

The Rights of Minority Muslim Women in The West: An Islamic Perspective

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Abstract

The Declaration of Human Rights is consistently upheld in the Western sphere and is considered a global slogan. The notion of human rights in the West has evolved through a lengthy history of feminist struggles. In certain contexts, the Western conception of women's rights differs significantly from the values advocated by Islam. Consequently, Muslim women in the Western world encounter various forms of discrimination, with their rights being denied due to differences in belief systems. Thus, this study is conducted with the aim of elucidating the concept of human rights from both Western and Islamic perspectives. Furthermore, it delves into issues categorized as 'violations of human rights' among Muslim women in the Western world. Content analysis is employed to obtain and analyze the desired data using thematic analysis methods. The findings of this research reveal that the slogans promoted by Western societies do not align with the human rights advocated by them concerning the freedom of Muslim women to practice their religion. This matter can be discerned in issues related to Sharia-compliant clothing and various other forms of discrimination.

Keywords: Human Right, Women, Muslim Minorities, Sharia, Western.

Introduction

The development of Islam in the European Union commenced in the late seventh century. It is indisputable that Islam has played a profoundly significant role on the European continent, influencing the evolution of political systems, culture, identity, and various aspects of everyday life in Western societies. This aligns with the contributions made by Islamic scholars to European civilization, which originally found itself in a state of intellectual darkness but rapidly advanced into an era of enlightenment known as the Renaissance. Consequently, the roles played by Islamic figures such as al-Khwārizmī, Ibn Sīnā, and al-Fārābī have been of paramount importance in the dissemination and advancement of knowledge across the European continent (Aytan, 2010).

Kettani (1988) categorized Muslim minorities into three groups based on their historical and ancestral backgrounds. The first group consists of Muslim communities that originally constituted the Muslim majority but, due to the loss of power and colonization, have become Muslim minorities, as is the case in Palestine, Ethiopia, and Bosnia-Herzegovina. The second group comprises Muslim minorities that once held authority but have since lost power and remained as Muslim minorities, as observed in India. The third group encompasses Muslim minorities who initially adhered to other religions, subsequently converted to Islam, and ultimately became Muslims in non-Muslim countries. Furthermore, mass migrations from Muslim-majority countries, such as those from the Maghreb or Africa, have led to the emergence of Muslim minority communities in Europe and America.

Islam is no longer considered a foreign religion in the West, even though the Muslim population on this continent represents a minority group. Nevertheless, the increase in the Muslim community has ultimately led to various religious conflicts, hindering the relationship between Islam and the West (Vitria, 2003). One of these conflicts pertains to differing perspectives on matters related to human rights. In general, numerous disparities exist between the Western and Islamic viewpoints, especially on issues affecting women. Consequently, it is not surprising that Muslim women who choose to adhere to Sharia-compliant attire often feel oppressed and constrained, as they are treated as if they were non-Muslim women (Petsy, 2017). It can be argued that the denial of the rights of Muslim women in Europe extends to aspects of clothing freedom, specifically in their choice to wear the hijab, niqab, or burqa based on religious requirements. According to a report by Human Rights Watch (2016), there are laws or policies in place in Europe that hinder Muslim women from wearing their religious attire. As of 2013, at least eighteen out of forty-five European countries had policies that prohibited women from wearing clothing based on their religious beliefs. Muslim women's attempts to wear swimwear that adheres to their religious principles have also been strongly discouraged in France (The National New, 2022).

What is the Western perspective on Human Rights? What forms of discrimination are experienced by minority Muslim women in the West? This article aims to elucidate the concept of human rights from both Western and Islamic viewpoints. Furthermore, it will delve into issues categorized as 'violations of human rights' among Muslim women in the West. While this study possesses a conceptual character, its outcomes hold substantial importance as they illuminate variations in freedom concerning value systems, feminism, and the influence of religion in shaping these value systems.

Literature Review**i. The Concept of Human Rights**

Human Rights (HR) are rights that should be guaranteed by the constitution of a country and even at the international level. These rights should serve as the primary catalyst in ensuring equality and subsequently upholding a system of justice based on the constitution of that country (Azwa & Helmi, 2023). Fatimi et al (2016) stated that human rights can be defined as fundamental or mandatory rights that must be accepted with the concept of equality, encompassing the rights to express opinions, obtain a complete education, receive protection and food, practice religion or belief, and so forth. Aspects related to human rights such as integrity and equality are crucial for a country that supports a democratic system (Itasari, 2021). In conclusion, human rights are the rights possessed by every individual from birth and their presence in society. Each person has inherent privileges that enable them to be treated in accordance with the privileges they possess.

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From a historiographical perspective, the concept of human rights initially emerged as a reaction to the absolute power and feudal system in Europe. Minority groups, namely the nobility and monarchs, had rights and power over the majority, namely the people. This opposition sought to elevate the status of the people by granting them rights such as equality, brotherhood, and freedom based on humanity (Khakim, 2018). The widely recognized Universal Declaration of Human Rights (UDHR), proposed by the United Nations in 1948, serves as the global standard for the implementation of human rights. This concept stipulates that human rights are one, universal in nature, irrespective of race, gender, religion, social status, or nationality; human rights are considered inherent and not contingent on recognition, viewed as a primary norm that cannot be violated by anyone (Itasari, 2021). In connection with this, Hoover (2013) stated that the UDHR enumerates various human rights concerning civil, economic, political, and social issues, encapsulated within its 30 articles. Additionally, there is a declaration of human rights issued and agreed upon by Islamic countries under the Organization of Islamic Cooperation (OIC), known as the Universal Islamic Declaration of Human Rights (UIDHR), serving as an alternative for Islamic groups that hold divergent viewpoints from those articulated in the UDHR's liberal ideologies (Ismail & Muhyuddin, 2021).

Within Western academic circles, a social model has been put forth to clarify the injustices concerning human rights within minority groups, including persons with disabilities (PWDs), transgender individuals, and women. This presented model is regarded as a form of incapacity not solely attributable to physical factors but also encompassing obstacles stemming from societal attitudes and environments. In other words, negative perceptions and environmental conditions hinder these groups from interacting and contributing more effectively to others

(Hisyam & Khairil, 2018). Among the contentious issues raised are the human rights of the LGBT community, gender equality, pluralism, and the often-debated topic of liberalism in the Islamic world (Makrifah, 2021). In general, human rights is a term referring to fundamental rights and obligations that should be afforded to every human being on this planet, irrespective of gender, lineage, ethnicity, language, or religion.

ii. Women's Rights

Issues pertaining to women's rights, such as gender equality and their participation in politics, have gained special attention in United Nations (UN) conferences. During the UN-organized forum titled "Highlighting Women at the 2011 UN General Assembly Debate," a resolution was passed to advocate for global gender equality. In fact, the United Arab Emirates (UAE) contributed USD 5 million to facilitate efforts aimed at achieving gender balance in selecting political representatives within their respective countries (Pratt et al, 2011). In detail, Hermawan (2020) listed women's rights, encompassing the right to engage in politics, the right to citizenship, the right to education, the right to employment, the right to access healthcare, and the right to legal recourse. However, in Malaysia, some of the issues underlying women's rights include the right to dress, polygamy-related concerns, and the perception of women as second-class citizens (Rozak & Ismail, 2016). Based on the preliminary discussion above, it is unsurprising that female figures advocating for women's emancipation and gender equality have emerged to seek equal opportunities as those enjoyed by men.

The struggle to empower women's rights dates back to the 18th century with figures like Mary Wollstonecraft in the West (British), who ultimately gave birth to the concept of feminism. According to Wollstonecraft, feminism viewed the lack of education provided to women as a factor that hindered them from exercising their rights (Priyadharshini et al., 2021). In the modern world, feminism is a social movement aimed at elevating women from their perceived subordinate status in society to a level of equality with men (Hermawan, 2020). Efforts to develop awareness and the concept of women's rights at the international level began after World War I. In 1935, the League of Nations began discussing the status of women and recommended that roles be assigned to them in civil and political aspects. Subsequently, after the end of World War II, the UN began outlining equal rights without gender discrimination, with several conventions convened to address the human rights of women in various aspects of life. These included the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), ILO (No. 100) Equal Remuneration Convention (1951), Convention on the Political Rights of Women (1952), Convention on the Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages (1962), Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974), and more (Hermawan, 2020). It can be stated that the organization of these conventions and the formulation of these declarations were driven by the long-standing sense of injustice experienced by women. Therefore, the discourse on genderism in the Western world is characterized by and reflects the extensive history of feminist struggles to confront what they define as discrimination by men.

iii. Islam and Women's Rights

From Islamic perspective, women's human rights are acknowledged and respected. Women are granted dignity similar to men (al-Ḥujurāt:13), the right to engage in religious activities (āl 'imrān:195), the right to inherit property (an-Nisā':32), the right to own property (an-

Nisā':11), the right to education (58:11), rights in marital affairs, including the right to marry, the payment of the mahr (dower), polygamy, and divorce (4:4); the right to financial support (2:233), and so forth. Clearly, within Islam, women are viewed similarly to men and are entrusted with human responsibilities, whether personal or social in nature. This is also emphasized in the hadith of the Prophet (S.A.W.)

“We never used to give significance to ladies in the days of the pre-Islamic period of ignorance, but when Islam came and Allah mentioned their rights, we used to give them their rights but did not allow them to interfere in our affairs” (Sahih al-Bukhari, Book 77, Hadith 60, No. 5843).

According to Farid (2022), the inherent differences between the creation of men and women entail that they are assigned different responsibilities and roles in society, and their natures complement each other in all aspects of life. Al-Rāzī (1977) further delves into the essential nature and the specific advantages granted by religion to men due to their inherent qualities such as knowledge and physical strength. Men are capable of performing tasks that are more burdensome than women. Therefore, men are given superiority in roles such as leading prayers, performing jihad, delivering sermons, serving as witnesses in cases of ḥudūd (Islamic punishments), qiṣāṣ (retaliation), and nikāḥ (marriage), as well as receiving a larger share of inheritance, being responsible for diyāt (blood money) in cases of murder, taking oaths, acting as guardians in marriage affairs, divorce, reconciliation, polygamy, and more.

iv. Past Studies

Several past studies have discussed women's human rights, whether within or outside the country. A study by Indriaty and Mahyuddin (2021) aimed to examine the views of Sisters in Islam (SIS) on human rights, especially among women. The study found similarities between the principles advocated by SIS and the foundation of Liberal Islamic movements, suggesting that SIS aligns with Liberal Islamic feminism. Another study by Maziah et al (2022) focused on women's rights in the creative industry. It noted that women's involvement in film and television production has increased, but issues such as negative perceptions, exploitation, career and life instability still pose challenges to them. Rahmawati et al (2023) conducted research on gender inequality in the economic sector. They emphasized the absence of clear mechanisms to address gender equality issues in economic development and recommended that relevant stakeholders follow the recommendations of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to effectively address gender equality issues. Zainal et al (2020) explored women's rights in the military. They argued that the involvement of women in the military, from an Islamic perspective, should be subject to specific government regulations and compliance with Sharia requirements.

There are also studies addressing the human rights of Muslims in Europe, such as a study by Fakhri et al (2021) on Islamophobia in France. It concluded that the secularism policy in the country resulted in unfair treatment of the Muslim community, leading to Islamophobia. This was also discussed by Petsy (2017); Kimberley (2019), who found that Islamic religious practices, such as prayer, attire, and halal food issues, were perceived as barriers to coexistence. Suzanna (2019) examined European governments' actions to restrict Muslim women's rights to wear hijab and niqab, considering them as a form of oppression and breeding violence. However, a study by Erica (2019) suggested that governments should consider the justifications behind wearing religious symbols before disallowing them. Based

on a review of past studies, research on the human rights of Muslim women is approached from different perspectives. Islamic scholars see barriers for minority women in fulfilling their responsibilities as Muslims as a violation of the right to practice their religion. In contrast, Western authors view these barriers as a liberation of women from various forms of oppression.

Methodology

This study uses a content analysis approach. The writings regarding Muslim women in the West have been examined concerning their rights as Muslim women, which have been denied in Western countries. Two issues have been analyzed: their freedom to dress in accordance with Islamic Sharia and the discrimination they encounter as Muslim women in the workplace. These perspectives are discussed and analyzed from the author's standpoint.

Discussion

The Issue of Violation of Human Rights for European Muslim Women

i. The Issue of Hijab

In the Western context, the wearing of the hijab is perceived as a symbol of extremism. Propaganda surrounding the hijab worn by Muslim women is portrayed as antagonistic to European society, ultimately fostering resentment towards Muslim women in Europe. As a result, Muslim women in Europe face verbal abuse, whether it be personal attacks or generalized hostility towards the Muslim community. There have even been reports of physical assaults on Muslim women, as witnessed in countries such as France and United Kingdom.

Hijab is defined as any form of clothing that covers the body parts mandated by Allah (S.W.T.) for Muslim women to conceal. Yusuf al-Qardawi contends that women who wear the hijab must cover all body parts considered *awrah* according to Islamic jurisprudence, except for the face and palms (Yusuf, 1985). According to Qadrijal (2019), the hijab encompasses all types of clothing that are deemed sharia-compliant, including the headscarf, khimar, niqab, and other coverings worn by Muslim women. However, the issue of Muslim women wearing the hijab is often associated with feminist groups that are perceived as endorsing domestic violence, extremism, homophobia, and discrimination against the rights of Muslim women, which significantly lag behind those of Muslim men in Europe.

The attacks that occurred in France in November 2015 in the form of bombings and indiscriminate shootings, linked to the militant group Islamic State (IS), further fueled the animosity of European society towards Muslims. This hatred was also directed towards European Muslim women who openly displayed their Muslim identity by wearing the hijab. According to research, Europe has been reported as the continent with the highest number of reported incidents of harassment faced by Muslim women due to their religious attire, with incidents reported in 21 out of 45 European countries between 2019 and 2022.

Furthermore, a survey conducted in France in 2019 among the country's population found that 79% of respondents perceived the wearing of the hijab by Muslim women as a problem for coexistence. A survey conducted in Sweden also revealed that 64.4% of respondents believed that the wearing of the hijab among Muslim women, a practice rooted in Islamic teachings, amounted to a form of oppression against women (Second European Union Minorities and Discrimination Survey Muslims, 2020). Moreover, a survey conducted in the United Kingdom indicated that 30% of British citizens believed that the wearing of the hijab

by Muslims posed a threat to them, as propagated by media outlets labeling the hijab as a symbol of extremism (Seta, 2016).

ii. Violation of Laws Against Muslim Women

The study also reveals that Muslim women in Europe are compelled to acquiesce to the laws of Western countries that discriminate against them. Failure to comply with these laws can lead to harassment or hostile actions directed towards Muslim women by individuals, organizations, or social groups within European countries (Pew Research, 2016). Among the instances of legal violations against Muslim women in Europe, Muslim women are more susceptible to discrimination due to their attire that symbolizes their religion, resulting in verbal or physical harassment associated with Islamophobia (Uddin, 2022). The implications of this discrimination have led to a decline in the mental health of Muslim women in European countries (Samari et al., 2018).

iii. Discrimination in the Education Sector

The term discrimination is defined as positive or negative behaviors towards social groups and their members (Smith & Mackie, 2002). Religious discrimination, as defined by the Equal Employment Opportunity Commission in 2008, refers to unfavorable treatment of employees due to differences in their religious beliefs. William et al (2012) explained that discrimination can manifest in various forms or due to various factors, affecting anyone regardless of their ethnicity, nationality, or religion. The issue stemming from the wearing of the hijab has, in due course, extended into the realm of education. Teenage Muslim women have been denied access to or equitable treatment in education due to their adherence to modest dress codes. In 2004, a law was enacted by France that restricted the wearing of religious symbols, most notably the hijab for Muslim girls in public schools. This legislation represented one of the actions taken in response to Islamophobia in the country, linked to the wearing of the hijab by Muslim women. The enactment of this law compromised the freedom of Muslims in France. It also reinforced the perception that Islam was associated with terrorist attacks and terrorist weapons purportedly concealed beneath the attire of Muslim women. Among their regulations, there were references to the wearing of Muslim women with bans on burkinis and headscarves on public beaches, asserting that religious attire could disrupt public peace and associating the prohibition with the events in Nice in 2016 when a Muslim terrorist drove a truck into a crowd, resulting in the gruesome deaths of 84 civilians (Ervan, 2016). However, there is no criminal record indicating that the wearing of a burkini led to criminal behavior by Muslim women, contradicting the claims that Muslim women's clothing is linked to criminality.

In New Zealand, reports have emerged of criminal mistreatment against Muslim women wearing Sharia-compliant clothing. Some of the mistreatment endured by them includes physical assaults, spitting, and the use of derogatory language concerning their religion and attire (Dodd, 2019). In 2019, during the organization of a school sports event, a school student in Toledo had her eligibility revoked by a referee due to her wearing of the hijab, which was deemed non-compliant with school regulations. This incident raised concerns within the American Muslim community. The ban on wearing the hijab in most Western countries indicates that Muslim women residing in European countries face challenges in practicing their religious beliefs compared to women of other faiths. This is due to the Western perception that the hijab still symbolizes violence and anti-Islamic stigma within Western

society towards Muslims. Such treatment exemplifies discrimination against Muslim women who constitute a minority in non-Muslim countries (Uddin et al., 2022).

iv. Workplace Discrimination

In addition to encountering discrimination in education, Muslim women in Europe also face workplace discrimination. Studies conducted in the West between 2010 and 2020 have indicated that Muslim women experience significant workplace discrimination. Only 40% of hijab-wearing Muslim women have access to job opportunities offered by employers. This suggests that they are treated based on their beliefs rather than the job performance exhibited by Muslim women (Ahmed & Sofea, 2021). Meanwhile, in the United Kingdom, it has been reported that 71% of Muslim women are unemployed, compared to Christian women (World Press, 2016). Qualitative research conducted by Tariq and Syed (2017) in the United Kingdom further reinforces the presence of discriminatory practices against Muslim women in the labor market.

A survey conducted in qualitative research involving eleven officials responsible for hiring educators and healthcare workers voiced their concerns about hiring Muslim women and associated the wearing of the hijab as a fundamental Islamic characteristic. On the other hand, three Muslim women who did not wear the hijab expressed their fear when confronted with non-Muslim colleagues in the workplace who displayed anti-Muslim attitudes. Meanwhile, hijab-wearing women interviewed shared their experiences of discrimination leading to unemployment and even academic exclusion due to their choice of attire. Additionally, twenty informants, consisting of hijab-wearing Muslim female executives, also described the challenges they faced in the workplace compared to colleagues who chose not to wear the hijab and dressed in a more modern European fashion. In 2015, Abercrombie & Fitch in Tulsa denied employment to Samantha Elauf on the grounds that her headscarf was not suitable for their workplace attire. Clearly, the wearing of the hijab among Muslim women has become an indicator of the increasing phenomenon of Islamophobia in the West.

The Muslim community in the United States, comprising only 2% of the U.S. population, has faced several complaints of religious discrimination. In 2011, there were numerous cases of religious discrimination, with 25% of the complaints referring to cases of Muslim women who wear the hijab being denied employment or terminated by their employers (Harrison, 2016). Furthermore, religious discrimination has become increasingly prevalent, especially in the employment sector, experienced by Muslim women (U.S. Equal Employment Opportunity Commission, 2019). Bilefsky (2019) notes that among the prohibitions imposed on Muslim women in the United States is the ban on the hijab for Muslim Quebec or the prohibition of public female employees from covering their faces because this condition is said to frighten the public. Additionally, nearly half of all Muslim residents in the United States reported experiencing at least one incident of discrimination in the past year. 48% of the reports received pertained to employment discrimination against Muslim women (Pew Research Center, 2017). The implications of this phenomenon indicate that unemployment among Muslim women is more pronounced compared to Christian women due to discriminatory actions rooted in religious differences (Blommaert & Spierings, 2019; Khattab et al., 2019; Miaari et al., 2019).

Reports from Utusan Malaysia in 2021 indicated discrimination against Muslim women in Berlin, Germany. Moreover, human rights organizations that should advocate for their rights to dress freely also issued warnings to adhere to employer regulations. These warnings came after the European Union (EU) High Court ruled against the ban on wearing the hijab while

working for two Muslim women who had reported discrimination in the workplace. They were suspended from their duties for violating workplace rules by wearing the hijab. Meanwhile, most courts in Europe have established that prohibiting any form of visible expression of political beliefs, philosophy, or religious symbols in the workplace may be permissible if employers allow it to avoid social conflicts among European communities.

Conclusion

It is evident that the discrimination faced by Muslim women in the West due to the act of wearing the hijab originates in the realm of education, social relationships, and even in their careers. In reality, Muslim women in Western countries, whether in Europe or North America, who wear the hijab are found to face more challenges in pursuing their careers compared to their non-hijab-wearing peers. For several generations, Muslim women in the West have experienced employment discrimination and security threats simply for practicing their religious beliefs. Consequently, Western countries should take appropriate and fair measures, especially in fostering awareness among their non-Muslim citizens, to ensure that the basic rights of Muslim women in their countries are not marginalized.

Indeed, dressing modestly among women does not hinder Muslim women from achieving success like other women. Therefore, the Muslim community should also utilize the media as a space to portray the true image of Islam and raise awareness that Muslim women attire is not a symbol endorsing violence but rather a religious obligation. In conclusion, numerous success stories of hijab-wearing Muslim women in their careers and education have been highlighted in the media. This demonstrates that Islam does not limit the capabilities of hijab-wearing Muslim women to actively engage in various fields.

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