

Forms of Discrimination against Working Women: Between Law and Reality

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Abstract

The civilisational history of humanity has been a history of change that ran against women, even though the course of women's history over time reveals that they occupied an inferior position relative to men in most human societies. Proceeding from the way religious symbolism affirms the innate equality of men and women, the researcher 'Alī Laylah holds that "traditional culture became entrenched and biased in favour of men at the expense of women, until human maturity was attained through the creation of philosophies that reflected on the condition and circumstances of things regardless of whether the subject was a man or a woman, and that established that both possess equal rights and equal citizenship"¹. In Europe, the case for the emancipation of women came late, emerging only in the nineteenth century, when it became bound up with the Industrial Revolution and with the world wars, that is, once women had entered the sphere of paid work to replace the men who had left for the front.

The entry of women into paid work has likewise grown in recent times, giving rise to a set of issues tied to the traditions of male domination, which have moved from within the walls of the home to the workplace. Such traditions obstruct and impede the improvement of social life in general and the advancement of society and its members, and of the married working woman in particular. The question therefore arises as to the forms that discrimination against her assumes, a matter that weighs heavily on the lives of working women and on society at large.

ملخص:

¹ 'Alī Laylah, *Social Theory and the Issues of Society (al-Nazariyya al-ijtimā'īyya wa-qaḍāyā al-mujtama')*, Anglo-Egyptian Bookshop, Cairo, 2005, p. 122.

إن التاريخ الحضاري للبشرية كان تاريخا متغيرا لغير صالح المرأة، بالرغم أن تطور تاريخ المرأة عبر الزمان يكشف أنها عاشت وضعية متدنية مقارنة بالرجل في أغلب المجتمعات البشرية، من تأكيد الرمزية الدينية على المساواة الفطرية بين الرجل و المرأة، يرى الباحث علي ليلة " أن الثقافة التقليدية ترسخت و تحيزت للرجل على حساب المرأة إلى أن تحقق الرشد الإنساني من خلال إبداع الفلسفات التي تأملت حالة و أوضاع الأشياء بغض النظر عن كونه رجلا أو امرأة حيث تؤكد بأن لهما حقوقا و مواطنة متساوية ". وقد تأخر الطرح المنادي بتحرير المرأة في أوروبا إلى غاية القرن التاسع عشر أي إرتبط بالثورة الصناعية وكذلك بالحروب العالمية أي بعد خروج المرأة إلى مجال العمل المأجور وتعويض الرجل الذي إنصرف إلى الحرب.

كما تعرف ظاهرة خروج المرأة للعمل المأجور تزايدا في الآونة الأخيرة وأفرزت بعض القضايا التي ترتبط بمسألة تقاليد السيطرة الذكورية التي خرجت من أسوار البيوت إلى مواقع العمل، فهي معرقله ومعيقه لتحسين الحياة الاجتماعية بصفة عامة و رقي المجتمع و أفراده و لاسيما المرأة المتزوجة العاملة وبالتالي ما هي تجليات التمييز ضدها والتي تشكل إنشغالا كبيرا في حياة النساء العاملات وفي المجتمع بصفة عامة.

Introduction

A woman of sound mind who has reached legal majority, whether married or unmarried, possesses her own independent personality. She is free, under both religious law and civil law, to take up work or to conclude a contract of employment as a worker or an employer with whomever she wishes, and she is the keener guardian of her own marital rights. No text of the Sharia bars her from this. Her success in her work nonetheless remains bound to her husband's confidence in her abilities, his encouragement, and his refusal to stand as an obstacle before her; where the contrary occurs, it is usually for personal reasons.

Religion holds a sacred place in the lives of Algerian women. They freed themselves from the constraints of the negative customs that had fettered them for years only after they read the teachings of religion and became convinced that there was neither objection to nor rejection of their presence in public life. Yet the misunderstanding and misinterpretation of religious texts hardened mentalities and set them rigidly in positions regarded as significant and decisive in people's lives generally and in the life of the woman long left vulnerable, a condition that reaches back to the era before Islam. In lived reality, the whole of the fear surrounding the granting of freedom to a woman rested on the assumption that, once granted, it would drive her astray into the labyrinths of corruption. What has been observed, however, and what researchers concerned with women's issues have observed, is that a woman raised in the bosom of a family governed by mutual respect between the sexes will not abandon that respect but will work to preserve it, in keeping with the words of God the Exalted: "And cooperate in righteousness and piety, but do not cooperate in sin and aggression" (Qur'an 5:2).

Working women in Islamic law

In their concept and their spirit, the texts of religious law speak of work in general and unqualified terms and draw no distinction between women and men, affirming the full

rights of women, whether unmarried or married. The annual report issued by the United Nations cleared Islam of any "discrimination" against Arab women and traced what it described as the "injustice" borne by the position and condition of women, in the past and in the present, to cultural and social structures, some of them tribal and resting on custom, others resting on religious legacies grounded in interpretations and readings of the sacred texts that serve the hierarchy between male and female and grant the former precedence at the expense of the woman².

Sūrat al-Nisā' states: "For men is a share of what they have earned, and for women is a share of what they have earned" (Qur'an 4:31). This verse, and others to the same effect, urge and encourage work and draw no distinction between man and woman in earning and in gainful activity.

A woman enjoys full capacity and an independent legal personality; she holds her own separate financial estate and the sole right to dispose of what she owns, and has done so since the dawn of the Islamic call, in accordance with the settled principle of the Qur'an: "The believing men and believing women are allies of one another" (Qur'an 9:71).

Points of disagreement on women's issues

Among the questions that have formed points of disagreement in the interpretation of the religious texts relating to women, and that some have exploited in order to entrench negative ideas about her, are the following:

- a.** The question of a woman's testimony and the import of the noble verse, "if there are not two men, then a man and two women" (Qur'an 2:282). For the exegetes its rationale is that religion took account of the nature of the woman, who cannot bear the burdens of testimony given her family roles, since she is the pillar of the household; the role of motherhood, the functions it demands, and the dedication it requires are what shield her and guard her against slipping into the difficulties and entanglements that would distance her and divert her from performing her noble roles in this life, unlike the man, who is more ready to bear the consequences that follow from such testimony.
- b.** The question of equality. Setting aside its formal sense, the exegetes hold that the noble verse, "But the men have a degree over them" (Qur'an 2:228), carries a deeper meaning: what is intended is the disparity in economic or material responsibility and its relation to guardianship (qiwāma). The man, on one side, is the readier to bear such

² Ṣabāḥ 'Ayyāshī, *Family Stability and Its Relation to the Measures of Parity and Complementarity between Spouses in Light of the Various Changes Algerian Society Has Undergone*, doctoral thesis (doctorat d'état), Department of Sociology, University of Algiers, 2008, pp. 182 to 183.

burdens, with nothing to prevent or hinder him, and, on the other, carries the full duty of economic maintenance.

From a sound Islamic perspective, guardianship cannot be understood as a form of discrimination that favours the man over the woman; it means, in essence, a financial obligation towards the family, whereby the husband takes upon himself the provision of his wife's material and moral needs in a manner that affords her reassurance and repose, realising responsibility and partnership rather than the absolute authority and domination of the husband or the father over the wife and children.

c. The question of inheritance. The noble verse holding that "the woman receives half of what the man receives" has stirred debate over this share and its ratio to that of the man, and it has been misread, for it cannot be taken as evidence of any diminishment of women. Cases of inheritance are numerous: in some the woman's share is half the man's, while in others it equals or exceeds his, according to the degree of kinship on one hand and the responsibilities attached to the corresponding rights on the other. The exegetes have counted many cases that grant the woman a right of inheritance; the cases in which the man receives more are always coupled with his duties to provide for the woman, whether she is a wife, a daughter, or a sister, yet her share remains purely her own, to the exclusion of the man. Religion has thus laid the heavier responsibility of maintenance upon the husband towards his kin, so that he is found responsible for a large family comprising the father, the mother, and the siblings, and at times for persons he supports among relatives who have no other provider, while the woman is in most cases under the care of a husband or a son.

2. Working women in international and domestic law

The world academic conference held in Seoul in 1988 took up the question of equality between the sexes and social change, and the experiences of both the United States and Korea were presented. The discussions concerning women and the state in the United States drew out the difference between what reformers in the field of women and work had hoped for and the reforms actually achieved: whereas the reformers had hoped to build a more democratic and more egalitarian society marked by greater cooperation, what in fact emerged was a more "atomised" society that separates public and private life entirely, in a kind of "alienation"³.

The Korean experience, by contrast, is one in which the research presented by Korean scholars contained an evaluative reading of Confucianism, which played its part as the

³ Muḥammad ʿAbduḥ Maḥjūb, *Women and Values in Arab Societies (al-Marʾa wa-al-qiyam fī al-mujtamaʿāt al-ʿArabiyya)*, Dār al-Maʿrifa al-Jāmiʿiyya, Alexandria, 2011.

theoretical framework and helped the state to intervene deeply in the affairs of the family and to impose particular relations upon its members. In particular, the moral principles of loyalty and obedience to parents and the safeguarding of a woman's good reputation served to enforce specific arrangements of the patriarchal order: the officially recognised marriage and the residence of the wife within the husband's family. This brought about the subordination of the woman to the man, of the young to the old, and of citizens to the king as a social order. A debate arose over the assessment of the state's intervention through its adoption of Confucian ideas, since this system operates with particular efficiency in achieving economic growth and a firmer control over the movement of population, and since, as a system capable of cultivating obedience to parents, the traditions of the patriarchal family are regarded as a cultural mode that ought to be preserved.

This assessment concerned Western societies. As for the situation in our own context, the adoption of the cause of women by reforming what must be reformed is a matter made plain in the laws, since it proceeds in parallel with demands whose source, if not the feminist movements, is the international conventions. Legislation on women's issues is therefore a subject that does not escape scrutiny; it has constituted a global concern and priority and still carries future implications that undoubtedly await their moment.

In Arab societies the matter is difficult. Mālik ibn Nabī (Malek Bennabi) pointed to this when he said: "To grant rights to women at the expense of society means the deterioration of society. Is she not a member of it? The issue is not the issue of an individual but the issue of a society"⁴.

Equality in the enjoyment of civil rights

Equality between the sexes, woman and man, is understood in the terms enshrined by the Universal Declaration of Human Rights in its first and second articles, namely that all people are born free and equal in the enjoyment of all the rights and freedoms set out therein, without discrimination, subject only to the law⁵.

The Convention on the Elimination of All Forms of Discrimination against Women likewise provides, in its article 5, for the modification of the social and cultural patterns of conduct of men and women, with a view to eliminating prejudices and customary

⁴ Malek Bennabi, *Les Conditions de la renaissance*, p. 116.

⁵ Article 2 of the Universal Declaration of Human Rights, 1948.

practices and all other practices founded on the idea of the inferiority or the superiority of either sex, or on stereotyped roles for men and women⁶.

The legal capacity of women

The International Covenant on Civil and Political Rights affirms the capacity of every person everywhere and the right to recognition of their legal personality. The Convention on the Elimination of All Forms of Discrimination against Women enshrined this principle by providing that States Parties accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity, in concluding contracts, administering property, and being treated on an equal footing at all stages of the procedures followed before courts and judicial bodies.

The law notes that capacity is of two kinds: the capacity of enjoyment and the capacity of exercise. In the first, the person does not necessarily exercise the right in person; the second lies in the ability to express one's own will in a manner that produces its legal effects upon one's rights and liabilities.

At the national level, Algeria has committed itself to recognising the legal capacity of women in article 40 of the Civil Code, which provides that every person who has reached the age of majority, a full nineteen (19) years, who is in possession of their mental faculties and has not been placed under interdiction, has full capacity to exercise their civil rights. Article 42 then sets out the cases in which a person loses legal capacity: "One who lacks discernment on account of young age, mental deficiency, or insanity is not competent to exercise their civil rights"⁷.

Legislation on women's issues in Algeria

Women took their place alongside men in the struggle and supported them in every aspect of life, yet general social conditions were not in their favour in the period immediately after independence, and their long years of suffering from poverty and ignorance hampered their presence in every field. The first concern for women appeared in the Tripoli Charter of 1962, which affirmed the rights of women and the need to attend to them across the various domains of social, economic, and political life; their entry into public life became necessary in order to break the constraints that had fettered them for years and to bring them into the process of development.

The 1986 Constitution came to reinforce and clarify matters concerning the effective participation of women in work outside the home; it pointed to the need to regulate the

⁶ Article 5 of the International Covenant on Civil and Political Rights, 1966.

⁷ Article 16 of the International Covenant on Civil and Political Rights, 1966.

accommodation of the work that women perform and to create the conditions necessary for widening the fields of their employment, while taking into account the circumstances arising from their role as mother or wife.

Tracing the legal texts relating to women reveals a kind of neglect in adopting a law that is just to women, which left a legal vacuum. As for the Civil Code issued in 1975, it was not the exclusion of women from the drafting of this law alone that spurred the growth of an opposing feminist movement, but rather its disregard for reality and its failure to take into account the changes that had occurred in social and economic life and, perhaps above all, the role of women in these spheres. This made the successful integration of women into public life contingent on the advancement of their standing in the legal texts. It follows that the political system entrenched the traditional frame of reference and yielded to the standards imposed by the customs and values that certain Islamic authorities defended. The result was the emergence of a feminist struggle outside the official structures of the ruling party, the National Liberation Front, and of the mass organisation that operated under its banner, the National Union of Algerian Women, so that women's militant activity turned towards the trade union movement, which, despite the weak proportional representation of women within it, was a refuge for the expression of their occupational demands.

The Family Code

The Family Code is regarded as one of the texts that most provoked disagreement and controversy in Algerian society, so much so that, as soon as it was voted upon in July 1984, debate and disagreement became a feature of the social environment at large. It came to be described as partial and regressive, serving the man alone. Saadi Nourdine sees it as "a law written under the pressure of parties that made it depart from the international context, since it carried a discriminatory character towards women, which made it necessary to renew the demand for its enrichment with mechanisms that afford protection to the woman, the mother, and the child"⁸.

To understand why the Family Code formed, and still forms to this day, a subject of disagreement, one must return to the circumstances in which it was written and to the strategy pursued at the time, a strategy that carried no future vision of the matter. All the disagreement that arose then changed little in it, but it left behind a large body of women yearning for emancipation, who indeed demanded their rights and organised themselves into feminist movements.

⁸ Saadi Nourdine, *La femme et la loi en Algérie*, Éd. Bouchène, Algiers, 1991, pp. 46 to 48.

The amendment of some of the Family Code's articles came in response to international charters and conventions, as though the change came about through an inevitable external force rather than through an internal will and the interest of society in improving the living conditions of its members. The Family Code is indeed changing, but partially and slowly.

Certain questions, meanwhile, remain unresolved and constitute a source of disagreement among the segments of society; they are difficult to change despite the legislator's conviction of the contradiction they carry.

Some articles of this Code relating to marital relations were amended by the text of the Law of 4 May 2005, articles that had formed a subject of disagreement among activists in the field of protecting women and the family, as well as among practitioners and specialists in the justice sector in Algeria. The following articles may be cited by way of example:

- Polygamy: article 8 stipulates the condition of obtaining judicial authorisation, as well as the woman's right to bring a legal action against her husband seeking divorce in the case of deception.
- The choice of husband and the presence of the guardian (walī) in article 11.
- The rights of the spouses in article 36: there is a distinction between them, with the rights of the wife on one side and the rights of the husband on the other left unregulated and undefined.
- The abolition of proxy and the requirement that the husband be present at the conclusion of the marriage contract, article 20.
- The right to judicial divorce, with new grounds added so as to become 10 after they had been 7, article 53.
- The grant of the right of guardianship to the custodial parent, article 87.

5. Women and labour law

Labour law in Algeria passed through stages that kept pace with all the developments raised by the political and economic visions pursued from the earliest beginnings after independence and the recovery of national sovereignty in 1962. The first law was Ordinance 66-133 of 2 June 1976, up to the issuance of the charter and the law on the socialist organisation of enterprises in 1971. There then came the General Statute for Workers, 78-12 of 5 August 1978, which aims to lay down an important foundation and rules on which employment rests, in an attempt to unify the basic features and

dimensions of the legal regime governing all workers regardless of the public or private sector.

3. Working women and gender discrimination

Definition of gender discrimination and its types

Discrimination is held to be the deprivation of a person of the full enjoyment of their political, civil, economic, social, and cultural rights and freedoms. Discrimination runs counter to a fundamental principle of the rights of all individuals, who are equal in their integrity and enjoy the same basic rights, as provided by the whole body of organisations active in the field of human rights⁹.

According to the definition of discrimination provided by the CEDAW body, discrimination exists where it is based on "race, colour, sex, language, religion, political opinion, geographical origin, social status, material status, incapacity, birth, or any other situation," the phrase "any other situation" encompassing social class, occupation, sexual orientation, or chosen language¹⁰.

The concept of discrimination is likewise traced to a worker's sense of being treated as inferior to others who deliver the same output, on account of social origin, religious grouping, private life, family burdens, physical appearance, and so forth.

There are two kinds of discrimination:

- Direct discrimination: a deliberate act by which a person or a group is subjected to discrimination, for example, refusing to rent a dwelling to an unmarried woman.
- Indirect discrimination: the repercussions of a pursued policy or of measures taken that appear unbiased but that automatically place members of a minority in an unfavourable position relative to others, for example, refusing to employ a woman who wears modest dress or the veil.

There is also discrimination prior to employment and discrimination after employment:

Discrimination prior to employment begins in the family and the school, above all in the reproduction of social differentiation, and it also means that discrimination is bound up with the learning of individual roles according to sex, particularly as regards the system of values. Women face a discrimination of an occupational character through training, through the upbringing given by parents and by the school, and by society in general, as

⁹ État des lieux de la discrimination, Discrimination à l'égard des femmes en Algérie, CIDDEF, www.ciddef-dz.com, 2012, p. 5.

¹⁰ Op. cit. (the CIDDEF report cited in note 9), p. 6.

well as through culture. All of this readily channels a woman towards a particular kind of treatment and, in particular, directs her, in large numbers, towards a certain kind of training and towards certain occupations, which is what produces discrimination in the labour market.

Historically, this concept became more closely tied to the emergence of the working woman and her advance into fields that in the distant past were the preserve of men alone. This is what led her to complain of, and to suffer from, the gender discrimination that stems from the demeaning view of women and their oppression by men, and from her exposure to base bargaining aimed at keeping her from reaching positions where decisions are made or attaining a fitting standing.

Discrimination against women is exercised at three levels, especially in the countries of the Third World: the familial, the societal, and the official. At the familial level, fathers prefer males to females in all dealings and services, as well as in upbringing, preparation, education, and the like. At the societal level, society remains heavily influenced by the traditional cultural legacy, which reflects various manifestations of discrimination against women that stand in the way of their effective participation in the different aspects of life. At the official level, what the regimes in most countries, and especially the countries of the Third World, actually practise differs entirely from all the constitutions and legislation they have enacted and from what their political discourse contains.

Elizabeth Jaynwī holds that the representation of women in workplaces remains unequal with that of men, since women are concentrated in the services sector and in human relations while men move into executive posts and reach the highest positions. Even within the workplace, women are asked to carry out the roles of social activities, something men are rarely asked to do even when they occupy the same post or a lower one¹¹.

This is also the conclusion reached by the study of Maruani and Reynaud regarding paid work for women, which is distributed according to what they call a bipolarisation, that is, into poles: on one side they are found in certain fields of cultural, scientific, and technical activity, and on the other they are strongly and densely present in posts of an administrative and service character.

Discrimination nonetheless has dimensions other than those connected with women. There are three different approaches to the concept of discrimination, as follows:

¹¹ ‘Iṣmat Muḥammad Ḥawsū, *Gender: The Social and Cultural Dimensions* (al-Jandar: al-Ab‘ād al-ijtimā‘iyya wa-al-thaqāfiyya), Dār al-Shurūq, 1st ed., Jordan, 2009, p. 158.

- The first approach is a traditional one. It explains that there is discrimination based on "taste" among the various economic agents: one who behaves in a discriminatory manner is assumed to manifest this in economic dealings, feeling dissatisfaction at what is experienced on coming into contact with individuals of the other sex, of another kind, or of another religion.
- The second approach is discrimination on the basis of benefit or interest. Here discrimination rests on the person's possession of wealth: no sense of dissatisfaction appears, but discrimination is directed against workers with the aim of extracting greater financial gains from it.
- The third approach is what is known as involuntary discrimination. Here the phenomenon of discrimination is traced to the inaccuracy or insufficiency of the information available to those who discriminate, who practise it without intending to, and this appears in particular in the division of labour, which is carried out differently for those who have the same yield and output and who perform the same occupational activity.

The culture of dealing with women in Algeria

Taking as a starting point the social practices that define the nature of the relations between man and woman in Arab societies, and in Algerian society in particular, one observes two styles or patterns of these relations. Once they are traced and analysed, it becomes possible to construct two cognitive systems that are contradictory and opposed in appearance yet complementary in essence, two systems according to which a woman is treated from her birth, indeed before her birth, until her death.

Returning to the culture of dealing with women as it is in lived reality, one can distinguish between the two seemingly contradictory systems: the system of honouring, veneration, and elevation, and the system of denigration, contempt, and belittlement.

Approaching the various practices towards women, practices that spring from the heart of popular culture and are marked by a depth of faith and by their rootedness in the collective conscience and the social imaginary, makes it possible to uncover the elements of the two systems, or the features of the two contradictory styles, in viewing and dealing with women.

The system of honouring may be termed the inner, implicit system, while the other is the overt system, that is, the system of denigration and contempt.

These two systems can be constructed by observing some of the dealings and conceptions that men display towards women, proceeding from the social structure and from the

cultural structure that establishes the nature of the relationship between man and woman in Algeria.

The overt system: the system of denigration and contempt

This overt cognitive system can be constructed through the analysis and observation of certain behaviours and conceptions towards the female and the woman, proceeding from facts that arise out of cultural and social practices, beginning with the reluctance to give birth to a female.

The components of this system may be identified from the following dealings and conceptions. Like all the peoples of the world, Algerians prefer the birth of males, especially for the firstborn, on account of the roles, functions, and immense standing that the male enjoys in society.

Roles, functions, and standings are determined by society: those assigned to the male are of importance, whereas those assigned to the woman (the female) diminish her worth to the point that a woman comes to hate herself through her aversion to giving birth to a female, and thus she reproduces the same conceptions about herself.

In former times, a woman whose husband left her and married another because she had borne daughters said:

What ails Abū Ḥamza, that he no longer comes to us, and stays instead in the house that adjoins ours?

He is angry that we bear no sons, yet, by God, this is no fault in us.

We are but as the soil for those who sow: we bring forth only what has been placed in us.

The girl or daughter is treated within the family at a lower level than her male brother, especially when the number of males is small among the females, or when the males are born after the females; in such a case the preferential treatment of the male is pronounced and evident on the part of the mother and the father alike, to the point of driving the daughters to envy of their brother.

The manner of raising and socialising the female differs from that of socialising the male, and this difference grows with advancing age, since the individual acquires their role and standing in society through the socialisation received first of all from the family. Biological differentiation is reinforced by society through its assignment of roles, functions, and standings to male and female alike, and in the course of this process the

socialisation of the female is marked by strictness, severity, and intolerance compared with that of the male.

She is not permitted to leave the house whenever she wishes, as her brother is, nor to be free and unconstrained in her conduct like him, and so forth. From an early age she is taught that she must respect the male, beginning with her brother even if he is younger than she, and she is prepared for the home and for marriage. Hence the saying: "We raise our daughters for others, and we raise our sons for ourselves."

The woman is kept absent and screened from performing her role, and the man is found to be her guardian in nearly all the affairs of life, beginning with the father, then the husband, in addition to the grandfather, the paternal uncle, and the maternal uncle, so that the mere mention of a woman's name is deemed a disgrace. Society has coined and produced expressions to denote the woman as wife, such that a man will say "the family," "the house," "la famille," "the household," "the folk," and the like, to the point that the matter reaches embarrassment at mentioning her name during the recitation of the Fātiḥa at the wedding, that is, during the conclusion of the marriage contract.

Marriage is a meeting between two families before it is a meeting between two persons. In marriage, and especially in traditional rural settings, the girl is not even permitted to express her opinion or to be consulted about the person to whom she is to be bound, let alone to see him or to meet him, even within a family setting.

After marriage, the barren woman, or the one whose pregnancy is delayed, is unwanted and exposed to humiliation from the man and the members of his family; she becomes undesired by her husband, by her husband's mother, and by the husband's circle as a whole, and divorce is often her end. In the opposite case, when it is the husband who is infertile, the matter is different: the wife has no right to seek divorce and must sacrifice the instinct of motherhood in submission to the wish of the husband, the master.

When she gives birth to females, she becomes the object of demeaning and contemptuous looks, as though she were responsible for this, even though the determination of the child's sex biologically rests with the man.

In the case of marital infidelity the calamity is greatest. If the infidelity is on the woman's part, society permits itself to do as it pleases with this unfaithful woman, allowing the husband to kill his wife and to do with her as he wishes; conversely, if the husband is the unfaithful one, the woman must keep silent in order to preserve honour and reputation, even though the rate of husbands' infidelity towards their wives is very high compared with that of wives towards their husbands.

The woman is barred from her right to inheritance, not being allowed to obtain her share of the estate, contrary to what the Sharia or the law provides; some bar her by custom and others on the basis of endowment (waqf) bequests made in favour of the male to the exclusion of the female.

As for the work of women in the countryside and in the system of the dechra (a rural hamlet), the woman is the linchpin of the rural economy in production, labour, and the preparation of food, from the outset in the field through to the table. The man accepts her working in the countryside in gruelling agricultural labour that is close to servitude; he is content with her work because she lives in a closed environment that secures what is called "sanctity" (ḥurma). In the city, by contrast, there is a struggle over women's work, since work in the city, or paid work, realises the woman's own self and makes her more independent in relation to the man, and it is here that the struggle begins.

The hidden, inner system: the system of honouring, veneration, and elevation

Through the overt practices concerning the birth of a female appear those provoking manifestations of not wanting her, this being the ordinary and normal case; in the extraordinary and exceptional case, however, the family system reveals practices that implicitly venerate and favour the female, through the preference that she be free of all defects (neither disabled nor mentally impaired) and that she be beautiful. Thus, if a female is born with a deformity or a disability, they say, "would that she had been a male," as though there were no harm in the male being disabled, mentally impaired, or bearing any defect.

The family, as observed through its hidden practices and conceptions, wants the female to be complete, beautiful, and comely, free of defects and shortcomings of whatever kind; otherwise it does not want her.

It is true that the male appears fortunate in his treatment within the family, and this is so in the ordinary case; but if one returns to what the practices and behaviours towards both male and female conceal, it emerges that the female receives greater care than the male, for she is the object of the family's attention and of strict watchfulness and supervision, since the more the value of a thing rises, the greater the attention paid to it.

In ordinary life, gold is cared for and attended to more than silver, and silver more than copper, and so on according to the value of each metal.

As already noted, the manner of socialisation differs between male and female, owing basically to biological distinctions and then to the roles, functions, and standings that society assigns to each. Here it is observed that the socialisation of the female is marked

by strictness, severity, and intolerance; this is what appears on the surface. What these practices imply, however, reveals the loftiness and elevation of the female's standing, for she is the bearer of the family's honour, an honour that is priceless whatever the circumstances. For that reason she is not permitted anything that would injure this honour, such as engaging in disgraceful conduct like smoking, deviance, or drugs. Accordingly, the female feels her freedom to be constrained relative to that of her male brother, yet the constraint of her freedom is nothing other than a consequence of the loftiness of her standing in the family's eyes; for the higher a person climbs the social ladder, the greater the price paid in the constraint of their freedom, becoming watched like the president or the minister.

During wedding celebrations the woman is the focus of the festivities: it is for her sake that the display of dresses is held in a special hall, and it is she who is conveyed to the marital home in a joyous procession. It is likewise the man who asks for the woman's hand and who presents her with the dowry, all of this being an elevation and an honouring of her.

In daily life the man offers assistance to the woman without her asking, as when he rises from his seat on public transport and leaves it to the woman in deference to her. If a woman quarrels with a man in the street, other men side with the woman even if she is in the wrong; conversely, should a man respond to a woman's assaults, others will often stand by the woman.

The system of honouring and veneration is directly proportional to civilisational advancement: the more one moves from a backward environment to an advanced one, the more the honouring system appears and stands out, and the narrower the disparities between man and woman become, since advancement grants the woman a standing and a role closer to that of the man, thereby narrowing the distance between them. This advancement and openness holds true of individuals, regions, territories, and countries.

The system of denigration and contempt, by contrast, is directly proportional to backwardness: the deeper the backwardness, the more the woman's rights are trampled and she is humiliated, for both man and woman are victims of the backward social reality, and the man wrongs the woman because he is himself wronged by society.

The elevation of the woman's standing and the realisation of her existence therefore occur more fully in the advanced environment, and achieving advancement requires mechanisms, foremost among them education, since through education are attained the awareness and the sound upbringing capable of securing human rights, whether of a man or a woman.

4. Manifestations of gender discrimination against women

The mechanisms of the gender discrimination practised against women differ and are found to change from one environment to another, taking shape in images and manifestations that all carry a single meaning, namely the oppression and domination that the man exercises against the woman, whether she is educated or uneducated, working or not working, a mother, a sister, or a wife. Many are the women who have suffered the consequences of this domination, whether directly through forms of violence or implicitly through the imposition of certain social customs that are culturally borne and inherited from times past.

According to Camille Lacoste-Dujardin, discrimination towards women "is considered part of the nature of things, an expression of fixed natural facts; the inferiority of the woman is reflected in the social division of labour, which binds her roles to marriage and childbearing to the point that some confine her horizon to motherhood"¹².

Masculine domination

Pierre Bourdieu, when he studied masculine domination¹³, sees it as so deeply rooted in our unconscious that we are unable to perceive it, and so far at variance with our expectations that it is difficult to reconsider. He also explains the idea of domination concealing itself behind the constants and axioms that appear to lie outside culture and outside history.

There is a cultural inheritance that appears in the mode of favouritism and bias towards males and reflects the patriarchal order; even in an age in which social relations have changed, both the man and the woman who enjoy a high educational and cultural level still do not oppose this discrimination, as though the patriarchal order accorded with the human nature that distinguished the man from the woman.

Pierre Bourdieu also pointed to the connection of the concept of masculine domination with violence in its two forms, the material and the symbolic. It does not manifest itself as an intentional male domination conscious of its aims, but as a symbolic domination that exercises a quiet "symbolic violence," imperceptible and invisible to its victims, carried out through the purely symbolic channels of communication and knowledge, or more precisely through the channels of misrecognition and recognition, and to some degree of feeling. This violence becomes effective only through the participation of everyone in producing it, and of women in particular, since one of the conditions for the

¹² Camille Lacoste-Dujardin, *Des mères contre les femmes: Maternité et patriarcat au Maghreb*, Éd. La Découverte, Paris, 1985, p. 89.

¹³ Pierre Bourdieu, *Masculine Domination*, pp. 45 to 54.

legitimation and endorsement of patriarchal relations lies in the participation of their victims in believing in them as natural relations.

Violence in its kinds

Violence is regarded as one of the manifestations of discrimination against women. Researchers have explained this connection through the man's exercise of power, so that violence appears and becomes manifest within families despite the improvement of the educational level and the fact that spouses live in small families. Violence towards women, as stated in the preamble to the Declaration on the Elimination of Violence against Women, is "a manifestation of unequal power relations between man and woman across history, which have led to the man's domination over the woman and the exercise of discrimination against her and to the prevention of her full advancement; and violence against women is one of the crucial mechanisms by which the woman is forced into a position of subordination to the man."

In the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), violence based on sex was considered a form of discrimination against women.

The Vienna Conference, issued by the International Conference on Human Rights in 1993, notes that "violence based on sex and all forms of sexual harassment and sexual exploitation, including those arising from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and must be eliminated."

Violence against women takes three forms:

- 1- Physical violence: this is the most dangerous and the most conspicuous for women; force is used, whether mild or severe (beating, hair pulling, slapping, pushing, gripping violently, twisting the arm, throwing to the ground, punching, biting, strangling, burning, running over, and so forth).
- 2- Moral (psychological) violence: this too is dangerous, expressed through ill treatment of the woman and her neglect and denial, and it is expressed through (insults, neglect, surveillance, disregard for self worth, denigration, being called obscene names, embarrassment, treatment as a servant, the direction of blame, accusation of wrongdoing, suspicion, intimidation, the inducement of guilt).
- 3- Sexual violence: by this is meant rape, sexual harassment, and compelling the woman to engage in sex against her will.

Fahīma Sharaf al-Dīn, in her study¹⁴, when she addressed the concept of the culture of violence in Lebanese society, reached among her results the finding that the mechanisms of discrimination between man and woman still persist despite the profound changes brought about by education and the entry of women into the field of work.

Jamāl Ma'tūq, in his study of violence against women in Algeria, likewise traced the explanation of the phenomenon "to the responsibility of the socialising institutions and their negative referential role, such as the family, the school, the place of worship, the media, the legislator, and others, in diminishing the image of the woman and injuring her, in the excessive veneration of the male and the suppression of her various desires, in addition to the traditions, values, and customs prevailing in society, which for their part play a fundamental role in entrenching the principle of inequality between male and female, as well as the social change that Algerian society has undergone"¹⁵.

Domestic violence is difficult to identify, given the resistance of abused women and their refusal to disclose their exposure to violence at the hands of either their husbands or even another person close to them, the reason being their inability to bear its consequences; the woman is found to accept the violence to the point that it has become part of her normal life.

The woman lives this phenomenon in different forms and manifestations that begin in the family and the narrow sphere and then follow her outside, appearing in another guise within society, and many are the working women who search for an outlet to express their experiences in life.

Sexual harassment

There is what is an expression or a result of men's concealed rancour and irritation, which is projected in the form of an unwelcome sexual manner, whether by harassing the woman or by molesting her.

As for its manifestations in the professional environment, it takes several forms. Women are subjected to harassment, which in turn takes several forms, among them verbal harassment through the telling of jokes, disgraceful comments, physical innuendo, insistence on requesting a meeting, and suggestive looks to that end, and it may reach touching and molestation and abuse, which is counted among the kinds of insult and

¹⁴ Fahīma Sharaf al-Dīn, *One Origin and Many Images: The Culture of Violence against Women in Lebanon* (Aṣl wāḥid wa-ṣuwar kathīra), 1st ed., Dār al-Fārābī, Beirut, 2002, pp. 25 to 35.

¹⁵ Jamāl Ma'tūq, *Faces of Violence against Women outside Their Homes: A Field Study in the City of Blida* (Wujūh min al-'unf ḍidd al-nisā' khārij buyūtihinna), master's thesis, University of Algiers, Department of Sociology, 1993 (unpublished).

humiliation of the woman. Among the most prominent effects that harassment leaves on the woman are difficulties in sleeping and concentrating and dealing with others nervously, and this is reflected in the social structure.

This phenomenon is considered one of the taboos in Algerian society, yet it has seen an increase in recent years, for reasons that those concerned trace to the large presence of women in public spaces and outside the home, especially through education and paid work, as well as their performing by themselves the other necessary daily tasks outside the house. Her presence has now become inevitable, and she has come to compete with the man even in positions to which her arrival, with full competence and merit, was not expected.

Because sexual harassment is also regarded as a form of violence and discrimination, it is a behaviour of a sexual bent to which the woman is subjected in society; it is an assault on sexual freedom and on the respect due to the exercise of her function in safety, and it is likewise a breach of the principle of equality between the sexes.

The working woman suffers from this phenomenon through the harassment to which she is subjected in the workplace. Because the essence of the process of sexual harassment lies in the disparity of power between males and females, this disparity is the fundamental point of weakness: the man's strong physiological constitution is a factor that helps him to exploit weak women, as does his knowledge of the nature of the customs and traditions in society and of the insult and contempt to which the woman is exposed when she becomes the object of assault and sexual harassment. These harsh customs accordingly drive the woman to silence and to fear of scandal and of the consequences of disclosing sexual harassment, should she decide to do so.

This fear and silence are what have concealed the true statistics, which fall far short of the reality; a phenomenon passed over in silence by society generates no material in the media and remains hidden, and herein lies its danger to the stability of society, for it is like a hidden disease that gnaws at the human body. Often the woman continues to struggle against this scourge alone and to search alone for solutions and remedies; some are guided to this and succeed according to the circumstances surrounding them, while others continue to suffer until they give up and cease working when they are unable to find solutions that would remove them from this phenomenon. Many working women do not remain continuously in a single workplace; many of them have changed and transferred their place of work.

The researcher Thurayyā al-Tīḥānī pointed to this matter when she addressed the obstacles that face the woman in her entry into work, tracing them to two ways: "The first

consists in the preference of the man over the woman through society's view of the woman as a weak creature, and the treatment of the woman on this basis; in many states, even the advanced among them, the woman's salary is found to be lower than the man's in the same occupation. The second way consists in the man's view of the woman as merely a female, without distinguishing between her position at home as a female and her position in the workplace as an effective partner in the economic and social development of society, forgetting her intelligence, which equals his own. This represents the most difficult obstacle facing the working woman, given the base attempts made by some men to damage a woman's reputation, so that she has before her only three exits: either acceptance, or leaving work, or confrontation by declaring war on the henchmen of corruption"¹⁶.

This phenomenon has effects on the working woman: it brings upon her disturbances in her psychological state and a sense of the violation of her personal and physical life, and she comes to hate work and going to it, which causes her to lose confidence in those around her among her colleagues and consequently affects the working woman's occupational stability.

Anthony Giddens points to the aggravation of this phenomenon in Europe, referring to a report that in the United Kingdom alone 7 out of 10 British women employees have been subjected to sexual harassment in their workplaces by fellow employees or by their superiors during their work, ending with their taking sick leave from work or leaving their jobs altogether to be rid of the disturbances, harassment, and sexual harassment they meet with at work.

The French researcher Robert Mathieu also addresses sexual harassment against women in order to break the wall of silence. He inevitably links it to the existence of discrimination between the sexes, that is, to the mentalities that still govern society, and he traces sexual harassment to the following:

- The disparity of power between men and women is the essence of the process of sexual harassment.
- Sexual harassment is a product of the discriminatory social upbringing between male and female.

A certain mindset about the woman is thereby formed in the man through many structural factors within society, so that the woman is viewed with a sexual gaze, that is, as a sexual

¹⁶ Thurayyā al-Tīhānī, "Women and Work," *Journal of Studies in the Human and Social Sciences* (Majallat Dirāsāt fī al-'Ulūm al-Insāniyya wa-al-Ijtīmā'iyya), no. 22, University of Algiers 2, December 2013, p. 86.

instrument; even when the man accepts the woman in other roles, the sexual role of the woman does not leave his mind¹⁷.

In the Algerian Penal Code, it is defined, according to article 341 bis, as "the exploitation of authority, office, or profession by issuing orders to another, or by threat, coercion, or the exercise of pressure upon them, with the aim of compelling them to comply with one's sexual desires"¹⁸.

Marginalisation

Marginalisation is regarded as another manifestation of discrimination against women. The first to use this concept was one of the founding sociologists of the Chicago School, Robert Park, in a study published in 1928, who saw the emergence of the marginal person, through the movements and migrations accompanying that expansion, as a penetration and fusion of cultures; the outcome of this penetration was the production of a personality type that Park called the marginal man¹⁹.

This concept takes many forms, yet in its import it appears convergent: the marginal person feels a weakness in adapting and integrating into their milieu, whether social or professional. The woman is perhaps one of the marginalised groups in societies, within what is known as the cultural conflict that women experience as a result of the transformation in their traditional role, since the lowly domestic tasks and the employment opportunities available to women in developing countries, whether in the government sector or the various fields of industry, have driven many women to seek work outside the home²⁰.

This concept also took its place under capitalist development, which separates productive activities from reproduction, and under the occupational segregation between the sexes, whereby the woman becomes a reserve labour force always ready to take part in capitalist production for the lowest wages.

This occurs under unsuitable working conditions, where the patriarchal mentality prevails, resulting in women being confined to the home or occupying the lowest positions intermittently and irregularly.

¹⁷ Anthony Giddens, *Sociology*, Polity Press, p. 451.

¹⁸ Law 04-15 of 2004, p. 107.

¹⁹ 'Ubāda Madīḥa Aḥmad and Abū Dawḥ Khālīd Kāzīm, *The Social Dimensions of Sexual Harassment in Everyday Life (al-Ab'ād al-ijtimā'iyya lil-taḥarrush al-jinsī fī al-ḥayāt al-yawmiyya)*, field study, Sohag Governorate, University of Sohag, Faculty of Arts, Department of Sociology, Egyptian Women's Issues Centre; published online at Psychology.sudanfornews.net.

²⁰ Denys Cuche, "L'homme marginal," jeanjaures.over-blog.fr.

Three indicators may be distinguished that are used in studies concerned with explaining the marginalisation of women:

- 1- The low rate of women's participation in economic activity.
- 2- The concentration of women in the informal sector and in service activities.
- 3- The occupational segregation between the sexes and the concentration of women in the least prestigious occupations, together with the associated disparities in income levels between men and women.

Exploitation and dependency

The term "exploitation" is among the terms rejected by feminism, alongside other terms such as "oppression" and "subordination." This hierarchical situation keeps the woman in a lowly position, since in its import it strengthens the oppression directed at the woman. The view common among the general public that "all women are oppressed" means that the absence of choices and submission to oppression represents an initial point for defining the relationship between the oppressor and the oppressed.

This is also what makes the woman convinced of her occupational inferiority, as Muṣṭafā Ḥijāzī sees it, a conviction that has become ingrained in the mentality of the backward human being, built basically upon a class pattern. This conviction in turn leads the woman to lose confidence in herself professionally, generating in her the complex of social incompetence that accompanies the oppressed human being²¹.

In this domain the woman's rights are flagrantly undervalued, and this appears in the failure to give the woman her inheritance and in pushing the woman into secondary occupational positions; the working woman likewise returns from work exhausted only to begin domestic work, while the man withdraws to rest and leisure. This is what has led some to coin the famous phrase, "the woman sought freedom but fell into slavery." It is no easy matter to change her situation without sacrifices and concessions.

Yet the exploitation of the woman is still found in some backward societies to a wretched degree: she remains a commodity to be sold; her father pushes her to work outside the home in return for a wage that he collects, and he is found bartering her for a new wife from the daughter of another person of his own age or older.

After reviewing the roles that the married working woman performs in her life, whether familial or professional, and how she has managed to a great extent to reconcile them in

²¹ Muṣṭafā Ḥijāzī, *Social Underdevelopment: An Introduction to the Psychology of the Oppressed Human Being* (al-Takhalluf al-ijtimā'ī: madkhal ilā sīkūlūjiyyat al-insān al-maqhūr), al-Markaz al-Thaqāfi al-'Arabī, 9th ed., Cairo, 2015, p. 221.

her work despite the obstacles surrounding her that have paralysed a considerable segment of women by driving them to shun the idea of paid work and to content themselves with study alone and devote themselves to the affairs of the home, despite their academic excellence, this shunning is met by the insistence of working women on taking part and entering all sectors of work, and in the majority of cases they encounter problems that make it difficult for them to continue in work. This situation prompted an effort to learn more about the standing of the working woman and to examine her social situation, and accordingly to attempt research and fieldwork.

Conclusion

The profound social and economic transformations that Algeria is witnessing have altered society's view of the woman, from a worn traditional view to a positive one, for the woman's going out to education and then to work has changed the traditional values, despite certain objective and subjective obstacles that have prevented the attainment of the required and desired level among married working women, whether on account of familial burdens or social problems. The married working woman has also managed to preserve the positive values in society and to develop her social relations with those around her, whether family and relatives or neighbours and others, notwithstanding what her role as a homemaker, a mother, and a worker for long hours outside the home imposes upon her.

There are likewise certain obstacles that still stand in the way of the married working woman in the field of work, such as discrimination and injustice against her as a working woman, alongside her suffering from certain reprehensible behaviours and conduct, such as harassment and the exercise of violence against her at times, while acknowledging that these disgraceful practices against her have diminished.

The manifestations of discrimination and of preference between her and males within the family have diminished, and the performance of certain domestic tasks that were regarded as purely women's work has changed, so that men now take part in carrying out these chores. This may perhaps be attributed to the roles that the married working woman has come to perform, as well as to the immense successes that the woman achieves from time to time.

In conclusion, it may be said that the woman in Algeria has benefited from the social and economic changes and transformations under way in the country since independence, for the standing of the human being in general and of the woman in particular develops and improves through successful processes of development; successful development is that

which changes the objective conditions of life and grants people the opportunity to change their circumstances for the better.

Accordingly, the woman has benefited from the development processes under way in the country in many respects. She has been able to enter educational and instructional institutions in force, and day after day she advances into the fields of work and into various activities. The Algerian woman confirms the truth that "women are the greater beneficiaries of the processes of urbanisation," a truth borne out by the data, foremost among them the demographic datum which confirms the woman's superiority over the man, in every country of the world, in average life expectancy; this is always in the woman's favour, by a margin that reaches about two years in Algeria.

In the end, it may be said that the woman is arriving within a procession led by the element of knowledge and learning and surrounded by work, hampered by certain constraints represented in some customs, traditions, ideas, and social practices that are on their way to disappearance and decline with the advance of time. In the tumult of the developments, changes, and transformations that Algerian society is living through, the woman represents the active and pioneering element that leads these transformations and changes in the form of a quiet and silent revolution, whose wager is time and whose weapons are knowledge, work, and patience. The future is bound to fulfil all the aspirations and ambitions of the woman, so that she becomes a member of society just as the man is, with no difference between them except in work and success. This is what one perceives the first signs of in her sweeping entry into fields and domains that were until recently the preserve of men.

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