



جامعة الموصل
كلية التربية للعلوم الانسانية
قسم علوم القرآن والتربية الإسلامية

الاستثناءات الخاصة بالنساء في الأحكام الفقهية

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رسالة ماجستير
في علوم القرآن الكريم والتربية الإسلامية

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المستخلص بلغة الرسالة

(الاستثناءات الخاصة بالنساء في الأحكام الفقهية)
لما كانت الاستثناءات الخاصة بالنساء في الأحكام الفقهية متنوعة ومنتشرة في كتب الفقه ويصعب الرجوع إليها والوقوف عليها جاءت هذه الرسالة لتجمع هذه الاستثناءات المتفرقة في رسالة واحدة كي يسهل على المتعلم حصرها والإحاطة بها.

وجاءت هذه الاستثناءات بحجيات متعددة، تارة يكون الاستثناء من أصل الحكم الشامل للرجال والنساء، وتارة يكون الاستثناء من أصل الحكم الخاص بالمرأة لكن لظرف معين تخرج منه إلى غيره، وتارة الاستثناء من استصحاب أصل الأشياء إذ الأصل في الأشياء الإباحة.

وتألفت الرسالة من مقدمة وتمهيد وفصلين وخاتمة.

تناول التمهيد: تعريف الاستثناء وبيان أنواعه.

وتناول الفصل الأول: الاستثناءات الخاصة بالنساء في العبادات وقد تضمن خمسة مباحث. وعلى النحو الآتي:

المبحث الأول: الطهارة، وفيه خمسة مطالب.

المبحث الثاني: الصلاة، وفيه سبعة مطالب.

المبحث الثالث: الزكاة، وفيه مطلبان.

المبحث الرابع: الصوم، وفيه مطلبان.

المبحث الخامس: الحج، وفيه عشرة مطالب.

وتناول الفصل الثاني: الاستثناءات الخاصة بالنساء في الأحوال الشخصية وغيرها. وفيه ثلاثة مباحث :

المبحث الأول: الأحوال الشخصية، وفيه سبعة مطالب.

المبحث الثاني: الحظر والإباحة، وفيه ثمانية مطالب.

المبحث الثالث: مسائل متفرقة، وفيه مطلبان:

ونذكرت الخاتمة أهم النتائج والتي بلغت اثنتين وأربعين مسألة مبنية على الرأي الراجح فيها.

توقيع مسؤول الدراسات العليا
أ.م.د. صفوان تاج الدين علي

تأييد المشرف
أويد المستخلص في الاستمارة مطابق للمستخلص في
الرسالة

أ.م.د. فواز اسماعيل محمد اسماعيل

Exceptions special for women in the juristic rulings

As the juristic books include all and inclusive juristic sections, for both males and females, starting with religious observances and concluding with judicature and imamate. It is difficult to identify the exceptions related to women from the root rulings or for special circumstances. This obliged me to encompass these exceptions related to women rulings to be easily identified and comprehended.

I have studied these exceptions in various merits. One time, the exception is related to the inclusive ruling that includes men and women, and in another time, the exception is related to the ruling special for women but for certain circumstances she is excluded for another ruling. For another time, exception from accompanying the origin of things for it is originally things are permitted.

The total issues related to exceptions special for women collected from the juristic books in this thesis are forty-three issues. After deep study for these issues and relating to the superior opinions, i found them to be forty-two issues and they are as follows:

1. The lower part of the woman's garment is foregone from dirt if she later walks on a clean dry ground.
2. It causes no harm if there is still a color or smell in the garment of the menstruating woman after being scratched with nails and washed with water.
3. The menstruating, confined or unclean woman needs not unweave her braids when washing.
4. It is forbidden for menstruating or confined woman to read Quran.
5. It is permitted for the teaching or learning menstruating or confined woman to carry Quran.
6. The menstruating or confined woman not to do prayers and not to make up for a missed prayer.
7. Blood emersion from uterus because of sickness, such as womb bleeding between periods, is not a deterrent for prayers nor fasting.
8. Friday prayer is not obligatory for women.
9. Woman's prayer at home is preferable to prayer in mosque.
10. It is permitted for menstruating or confined women to attend Eid place of prayers to listen to speech without performing the prayers for they have their excuses.
11. The woman's jewelry is excluded from chastity (Zakah) if the jewelry is meant for adorning.
12. The woman is not required to do chastity for the marriage amount in arrear unless it is received even if it excesses or surplus the minimum

amount liable for paying out Zakah.

13. The menstruating and confined women are excluded from fasting Ramadan but to make up for missed fasting number of days.

14. The pregnant and lactating women are excluded from fasting if they fear about their health or their infants', but if they do fast then it is sufficient.

15. It is permitted for a fasting woman to taste food for betterment.

16. The woman is not to perform pilgrimage without a male escort even if she financially able.

17. The woman is permitted to wear tailored garments in the state of devoting herself to pilgrimage.

18. Unpleasantness for women to raise their voices in pilgrimage devotional calls but to a level that she hears herself or her companion woman can hear.

19. The menstruating woman is not to perform circumambulation of the Ka'ba for it equals performing prayers.

20. Ittibaa is not permitted for women during circumambulation of the Ka'ba.

21. Alramil is not permitted for women during circumambulation of the Ka'ba.

22. The pilgrim devoted woman not to haste between the two green miles when moving between Safa and Marwa.

23. The women are permitted to do Ifadah from Muzdalifa after midnight.

24. It is permitted for women during pilgrimage to cut their hair.

25. The menstruating woman leaves after Ifadah and to wait until being clean to do farewell encompassing. The same is for the confined woman.

26. Copulation and enjoyment for married couples are permitted except in certain circumstances.

27. The woman can call for divorce in certain circumstances.

28. the widow or a divorced woman in her waiting period can go out when necessary.

29. The right of alimony expires if the woman commits wifely rebellion.

30. Children custody is the right of woman unless she gets married from another man.

31. The woman must complete the waiting period of four months and ten days after the death of her husband even if the act of penetration is not occurred.

32. The woman is mourning period is permitted to perfume when during menstruation.

33. It is permitted to look at a woman for necessity or need.

34. Women are permitted to go out for the benefit of themselves or for the benefit of the community.

35. It is not preferable that women visit graves for they have little patience and high compassion.
36. It is not preferable that women to walk behind funerals.
37. It is permitted for women to attach their hair to non-human hair such as a clothe.
38. Women are allowed to remove facial hair such as beard, mustache.
39. Women are not permitted to perfume outside the house.
40. Women are not permitted to go to public showers but in case of sickness.
41. It is forbidden to abort fetus after having a soul except in case of saving the mothers' life.
42. Women are permitted to trade and other contracts at the time of call for Friday prayer.

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