

The Philosophy of Maintenance in Islam

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ISLAM, more than 1400 years back introduced laws which showed to be far advanced when compared with the societies 14 centuries ago, and some of these laws concern the Rights of the Family.

Annual statistics reveal the difficulties arising from thousands of births of children born every year without anybody to look after them, thousands of unmarried women becoming pregnant, and thousands of teenagers and adolescents committing suicide.

In Islam, family has a special status. Islam pays a great deal of attention to its initiation, providing it safeguards, seeing to it that family is a point at comfort and relaxation, strengthening the relationship between the husband and wife, protecting the next generation, training the children and restraining from divorce. It is not possible to explain all the laws which assist in guarding and preserving the Rights of the Family in this article, consequently, we will only refer to one of them: Nafaqa (i.e. Maintenance)

Allah lifted from woman the obligation of working to provide for her and support herself and her family. He made this obligation particular for man alone. Even if the woman is wealthy, Islam has dropped from her the obligation of assuming care at anyone with the presence of her husband, it is not required that she spend upon her children unless she seeks to do so as an act of righteousness, kindness and observing blood relations (sel-e-rahim).

This lifting at the obligation of working for the purpose of providing for herself was in order to preserve her from being degraded, as many jobs that are sought to gain livelihood entail humiliation and hardship. Likewise, this responsibility was lifted to preserve her from temptation and mixing with men and this is because of specialization that Allah has made as a law for His creation.

If women were charged to work in order to provide for themselves in addition to their natural duties of pregnancy, childbirth and breast-feeding, this would be an obligation beyond what they could bear and would be an injustice to them, or this work would be at the expense of their natural duties of pregnancy, birth, breast-feeding and raising children. And this is exactly what has occurred in all nations that have deviated from what Allah has made a natural state among His creation.

Maintenance (Nafaqa) is a right which exists throughout a permanent marriage and has to be performed by the husband. This is to say that the husband is duty-bound to provide with his

wife's needs according to her status and that which was common for her in her home and appropriate to the time and place when he is creating a family environment together with the woman. In financial terms he remains indebted to her. These rights don't only apply to women who are unable to provide for their own expenditure.

In fact, the expenditure of the wife remains the responsibility of the husband even if she has a lot of wealth. Expenditure includes things like: foodstuffs, clothes, things necessary for her personal requirements, a shelter, employing a servant for her, etc. However, Islam has not obligated women to work to seek a living and has appointed someone to be responsible for them during the stages of their lives. As a child she is under the care of her father, and this responsibility is not lifted except by her marriage or death;

after she marries the responsibility falls on her husband, if she has neither a father nor a brother, the responsibility falls on whoever is her closest male relative (from whom she would inherit and whom would inherit from her) would assume the role of her father, and if she has not any male relatives, the obligation falls upon the Muslim community. Islamic law has given women the right to own and dispose at her properties without any guardianship over her, so that she could be a full legal personality possessing the full right to dispose at her wealth. Islam provides her with specific sources to acquire wealth like the dowry, inheritance, gifts and all other lawful means for gaining wealth. Unfortunately, nowadays criticism has been made on the issue of Nafaqa to either deprive women of their rights or to make them feel bad about it.

Considering these criticisms, we should take note before hand that in Islamic laws, maintenance like dowry, has a special and peculiar position and status, and so it should not be confused with, or considered the same as what is the case in the situation being witnessed in the non-Islamic world.

If Islam had given the right to man to avail himself of the services of woman, and to consider the returns of her labor and toils and virtually all the wealth that she earned as his own, the object and rationale of manifestation would have been evident. But Islam does not recognize

such a right for man. A woman is given the right of ownership: she can earn wealth, and man is not given the right to appropriate the wealth which belongs to her. Still, it is considered the duty of man to provide the expenses of the family. He should defray the expenses of the wife, the children, the servant, the maid-servant, the house, etc.

What is the reason for it?

Unfortunately, some westernized people are not ready to think these matters over for a moment. They look into our faces and repeat exactly the same criticism about the Islamic systems which westerners repeat about their own systems of rights; and of course, the latter

criticisms are right.

As a matter of fact, if anybody says that the maintenance of woman in the West until the 19th century was nothing but a ration of food, drudgery, and the insignia of slavery, he is right at his criticism. For it was the duty of woman to carry out the housework of man for free and to have no rights of ownership. The maintenance that was given to her was, no doubt, a kind of ration given to a prisoner, or fodder given to a beast of burden.

But if, somewhere in the world, we come across a special law which relieves woman from the compulsory duty of carrying out a man's housework, gives her the right to amass wealth, gives her complete financial independence, and yet exempts her from contributing to the family budget, that law must be based on some other rationale. The pros and cons of that rationale deserve to be fully studied and seriously examined.

In his commentary on the Civil Law of Iran, on page 362, Dr. Shaygan has written: "The right of independence that a woman has concerning her property and assets, and which Shi'ite jurisprudence has acknowledged right from the beginning is not to be found in ancient Greece or Rome or Japan or, till a short time ago, in the laws in most countries. This means that woman has been denied the right to possess her property, just like a minor, a lunatic or someone forbidden by law. For example, in England, where the personality of the woman was wholly obscured in the personality of her husband, two laws, one in 1870, and the other in 1882, were passed under the name of "The Married Woman's Property Act" and thus the interdiction was raised from woman.

As you have seen, it is about one century since the first law concerning a woman's financial independence from her husband (1882 in England) was passed in Europe, and, as they say, the interdiction was raised from married women. But why did Europe suddenly grant financial independence?

You may like to listen to the reply to this question from Will Durant. In his "The Pleasures of Philosophy" he comments upon the reasons to this question. And it is there that we sorrowfully come across a dreadful reality. It is disclosed that the European woman ought to feel grateful for her freedom and her right of ownership to machines and not to man, and should bow her head to the great cogs of machinery, and not before European man.

It was the greed and covetousness of mill-owners pushing them to make more profit and to pay less wages which caused them to put up the draft of the Act for the financial independence of women in the British Parliament. More than 1,400 years ago, Islam passed this law and ordered: "Men shall have the benefit of what they earn and women shall have the benefit of what they earn."

So the Qur'an gave financial independence to women 14 centuries before European women achieved it, with the difference that, first of all, the motive of Islam in giving financial independence to women was nothing but Islam's humanitarian aspect and its sense of divine and communal justice, not like the factory-owners of England, who, in a desire to get more and more profits, got this law passed.

Secondly, , Islam gave financial independence to women, but, according to Will Durant, did not destroy family ties, and did not ruin the basis of the family. It did not set up wives to confront their husbands and daughters to confront their fathers in rebellion and revolt. Islam brought about a great social revolution with these two verses, but quite a peaceful, harmless and safe one.

Thirdly, all that the Western world did, according to Will Durant, was that it relieved woman of the drudgery of her housework and imprisoned her in stores and factories for hard work and toil. In other words, Europe took one set of collars and chains of the body of woman, and stuck on another set, no less heavy than the former ones.

But Islam freed woman from the bondage and slavery of man within his house and outside it on the land, and, by making it compulsory for man to provide upkeep for the whole family, freed woman from all sorts of obligations and impositions on her own spending, as well as the spending of the other members of the family. In the eyes of Islam, woman, despite her having a right in agreement with the human instinct to earn, save and add to her wealth, is in no manner responsible for procuring the necessities of life. These things should not put a strain upon her, and should not deprive her of her pride, beauty and honor, which are .always associated with her peace of mind and tranquility