CHAPTER FIVE

GENDER ISSUES: WOMEN ARE EQUAL BUT DIFFERENT

Of Gender Separation and Inequality

Islamic canonical law, the sharia, regulates human conduct in every aspect from the sublime to the trivial, demanding close attention of the devout Muslim to the ubiquitous doctrines of their faith. Ever-present in daily life, and extending vastly beyond the ritual sphere, Islam demands orthopraxy as much as orthodoxy. Following the correct sartorial code, food etiquette, and physical propriety is as much part of Islamic doctrine as the belief in the oneness of God (tawhid). In some respects draconian, and often strict and uncompromising, the sharia tends to conflict in spirit as much as in substance with many of the features of modern Western society, many of which are unprecedented in human history—such as highly liberalised sexual morals, flexibility in and wide tolerance of diverse behaviour patterns, and a radical secularism, which denies divine omnipotence and supervision, replacing it confidently with a view of the power of human agency. For Muslims living in the West, the secularised juridical ethos with its doctrine of indifference towards religion and rejection of immutable, divinely ordained laws provides as much succour as it poses difficulties. What must also be remembered is that for devout Muslims a breach of canonically prescribed behaviour—even if this seems ‘trivial’ from a non-Muslim point of view such as casual interaction between the genders or the aesthetics of appropriate dress—is in principle much more serious than most Westerners can imagine.

Gender relations in Muslim society are also covered by canonical law, divine ordinance, or prescription. These rules tend to create social patterns that differ distinctly from those created by Western laws and customary forms of behaviour, in many respects creating impressions of gender discrimination. Some of the basic legal perspectives underlying these rules are reminiscent of earlier Western, or European, customs and laws that have long since been repealed. In other respects, Islamic laws at the time of their pronouncement by the Prophet
represented a distinct advance in female rights. For example, the idea that women had rights of property ownership and inheritance was remarkably modern for the seventh and eighth century. However, as Western society underwent dramatic changes, quite a few Islamic legal viewpoints relating to gender now appear decidedly outdated. Today, the West’s perception of Islamic gender relations is a stereotypically very poor one. Islam is perceived to be extraordinarily misogynous, a view for which the evidence is derived not only from a vague and often misinformed knowledge of this faith, but more concretely from a multitude of highly controversial incidents, which have been widely reported in the world media. One of the internationally most repulsive examples of Islamically inspired treatment of women was delivered by Afghanistan’s Taleban regime, fortifying the widespread prejudicial conviction of Islam’s ‘medievalism’. New Zealand is no exception within the Western world. Even in religiously tolerant perspectives, the perceived misogyny of Islam per se is held as a black mark against this religion. The nation has taken a series of gender equality affirming initiatives in recent years, creating a particular ideological climate in which this perception of Islam sits particularly badly.

Here is not the space to review misogynistic cases that moved the world and created headlines everywhere. But, briefly, one of the most drastic examples in recent years was the case of a Nigerian woman, in 2003, who nursed a child born out of wedlock, and who was to be stoned to death. Nigeria’s legal pluralism recognises the legitimacy of sharia law in the country’s Muslim north. Sentenced by a sharia court, this woman was found guilty of adultery, inexplicably so as she seems to have been unmarried at the time of conception. Engaging in illicit sexual acts by unmarried persons is punishable only by a hundred lashings, not by stoning, according to the Quran (24/2). But perhaps the reason for the harsh sentence was that she had seduced a married man and thus became responsible for his adulterous act. One can only speculate, as the father of the baby, the corpus delicti of the crime, seems to have remained totally out of the frame, apparently not held accountable in any way. Little sensible information filtered through

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1 Stoning as a divinely ordained form of punishment for adultery is prescribed only for married persons having sex outside marriage. In any case, to be punishable, the ‘crime’ has to be witnessed by four men or the culprits have to confess.