

GÖTTINGER ORIENTFORSCHUNGEN

III. REIHE: IRANICA

Neue Folge 11

Herausgegeben von  
Philip G. Kreyenbroek

2014

Harrassowitz Verlag · Wiesbaden

Sedigheh Vasmaghi

# Women, Jurisprudence, Islam

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2014

Harrassowitz Verlag · Wiesbaden

Original Title: Zan, Feqh, Eslām. © Nashr-e Samadiye: Tehran 2008.

Bibliografische Information der Deutschen Nationalbibliothek  
Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen  
Nationalbibliografie; detaillierte bibliografische Daten sind im Internet  
über <http://dnb.dnb.de> abrufbar.

Bibliographic information published by the Deutsche Nationalbibliothek  
The Deutsche Nationalbibliothek lists this publication in the Deutsche  
Nationalbibliografie; detailed bibliographic data are available in the internet  
at <http://dnb.dnb.de>.

For further information about our publishing program consult our  
website <http://www.harrassowitz-verlag.de>

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Printed on permanent/durable paper.

Printing and binding: ⊕ Hubert & Co., Göttingen

Printed in Germany

ISSN 0340-6334

ISBN 978-3-447-10178-3

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## Preface

It gives me great pleasure to write this preface to Sedigheh Vasmaghi's book. Sedigheh Vasmaghi is well versed in many fields. She is a Professor at the Faculty of Theology University of Tehran, a scholar in theology and Islamic jurisprudence with a profound knowledge of classical and modern Shi'ite jurisprudence. She is knowledgeable in the history of the women's movement in Iran, and besides all this she is also a poet. In addition to teaching at the University she has published numerous books and articles and given many lectures.

The Persian original of this book appeared in 2008 in Iran in the middle of hot controversies surrounding the new Family Law, which was harshly criticised by many sections of Iranian society as a reactionary measure leading to a deterioration of the legal situation of women in the country. The discourse between state representatives, lawyers, women's activists, Shi'ite jurists and human rights organisations was characterised by arguments based on different concepts of gender and gender roles, but always with reference to Islamic sources and role models. Sedigheh Vasmaghi's book is to be regarded as an important contribution to this discourse; it both influenced it and was influenced by it.

In her book, Sedigheh Vasmaghi argues for a better legal standing for women, and deals on a scholarly level with the problems of interpretation of the Shi'ite legal sources such as the Qur'an and the traditions of the Prophet and the Imams. In doing so she takes up positions that are explicitly opposed to those of the Iranian government, the state Jurists, and to existing Iranian laws. On the basis of a new analysis of the sources, she shows that more gender equality is possible in Islamic law, and that Muslim women have more rights than they are given in Iran. She also takes issue with controversial laws in the area of criminal jurisprudence. Here she criticises the age of criminal responsibility in the Iranian Penal Code, *viz* nine years for girls, as too young. Furthermore, she discusses polygamy, which she considers to be a severe threat to modern family life, and argues for women's right to guardianship and custody of children, as well as for women's right to act as witnesses and judges. Whereas before the Revolution women in Iran could become judges, this right was abolished after the Islamic Revolution in 1979. Today women are only allowed to endorse judgments in family law together with a male judge.

Among the topics discussed in this book, the chapter on polygamy, will be of special interest not only for the reader in the West, but also for the reader in other Muslim countries. In the Family Protection Law of 1974, art. 16, the first wife's permission was a prerequisite for a man's ability to marry a second wife which, in addition, had to be accepted by court. Thus, the husband wanting to marry a second wife not only had to get court permission, which was based among other things on

an evaluation of his financial ability to support a second wife, but he also needed the explicit consent of his first wife. The 2008 draft of the new Family Law merely stipulated the permission of the court as a precondition, but refused to recognise the first wife's right to have a say in the matter. It was this point which aroused most anger and protest among various women's organisations and activists. The chapters of Sedigheh Vasmaghi's book dealing with this question were printed separately in advance and were immediately taken up by the women's movement in Iran. Her arguments, which were based on Shi'ite jurisprudence, were used in the discussion with state representatives, and this finally led to the withdrawal of this draft.

These arguments proved to carry weight in contrast to arguments referring to human rights as laid down in CEDAW (Convention on the Elimination of all forms of Discrimination Against Women 1979) which are not accepted in Iran's public discourse. Iran is one of the few states in the world that has not ratified this human rights instrument for gender equality. While Sedigheh Vasmaghi's views are fully based on Islamic Law, her book is daring because it challenges the ruling discourse of the government and openly criticises many legal texts and rulings as well as prevailing interpretations.

There can be no doubt that this book will be of use for anyone interested in the legal and social discourse in Iran, and also for Muslim women in other Islamic states who might be interested in comparing the discourse in their own countries with that of Iran. Last but not least, it may be interesting for a Western public which currently lacks sufficient information on the challenging and interesting internal discourses in Iran. Sedigheh Vasmaghi's book reflects the discourse of a lively civil society, and a dedicated intellectual elite, on the central issues of Iranian Muslim society.

Irene Schneider, Göttingen, March 2012