” are not concepts and terms found in the Qur’an. The words “husband” and “wife” are likewise absent and accordingly, prescribed gender roles are non-existent. The Qur’anic uses the term *zawj* or partner/spouse signifying both female and male and *zawjain* indicating pair of partners or two spouses. The Qur’an employs both gender and sex terms: *al-ma’ra* and *al-rajal* (woman and man), and *dhakar* and *untha* (biological male and female) interchangeably when addressing rights and responsibilities. The Qur’an points to the procreation activity of females, a form of labor only they can perform, and the balancing responsibility of males to compensate with additional material support. Instead of reading this (balancing) as an egalitarian device, religious scholars constructed a system of religiously mandated gender roles within a patriarchal framework.

The Turkish state in its Civil Code consecrates the principle of equality casting the two spouses as equal heads of family. Yet, the Summit statement argues for gender roles based on “people’s (women’s) natural disposition and characteristics.”

It is ironic to see the embrace in many Muslim societies of a now- outmoded idea and practice of gender complementarity in the family taken from the secular West during modernisation and the rejection of an Islamic paradigm of *gender equality* which moreover, is proclaimed as a Western secular import. Gender complementarity as a pillar of patriarchy and the hierarchy it sustains is too precious for those whom it benefits to be easily relinquished. Today, however, revolutions in various Muslim societies, even if recently stalled or suppressed, have shaken the foundations of the old inegalitarian orders. Whatever the present predicaments, time is on the side of equality and its partner justice.

Postscript

The day after the Summit ended women from some seventy associations signed the declaration: “We reference the Turkish Constitution, not religious ideas that support women's subordination and gender inequality. Women and Men Have Equal Rights!” They published it in *Hurriyet*, November 26, 2014.

Contributor:

MARGOT BADRAN. Is an historian and feminist studies scholar specializing in the Middle East and Islamic world. She is presently a senior fellow at the Alwaleed Center for Muslim-Christian Understanding at Georgetown University and a global fellow at the Woodrow Wilson International Center for Scholars. Her research on feminisms goes back to the 1960s in Egypt and continued in the 1970s when she was working on her D Phil at St. Antony's College, Oxford which resulted in her book *Feminists, Islam, and Nation: Gender and the Making of Modern Egypt*. She co-edited *Opening the Gates: A Century of Arab Feminist Writing*. She later researched the emergence of Islamic feminism around the globe. She published *Feminism in Islam: Secular and Religious Convergences*; *Feminism beyond East and West: New Gender Talk and Practice in Global Islam*; and edited *Gender and Islam in Africa: Rights, Sexuality, and Law*. She has received awards from the Fulbright Foundation, the Woodrow Wilson International Center for Scholars, the Rockefeller Foundation, the Ford Foundation, United States Institute of Peace, and the Institute for the Study of Islam in the Modern World at Leiden, among others. She has taught courses on Middle Eastern secular feminisms and Islamic feminism at universities in the United States and abroad including Northwestern University where she was the Edith Kreeger Wolf distinguished visiting professor; St. Joseph's College, Brooklyn, as the Khatib visiting chair in comparative religions; the University of Chicago; Sanaa University in Yemen (where as a Fulbright lecturer.. she helped establish the Women's Studies Center); Witwatersrand University in Johannesburg (where she was part of a team teaching on feminisms in Africa); and the University of Cape Town. She has given lectures and talks in many countries around the world including India, Indonesia, Egypt, Morocco, Senegal, Bahrain, Bosnia, Bulgaria, France, the Netherlands, Germany, and the United Kingdom. She is currently working on a book on Islamic feminism that will assess its thirty- year history and present developments.