Chapter 2

Violence Against Women and Therapeutic Jurisprudence in Egypt: An Islamic Approach

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ABSTRACT

It has been observed by researchers that when women are targeted by domestic violence, it may also affect their children and their families. This chapter suggests that along with clinical and psychological therapy, spiritual therapy must also be used to address the challenge. This chapter states that Islamic jurisprudence offers solution for combating violence against women. It not only offers spiritual guidance and healing, but also sets rules for peaceful environment to prevent violence against women. Islamic jurisprudence also suggests punishment for violators of such rules. The chapter explores this therapeutic jurisprudential approach of Islamic jurisprudence and explores ways and means to combat violence against women in Egyptian context.

INTRODUCTION

Violence against women is a daunting challenge, not only for the women who are exposed to harm and hurt, but also for their families and children. This challenge needs several interventions: clinical and psychological therapy, law reforms, social and cultural environment change, and, assure on another essential part of therapy, which is the “religious dimension”.

Huguelet (WPA, 2015) said that:

Although medicine is practiced in a secular setting, religious and spiritual issues have an impact on patients’ perspectives regarding their health and the management of disorders that may afflict them. This is especially true in psychiatry, because spiritual and religious beliefs are prevalent among those with...
emotional or mental illness. Clinicians are rarely aware of the importance of religion and understand little of its value as a positive force for coping with the many difficulties that patients and their families must face.

The idea of this chapter emerged from this point, and will use an Islamic religious approach to help women who were victims of violence and protect others, by modifying the cultural and social surrounding environment. Although the author can use the Islamic religion as a clinical approach, especially considering the concept of ‘stillness’ (the first step in the psychological therapy for women who faced violence), he finds that the surrounding environment also needs to be changed, because this is the basis of any behavior. As it is, it affects a wide range of people as Philippe Huguelet mentioned about the religious.

This chapter aims to explore Islam as therapeutic jurisprudence for reducing violence against women starting with the meaning of Islamic jurisprudence and related definitions; the tools we have at our disposal; its link with the Islamic Feminism movement, and the conclusion will address women’s rights as stated in Islamic religious texts.

1. ISLAMIC JURISPRUDENCE: A DEFINITION

The author will explore the meaning of Islamic jurisprudence, as well as the other related definitions, as an essential issue to determine how it can be used as a therapeutic approach, and how it can be adapted to suit various different cases.

1.1 Islamic Shari’a and Jurisprudence (Fiqh)

There is a considerable difference between Shari’a, which is Islamic law, and Fiqh, which is jurisprudence. In other words, Shari’a is the religion sent down from God, whereas jurisprudence or Fiqh consists of the interpretations of Shari’a laws. Thus, if the scholars’ interpretations are in line with Shari’a, then they make up a jurisprudential tradition that conforms to it. If they wrongfully interpret it, then they construct a jurisprudential tradition that conflicts with Shari’a as such. The difference can be even confined to the literal meaning of each as follows:

- Islamic Shari’a is the God-sent collection of rulings via God’s messenger Muhammad (PBUH), and has been stated in the Qur’an and Sunna. Fiqh is the human effort to interpret and understand Shari’a rulings, to extract their intended meanings and to connect them to real life and different environments. It is therefore, the work of scholars to interpret the religious texts, whether they get it right or not, and it is only Shari’a if it corresponds correctly to it.

- Shari’a is more ‘complete’ than Fiqh, and this is what the following verse confirms: “Today I have perfected for you your religion and completed my favor upon thee and have approved for you Islam as a religion” (Al Ma’idah: 3). Thus, Shari’a includes all rules and general guidelines, where practical, religious and moral regulations, whereas, Fiqh deals with the practical rulings, specifics and the details of Shari’a rulings. Fiqh relies on the rules set by Shari’a and their origins (Al Ashqar, 1982, p. 18).