

# Ownership of property in islamic law



**ASSIGN  
BUSTER**

**Abstract**

Property ownership has been highly debated in recent years especially when it comes to women. The case of Muslim women has been alarming in certain Islamic countries because though women are allowed to own property some traditions when put together with some Islamic Laws are highly restricting women's ownership property. Property in this light includes land, house and other tangible properties.

This paper based on illustrating the different sources of property acquisition which has been hindered due to, in most case deliberate confusion of Islamic laws and customary laws which had restricted the ownership of property by Muslim women in different Islamic regions.

**INTRODUCTION**

Women in many countries still face inequality at home, in their communities and the society at large. They are usually left in the background because of state laws, customary laws and religious beliefs. This inequality also affects their right of property ownership. The rights of women to own, inherit, manage and dispose of property whether tangible or intangible has been minimized by individuals, customs and laws in many countries of the world today. These women who most often constitutes a greater population of the country, are not give the opportunity to own land, houses, cars, bank account, cattle, crops and many other forms of property. Women's right to property most often depends on the relationship they share with men around them.

Religion too has also had an impact on the ownership of property by women when put together with customary beliefs. These two when put together in extreme cases greatly limits the right of a women to own property. Religion has been interpreted to the detriment of the Islamic woman but to the advantage of the Islamic man. These several interpretation of Islam under different customary laws has reduced the rights of women to own property.

This paper therefore brings out the role of Muslim religion on the ownership of property by Muslim women. Examine what the Islamic religion says about women owning property and what is the real situation at hand. That is how the Islamic religion is integrated with tradition and state law and its impact on the ownership of property by Muslim women in Muslim regions.

### **The Role of Islam in Property Ownership amongst Muslim Women**

Historically, the Quran acknowledges the right of women to own property. The Quran explains important post held by women during the period of the prophet which made them to acquire property. In general terms the Islamic law allows women to hold, use and dispose of property but when you go into details the terms become very complicated and this therefore restrict these women. The Islamic law acknowledges the fact that a woman should be given what she earns and which can be a man's when she willingly transfers it to the man. But when we consider the fact that Muslim women are suppose to be very reserve, their right of property ownership which can be gained only when they are exposed is restricted. To own a property in any form means you need to manage this property and this management cannot be adequately established in the private space you need the public space. The following analyses discuss the different ways in which property can be

acquired but which women are being restricted in societies where Islam and tradition are being practiced in extremes.

### **Inheritance**

In Islam the man is considered the head of the family and has the right to own property. Inheritance which is a form of property ownership highly favors the man. Though women have the right to inherit property of a deceased member of their family, their own share is usually half of what the man inherits. Though women have the right to inherit from their father, it is usually two shares for men and one for women. They believe that women do not have any obligation to take care of the family as the men do, therefore the men should be given more. In most traditional Islamic countries the combination of customary and Islamic law against women concerning this issue makes women to be totally refused the right of property ownership. For them since these women do not take care of the family, they should not be given the right to own any property. Also in most law courts like in Northern Nigeria where Islam is practiced, the right of women to inherit property is denied by some judges though Islam accepts these rights.

Most often, the inheritance is done in theory and not in practices. The women are just told that they have been assigned this portion of property which in most cases is never given to them. Property ownership is considered as a man's business since women are considered to be dependent and weak and needs the support of a man to handle property issues. Annelies Moors (1995) also explains that while in Islamic law women have inheritance rights, these then are generally more limited than those of men. This she explains that, looking into the shares of the widows and daughters, the male

preference is usually very clear. This is because, in the case where the husband dies it is difficult for the woman to inherit the husband's property because she can get married to another man or better still she is suppose to stay under the protection of the men in the husband's family be it her sons or the husband's brothers. According to Islam, wives are entitled to one-eighth of the property of their husbands when the deceased husbands have children and to one-fourth if they are childless while daughters on the other hand are entitled to only half the share of their brother's share. Also, when there is an only daughter she gets half of the deceased father's property and the rest goes to the father's male relatives while an only son gets the entire property of the deceased father showing a biased against these women. This is because the property the woman with children owns goes to her children especially if they are boys and if she does not get married, she is given less and most often refused because she can be remarried. The case of a childless woman is worst because she is left with nothing as property even if she contributed in the acquisition of the property.

Also, owning a property means giving the woman an upper hand and changing her private space to a public space. A woman is suppose to be very reserve in her private space and not exposed by owning property to the public space which is considered a man's space. This perception is different with urban and rural Muslim women. Annelies Moors (1995), discusses that although the women in both area knew their rights of property ownership, some those in the urban areas accepted their own share of the estate but most in the rural areas stayed retrained from acquiring their own shares.

This I believe was the result of their customary law in those rural areas which prohibited them.

### **Education**

Education is a form of property acquisition because when you are educated you are exposed to issues of knowing your rights. In most parts of Africa where Islam is practiced, the number of girls going to school has been relatively low compared to the Christian areas. The people do not see the need of educating the girl child since she is believed to be the property of the man. Education is not a priority but early marriages are encouraged. Going to school is meant for the boys who will eventually become a family head and needs education and property to take care of the family. This is very common with Muslims especially in the rural areas who strongly believe in their customary and Islamic laws. Most of them are not aware of any state law or international human rights laws or even the Islamic which give them the right to own property. Vanessa Maher (1974), explains that Berbers in Morocco equivalent of seclusion, and preserving family honor intact in keeping their girl child at home since schools are considered as a corrupting influence and giving access to the public sphere making education very irrelevant.

### **Work**

According to the Islamic law, women are allowed to work but this is usually under certain circumstances and under very strict conditions. In many Islamic countries, job opportunities for women and men are not the same. They are not given equal opportunities because women are highly restricted from public life. A woman is not supposed to work alone with a man because

according to the Quran they might be tempted. A woman is not supposed to do any job that will expose her honor of womanhood but she is supposed to remain modest. Islam generally recommends that women stay at home and take care of the home. When Vanessa Maher carried out her field work on Women and Property in morocco in 1974, she pointed out that women do not work for wages because their participation in the ' public sphere' is considered immoral. This alone prohibits these women from doing anything that will make them acquire property. Also the man has is oblarged according to Islam to uphold his obligation of maintaining the woman. The husband is responsible for maintaining his wife and the entire family not the other way round even when the wife has the means, so this also discourages Muslim women from working.

According to the Islamic law, women are allowed to work but this is usually under certain circumstances and under very strict conditions. In many Islamic countries, job opportunities for women and men are not the same. They are not given equal opportunities because women are highly restricted from public life. A woman is not supposed to work alone with a man because according to the Quran they might be tempted. A woman is not supposed to do any job that will expose her honor of womanhood but she is supposed to remain modest. Islam generally recommends that women stay at home and take care of the home. When Vanessa Maher carried out her field work on Women and Property in morocco in 1974, she pointed out that women do not work for wages because their participation in the ' public sphere' is considered immoral. This alone prohibits these women from doing anything that will make them acquire property. Also the man has is oblarged

according to Islam to uphold his obligation of maintaining the woman. The husband is responsible for maintaining his wife and the entire family not the other way round even when the wife has the means, so this also discourages Muslim women from working.

Even the dower and maintenance gift in which the woman is entitled to be given to her for marriage is only owned by her in theory and not in practice. Annelies Moors 1995 when she carried out her research in Palestine explained that “ younger village women rarely expressed an interest in selling their gold (which was their dower) to buy productive property; they would rather invest it in their husband and his house”. This is because when she gets married to the man this property automatically goes back to the man since he is supposed to control the family’s resources. At times the dower and maintenance gift are orally given through promises and the woman never receives it.

The dower is gradually losing its value because most contemporary Muslim women will prefer their husbands to invest his resources in the up keep of the family. They do not really care about the dower especially in the urban areas. More so, in case of divorce since the wife does not have any right of property compensation or sharing all what was given to her as dower is taken by the husband. This is because, during marriage the properties she contributes to the family are not regarded as hers but the husband’s property. Annelies Moors (1995), in her research in Palestine explains that women no longer sell their gold dower to buy productive property because independent female ownership of such property clashes with their definition



as dependent wives. They instead use it to invest in their families therefore reducing their access to property.

## **CONCLUSION**

Though efforts are being made to enhance property ownership by Muslim women, this issue is more complicated in the rural areas since there are strong customary laws which restrict women. When these customary laws are put together with the Islamic laws, these women are completely isolated in the ownership of property. This is because there is a deliberate confusion between Islamic laws and customary law by men which suppress a woman's right of owning property making the customary law to predominate. Actual control of property has still remained in hands of the men. Women's less right of property according to Islamic thoughts is seen to be compensated with the fact that they are under the custody of the men. Property is considered as power, and the more property you own the more powerful you are.

## **REFERENCES**

DUPRET, B., BERGER, M., AL-ZWAINI, L. (Eds.), Legal Pluralism in the Arab World, The Hague, Kluwer International, 1999

ROSEN, L. (2000): The Justice of Islam. Comparative Perspectives on Islamic Law and Society, Oxford U. P

Vanessa Maher (1974); Women and Property in Morocco: The Changing Relation to the Process of Social Stratification in the Middle Atlas. Cambridge University Press.

Annelies Moors (1995); *Women Property and Islam: Palestinian Experience 1920-1990*. Cambridge Middle East

Ngoné Diop Tine and Mohamadou Sy (2003): *Women and Land in Africa: A case Study from Senegal*.