

The Institution of Marriage in the Balance of the Shariah

(Translated)

Glory be to the One who made the rule of marriage in His creation and life an evidence of His greatness and absolute oneness, and uniqueness in qualities to His (swt) creation that do not derive the strength from within themselves, but need the Creator who gives them a meaningful existence. Allah (swt) says: ﴿وَمِنْ كُلِّ شَيْءٍ خَلَقْنَا زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ﴾ **“And of all things We created two mates; perhaps you will remember”** [Adh-Dhariyat: 49].

From His signs also the creation of the male and female spouses; in the human Allah made them in two parts of the same soul so that each find peace and tranquility in the other. Allah (swt) says: ﴿هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا لِيَسْكُنَ إِلَيْهَا﴾ **“It is He who created you from one soul and created from it its mate that he might dwell in security with her”** [Al A'raf: 189].

Marriage in Islam is far from being merely a legal contract between men and women but rather it is a contract that links their lives with the obedience of Allah and making Him the Most High the Arbiter between them, through the arbitration of His Book and the Sunnah of His Prophet, peace and blessings be upon him. Islam has formulated the system of the institution of marriage and explained the rights and duties of the contracting parties, and distributed roles, costs and responsibilities according to the diversity of composition and characteristics. It is this diversity of distribution that creates balance and complementarity and limits rivalry to bring a general atmosphere of this institution of harmony and integration. Therefore, it was important for those who want to get married to have a clear vision of marriage and understand it as defined by the Islamic legislative system to be qualified to build this institution and make the rules of the Lord their reference in its establishment and treatment and development.

Islam has honoured humankind in general, and granted the woman in line with this view her full rights without requiring custodians to demand it on her behalf, but it granted her the status and imposed on her in return a number of duties. As it is her right to choose a husband, it has given her after the marriage certain rights, including psychological like the good treatment, and soft speech with good relationship and not to be harmed even if the husband hated her. Allah (swt) says: ﴿وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا﴾ **“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].

Good relationship is larger than fondness, it is not necessary that the relationship is based on love, even if the relationship faltered the good treatment remains the connection. The Prophet (saw) said: «اللَّهُ فِي النِّسَاءِ، فَإِنَّهُنَّ عَوَانٌ فِي أَيْدِيكُمْ، أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ، وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ.» **“Fear Allah regarding women, they are hostages under you, Verily, you have taken them as a trust from Allah, and intercourse has been made permissible by the word of Allah.”**

Others are material like the dowry, which is the right of the women at marriage, it is a gift that Allah made an obligation as a symbolic expression of her pride and honour not as her value or selling price. It is given willingly to express the man's desire to associate with her and not in exchange for something she must do except fulfilling the rights of marriage. Allah (swt) says: ﴿وَاتُوا النِّسَاءَ صَدَقَاتِهِنَّ نِحْلَةً﴾ **“And give the women [upon marriage] their [bridal] gifts graciously”** [An-Nisa' 4].

She is also entitled to material maintenance (nafaqa), the husband should concern himself with food and clothing for himself and his wife, within his ability. Allah (swt) says: ﴿لِيُنْفِقَ ذُو سَعَةٍ مِّنْ سَعَتِهِ﴾ **“Let a man of wealth spend from his wealth”** [At-Talaq: 7].

On the authority of Hakeem Bin Mu'awiyah Al-Gishairi from his father, he said, I said: “O Messenger of Allah! What are the rights due to our wives? He (saw) said: «أَنْ تُطْعِمَهَا إِذَا طَعِمْتَ،

«That you feed her when you get food to eat, clothe her when you get clothing for yourself, do not hit her in the face, do not curse her, do not avoid her (for disciplinary purposes) except in bed.” (Narrated by Abu Dawood)

So it is not obligatory for a woman to work to spend on herself, but it is her husband's obligation to meet her needs of food, clothing and housing, etc.

Just as women have rights over men, men have rights over them, with good treatment. Allah (swt) says: «وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ» **“And due to the wives is similar to what is expected of them”** [Al-Baqarah: 228].

An example of the women's rights, a woman is obliged to obey the husband unless it is over a disobedience (to Allah) and to protect his honour and money, and not allow any one that her husband's dislikes to enter the house except with his permission.

The Prophet (saw) said: «ما استفاد امرؤ مسلم فائدة بعد الإسلام أفضل من زوجة مسلمة تسره إذا نظر إليها، وتطيعه إذا أمرها، وتحفظه إذا غاب عنها في نفسها وماله» **“The best thing for a man after his Islam is a Muslim wife: The one who makes (her husband) happy when he looks at her, obeys him when he tells her to do something, when he is away from her, she protects his honour and his wealth.”**

And the guardianship of the man over his family is that of care, due to what Allah has given him of physical characteristics and ability to bear the hardships that women can not bear and because of what Allah obliged on him of financial expenses. Allah (swt) says: «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].

Islam did not leave a matter related to the marital institution without detailing it, so that the couple is guided and know the way. The most beautiful description of this relationship is that it is a companionship of peace and reassurance, its fuel is affection, mercy and good treatment, giving is like taking as long as it is in obedience to Allah (swt). And from the eloquence of the Qur'anic verses is that it has described the contract that binds the married couple as the solemn covenant, because it is a treaty of loyalty to fulfill and continuity and an indication of the strength and solidness of the bond, which is the description of the covenant that Allah (swt) took from the prophets. «وَإِذْ أَخَذْنَا مِنَ النَّبِيِّينَ مِيثَاقَهُمْ وَمِنْكَ وَمِنْ نُوحٍ وَإِبْرَاهِيمَ وَمُوسَى وَعِيسَى **“when We took from the prophets their covenant and from you and from Noah and Abraham and Moses and Jesus, the son of Mary; and We took from them a solemn covenant”** [Al-Ahzab: 7].

This solemn covenant can not be annulled in the light of these delicate regulations which Allah (swt) has bestowed upon us, which dealt with every part of the institution of marriage. These divine rules governing the relationship between the spouses are the pillars of the Muslim family, which is the fortress that is safeguarded and safeguards the society. Why do we reject the law of Allah and accept anything else, we replace the best with the codes for family and personal status and international conventions and treaties?! Why do we refer to man made law based on the whims and emotions of some and achieves the interests and goals of others?!

Finally, we end by making the du'a to Allah (swt): «رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ وَاجْعَلْنَا لِلْمُتَّقِينَ إِمَامًا» **“Our Lord, grant us from among our wives and offspring comfort to our eyes and make us an example for the righteous”** [Al-Furqan: 74].

**Written for the Central Media Office of Hizb ut Tahrir by
Engineer Dorrah Al-Bakoush**