

The I'sma (Right of Divorce) is for the Man, the Secularists' Pretext in Attacking Islam

Part of the Campaign of "The Family: Between the Challenges and Islamic Solutions"

(Translated)

The relationship between men and women has always been controversial. Muslims enjoy an enlightened understanding of it, and have radical and practical solutions to all that may occur, from the Most Gentle and All-Aware, Allah (swt), so that their societies have been safe and secure. But the capitalists, fleeing the hell of the Church to the dangers of man's desires and human tendencies, have not in any way a firm basis and reference for understanding the nature of men and women, their relationship and their respective roles in life. But this relationship and related roles of the parties and their duties were subject to change according to the whims of the influential and politicians.

Allah (swt) has given the believers the details of the nature of the relationship between men and women, and explained to them the solid foundations on which they are based. So He (swt) sent down detailed Shariah rules for every relationship that can arise between any man and any woman, and any transaction that may occur between them.

Allah (swt) made the family the most important structure in society, and to protect it from collapse and disintegration Allah has sent down the Quran that is recited to the Day of Resurrection. In order to ensure the management and care of the family, it was important to make someone responsible over the family to shoulder this great responsibility and trust in front of Allah and the Muslim society. This person is responsible and has the advantages and authority to suit his duties towards this responsibility. The man was chosen for this responsibility, for the characteristics that Allah gave him, such as the physical abilities, and the obligation on him of spending (for maintenance) and the dowry and to secure the basic needs of the wife; who is exempted by the Shariah from them, and it is for her protection from the hardship of living. So man is the leader of the family and responsible for it.

Allah (swt): ﴿الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ﴾ **"Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth"** [An-Nisa: 34]

This verse is often taken as a "pretext" by the secularist and the advocates of women's rights to attack Islam, under the pretext of oppression of women and inequality with man.

This leadership infuriates the secularists, in addition to another Shariah rule, it makes them claim (concern) over the status of women in Islam! It is I'sma (the right of divorce), which is given to the man, that he is responsible to terminate the marriage or keep it, according to their claim...

Allah (swt) the Wise and All-Aware, who created men and women and knows the nature of their composition, and their tendencies and needs, He (swt) did not neglect the occurrence and problems of the meeting between them and the nature of human beings. So He (swt) provided the law of divorce and did not prohibit it, but at the same time He made it the last solution, to resort to, if the marital relationship is difficult to maintain, and preventing a dignified life where the family strives to please Allah.

The Quran does not mention the divine reason (I'la) for the existence of the I'sma in the hands of men. It is not correct for us Muslims to justify this Shariah ruling rationally or to defend it before others. The rules of Islam are superior and nothing is superior to them. The above is only an explanation of the nature of the family system in Islam.

The leadership (*qawamah*) in which men are preferred over women, means that man is in charge of spending appropriately on the family entity and for its public interest, and man is entrusted with the care of his family members and being in charge of their affairs and he will be

accounted for this on the Day of Judgement, and is charged with protecting and educating them and teaching them Allah's Deen. Therefore, the decision to terminate the marriage contract is given to the man.

Ironically, the capitalist system based on freedoms does not accept other civilizations. Even "the acceptance of the other" that its creators boast about is only an attempt to impose Western regimes and capitalist concepts on the rest of the people of the earth, disregarding their beliefs and cultures that are incompatible with capitalism, through economic conventions and military hegemony.

Secularists attack the rulings of Islam such as polygamy, guardianship and l'sma and others. And their excuse is that: These rules oppress women. It is strange to make such an argument from people who for long have oppressed women, using them for pleasure and limiting their value to their beauty and physical pleasure that they provide, and the economic benefits to the state that they are proud of.

Looking at the status of women in the Western societies, in which secularists boast that she is the example of honoring women, we see women oppressed under the economic wheel that forced them to go out to work to support themselves and their children, they are subjected to various harassment, both from co-workers and officials. And statistics in this area is numerous for those who want to know the truth. As for those who look at the subject through TV screens, and watch drama episodes and compare the "heroines" to the rest of the women of the West, then his narrowed vision and insight is not the fault of Muslims to challenge their Deen.

The ideology that is built on "accepting the other" tries to impose its view on other people. It tries beliefs and cultures from its own point of view. And they say: "If you are not with us, you are definitely against us." In their arrogant mentality, that fears only being different, and the inability to confront, only through murder and terrorism. They do not use arguments or thoughts, just terrorism at all levels to impose a certain point of view.

Secularists do not see man's duty to spend on his wife, even if he is poor and she is rich. They do not see the dozens of verses that talk about marriage and divorce and their details, but they only see that man is in charge and that the l'sma is his right; this partial vision shows the narrowness of the horizon and narrow thinking. These are the advocates of free thought and pure science; they cannot even apply the process of thinking when it comes to Muslims!

Instead of removing their hatred and pre-judgments on Islam, and try to understand the texts and analyze them with partiality, they rushed the answer before the question, and they hearts disbelieved the truth, and they became deaf and blind, and Allah's saying describes them: ﴿فَإِنَّهُمْ لَا يَكْذِبُونَكَ وَلَكِنَّ الظَّالِمِينَ بِآيَاتِ اللَّهِ يَجْحَدُونَ﴾ **"And indeed, they do not call you untruthful, but it is the verses of Allah that the wrongdoers reject"** [Al-An'am: 33]

When Allah (swt) gave the leadership to the man, he gave him a big responsibility, and made the l'sma his right, and this is a major responsibility. Marriage in Islam is not a partnership contract as in capitalism, and it is not just a mere relationship that starts and ends simply, as the secularists think; that have numerous relationships outside marriage. Man looks out for the woman's body and the woman is after his wealth and strength, so their relationship is one of benefit and pleasure.

Didn't the secularists hear Allah's saying: ﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا أَوْ تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيَّنَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا﴾ **"O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good"** [An-Nisa: 19]

They did not hear the Hadith of the Messenger of Allah (saw) narrated by Bukhari and Muslim from Abu Hurayrah (ra): "The Prophet (saw) said: **وَإِنْ اسْتَوْصُوا بِالنِّسَاءِ، فَإِنَّ الْمَرْأَةَ خُلِقَتْ مِنْ ضِلْعٍ، وَإِنْ أَغْوَجَ شَيْءٌ فِي الضِّلْعِ أَغْلَاهُ، إِنْ ذَهَبَتْ تَقِيمُهُ كَسَرَتْهُ، وَإِنْ تَرَكَتُهُ لَمْ يَزَلْ أَغْوَجَ، اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا**" **"Be kind to**

women, they were created from a rib, the highest part of the rib is bent, if you try to mend it will break, and if you leave it, it remains bent, so be kind to women". Imam Nawawi said: "This Hadith is showing kindness towards women and having patience when they show lack of morals, and for having weak minds, and that divorce is detestable without a reason, and not to expect that they will always be on the right path".

And Imam Al-Qurtubi said in the interpretation of the verse ﴿الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ﴾ **"Men are in charge of women..."** to: ﴿وَمَا أَنْفَقُوا﴾ **"what they spend [for maintenance]"** [An-Nisa: 34]

That maintenance (nafaqa) is the reason for given man the leadership and preference over women, if this is abandoned and the husband becomes stingy and doesn't spend with the ability of spending, is not then he no longer in charge over the woman, and it is allowed to end the marriage, for the absence of the reason for this leadership.

Secularists overlook these rules and forget that Islam made l'sma as a choice for men it is not obligatory, a woman has the right to ask for l'sma to be in her hand. So their claim is void from the beginning.

They forget that dowry is the woman's right, and if her husband divorces her, she must be paid all her dowry in full as well as her maintenance during the time of her l'dda period. And that Islam allowed a woman to seek divorce if she was harmed by her husband, such as not fulfilling his right to bed or not spending money on her (because he is miserly).

And they do not see her right to ask for separation in exchange for a payment to the husband if she asked for a divorce without being harmed by him. In Saheeh Al-Bukhaari, it is narrated that Ibn Abbas said that the woman of Thabit bin Qais bin Shamma came to the Prophet. She said: O Messenger of Allah, Thabit ibn Qays is good in his Deen and morals, but I (was not comfortable living with him). Then the Messenger of Allah (saw) said: «أتردين عليه» **"Do you want to give him back his garden (that he gave her)?"** She said: Yes, the Messenger of Allah said: **"Accept the garden back and Divorce her once."**

And in Sunan An-Nasa'i: on the authority of Al-Rabi' bint Ma'ooth, that Thabit ibn Qays ibn Shamas hit his wife and broke her hand, she was Jamila bint Abdullah ibn Ubaiy Ibn Salul, her brother complained to the Messenger of Allah. He sent to him and said: «خذ الذي لها عليك وخل» **"Take what is yours and let her go"**. He said: Yes, **"the Prophet (saw) ordered her to wait for one menstruation and then join her family"**.

These rules, which are too detailed to mention them all, were not from the mind that is overturned by a desire or altered by circumstances. There are not rules concerning men as men or women because they are women, but they are, in general, Shariah rules for human beings, and equality and inequality were not considered, but rather for they were rules revealed for the preservation of society and the protection of the family in the most just manner. And if there is a defect in their application today or the injustice that befell Muslim women from some people, it does not mean at all that the problem is in the Islamic ruling, rather it is due to the non-existence of a state that looks after Muslims and implements the rules of their Lord in the right manner. Whoever ignores this fundamental point in the matter is either ignorant or spiteful and neither of them is entitled to put Islam and its solutions under trial.

**Written for the Central Media Office of Hizb ut Tahrir by
Bayan Jamal**