

Males and the Islamic Family System: An Analytical Study of Legislation on Domestic Violence in Pakistan

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Abstract:

This research aims to highlight the nature and purpose of male's role in the Islamic family system. Allah has given a head authority to males to run the family system smoothly. It is tried to describe the biases and reasons of this headship and responsibilities of male members in the Islamic family system. Allah has created male and female with different nature and physical abilities. Males have the responsibility to fulfill the financial matters and upbringing, training of the children and other family members. Female has to manage the household and take care of children. Role of males is very important in the Islamic family system, according to Islamic teachings, they have given the authority of Qawam. The word Qawam means the guardian, head and organizer of family. Under this authority, male has been made responsible to keep an eye over all kind of family matters and if any disorder occurs he has to correct it with wisdom and kindness. Islam emphasis on the strong family system and wants its integrity at any coast . If the wives and children do not follow and cooperate with head of family, then males , as head of family, are allowed to apply some strict action against their wives and children to discipline them. Even Islam has given the permission to a husband a light hitting or beating to his wife if she does not obey her husband. But this action is allowed only for the reform and disciplines of women, any type of tyranny and violence is not allowed. Now days males misuse their authority, they are beating and violating the women as a result the ratio of domestic violence is increasing day by day in the society. To stop domestic violence legislation is made in the Pakistan .this legislation is based on the hypothesis that the males are responsible for this violence against women that is why the status and authority of males has been tried to decrees in this legislation, which will cause the disorder and breakage of family system. In this research paper it is tried to give critical analysis of the legislation on domestic violence in Pakistan in perspective of male's status and responsibilities.

Keywords: males, Islamic family system, domestic violence, legislation, Pakistan

Introduction:

According to Islam, while the purpose of the creation of man and woman is to enhance the beauty of social life, strengthening and stabilizing the family life of human being is also included in its objectives. Because the prosperity of other life systems is related to the stability of family life. The family is the first and basic brick of social life from which the whole society derives its building strength. Islam has a broad concept of family. A Muslim family includes not only husband and wife and children, but also grandparents, maternal grandparents, uncles, aunts, etc. Islam presents a concept of family which is bound by the strong strings of the highest heart feelings and emotions of rights and duties, sincerity and love and sacrifice. makes Islam has paid special attention to the family, so that this institution is made stronger and stronger and a strong, righteous and welfare society is established which guarantees the protection of individual and collective rights and duties. Islam has set separate rights and limits for each member of the family, the jurisdiction of one of them is so wide that only that person is the guardian of the whole family and assigning his responsibilities to other members of the family. He has ordered to do all his work in this scope. In this context, the important character chosen by Islam is the role of the head, that is a male member of family. The guardian can be a father, husband, brother, son, besides any of the Mahram relations of a person.

Islam has given certain powers and responsibilities to the males in the home life by giving them a rank over the woman in order to make the domestic life peaceful and to keep the management correct. No institution can run without a head. Concentration of powers is essential for better performance of any organization. A male has been made Qawam in domestic life due to certain abilities of a man and responsibilities of a woman. Qawam refers to protectors, supervisors and managers and advisors.(1) There are elements of patrimony in men, it is the man who is responsible for the expenses, he protects the system of the house from deterioration, provides the resources and means for the upbringing, care and well-being of the children. The Verse of the Holy Quran explains their responsibilities: “Men are the protectors of women because God has made some of them excel others and because they spend their wealth on them.” (2)

Basis of Qawamiyat (Head)

1. The first base of a man's dignity is his creative superiority that Allah has given to men over women. He has placed more physical strength and energy in them.” God has made some of them excel others.”(3)
2. The second base of male dominance is that men spend their wealth on women and children and manage to provide alimony and other necessities of life.” And because they spend their wealth on them”(4) Maher and other expenditure are also included in it.(5)
3. The third base of headship(Qawamiyat) is that the man has t"he knot of (Nikah) marriage in his hand” the man(the husband) in whose hand lies the marriage knot foregoes it.”(6) He can untie it whenever he wants, while the woman does not have the freedom to untie the knot of marriage whenever she wants, she has to take the path of separation (Khula). She has to satisfy the authorities, convince the elders.

A woman by nature feels happy in the affairs of the house and taking care of the children and is afraid of outside work and hard work and the works of power. In her nature, the substance of obedience is high. While men have superiority over women in terms of intelligence, strength, understanding of affairs, and management. Difficult work, hard work, and sovereign authority are inherent in their nature. They both live together, perform their duties according to their natural attributes. Fulfillment is the cornerstone of good society and both are dependent on each other to maintain a healthy family system.

Limits of protector (Qawamiat)

Islam likes a family system that has order and discipline. Order can be maintained only by a responsible administrator. Giving responsibility and authority within the family does not mean that he has been made an oppressive and tyrannical ruler of the house, and it is also the duty of the woman and other people who are his servants to use their authority for reform, not for abuse. (7)Allah says: "Men are the protectors of women" meaning the guardians, protectors, advisers and guardians of the affairs of woman and other members of the household. These powers are limited in these words: "Live a good life with them" (8). Being a supervisor does not at all mean that he has become the ruler of the house and woman and any of his actions cannot be questioned. A woman is bound by his every command.(9) If viewed from the point of view of biology, the fact is that men are physically different from women and are physically stronger. For this reason, he has been made more responsible and the status given to men is related to rights and not to duties.(10) Teaching discipline is a right and it is a responsibility. If a woman does not pay the rights of a man without reason and violates them, then the husband has the right to teach her manners. Islam has also explained the method of this discipline: "If you are afraid of the rebelliousness of women, explain to them, stay away from them in the bedrooms and beat them".(11)

The first level of discipline is admonition and benevolence in understanding should be based on gentleness and respect. One of the characteristics of the relationship between husband and wife is that there is a kind of love in it. The Messenger of Allah, peace and blessings be upon him, said: "Be good to women."(12)

The second level of discipline is separation from the bed and this discontinuity of relationship should not be outside the bedrooms. Its wisdom is that it should not be expressed in front of people so that the woman's self-esteem is not hurt and it should not be expressed in front of children either, so that children do not disturb in the training. The purpose of this discipline is to correct disobedience, not to humiliate the wife or to cause deformity in the children.(13)

Third level of discipline is if the woman still does not desist, then a light beating is allowed to teach her manners and it is a reprimand that is not severe, which does not harm the woman. And the man is allowed to go to such an extent if the woman's immorality is of such a level that there

is a fear of disintegration of the house and the breakdown of the family system. If the wife misbehaves, does something without the husband's permission or leaves the house, tears the husband's clothes, then the husband has the right to punish the wife physically. (14) And the Muslim jurists have even written that if the life of the wife dies due to the beating of the husband, the *Diaat* (compensation with money) will be obligatory on the husband.(15)

Men have been made guardians for the betterment of family life. He is entrusted with the custody of the affairs of women and children. With the passage of time, the concept of *Qawamiat* has lost its true place. Men have protected their rights, but in the case of women, they have been victims of inflation. Gradually, male dominance and guarding, unnecessary intimidation fear and terror, oppression has become a symbol of neglect of women's rights. People did not understand the reality of this relationship. Nowadays in our society there is a lack of courtesy towards wives. Among the men there are those who use their position as a means of exploiting the woman, that they have the authority of the ruler, considering the woman as a servant instead of a partner, and consider it their right to abuse the tongue and hands. They do physical violence on the woman and make her suffer in different ways. While in Islam, no such cruel form of dispossession of a woman is permissible. The rights of the husband in Islam do not mean that the wife has no status.

Responsibilities of Males according to Islam:

Family matters: Islam has placed the responsibility of guardianship of the family institution on the man based on his natural abilities. Now it is necessary for the man to protect this institution from external and internal sufferings. Headship is not only a right but a great responsibility. Shariah has imposed the responsibility on the head of the family to take care of the, maintenance, marriage, treatment, education and other expenses and necessary matters of his family, manage them properly, make them comfortable.

Financial matters: The maintenance and support of the wife and children is the responsibility of the father. Men provide wealth to women for expenses, that is why they have been made guardians of women. If males do not provide financial support, they will not be eligible for *Qawamiat*. Spending means providing for everything that the wife and children need. House, food, medicine, clothes, it is compulsory (*wajib*) to give even if the wife is wealthy. (16) The religious scholars say that the father is responsible for the male child until he reaches adulthood. And female's maintenance and expenses are obligatory until the girl's marriage. Nowadays, it is a situation that men consider their rights as the responsibility of the wife and do not consider the rights of the wife as their responsibility. If the man will not provide economic support for the woman and the children, then the woman will not be able to focus on her basic and important responsibility of raising children and improving the family by being engaged in the economic field. If the man does not understand the nature of the work of the woman and repeatedly gives her the favor of spending, then it will definitely be harmful for the family system.(17)

Kindness to women: Woman is created with different natural abilities than man. These skills are necessary to fulfill his work and responsibilities. It is the responsibility of society and especially men to respect the natural differences between men and women. Imam al-Ghazali says, "One should be kind to women, tolerating misbehavior on their behalf and tolerating anger on their part is the real good behavior. Prophet Muhammad (pbuh) was also patient with his wives in such cases." (18) If the man does not respect the natural temperament of the woman, he will distort the personality of the woman and the human civilization will be deprived of a healthy society. One should be kind to a woman. Prophet Muhammad (pbuh) used to deal with his wives in good manners, acting according to their age and temperament. When the man is free, he should join hands with the woman in the housework, this is the beauty of society that has been ordered. (19)

Responsibility for Tarbiat (discipline): Males are entrusted with the responsibility of guardianship and protection in family life and it is from this that they will be asked about the family. The personality of the mother as well as the father also influences the children and plays an important role in training in an invisible way. According to the research of a London institution, girls are ahead of boys in emotions, sensitivity, social and cultural ability and social interaction. But this ability does not come from the mother's side but from the father's side. From this research it is also known that the intelligence comes from the mother's side. (20) If there is any tension due to the woman's mood and behavior then the man should understand the woman's mood with courage and adopt such an attitude that does not increase the bitterness, but the men who adopt a strict attitude on the contrary, then they would destroy their home peace. In some families, men consider themselves as possessors of repressive and dictatorial powers according to uneducated traditions and show violence and cruelty to their women every day. The biggest problem facing the world today is violence against women, and the most worrisome of these is women being subjected to domestic violence by men. According to a report, one in every four women is a victim of domestic violence at least once in her life. (21)

Even in our society, family life is becoming very restless and tragic. A woman as a whole is very oppressed inside the house, she needs to be respected in the society. Men have forgotten their religious responsibility and the responsibility of protecting the home. In such situations, legislation is enacted to prevent men and other members of society from committing domestic violence. Legislation against domestic violence was enacted all over the world and Pakistan was also made obliged to legislate on it. Under UN guidelines, 45 countries enacted special laws on domestic violence. According to a survey in 2006, 89 countries enacted interim laws on violence against women and 60 countries enacted special legislation on domestic violence, including Pakistan. (22) In the last few years, legislation on domestic violence has also been enacted in Pakistan, in which various restrictions and punishments have been imposed on the head of the household.

Legislation on Domestic Violence in Pakistan and status of Males:

The bill says now that domestic violence shall mean "all acts of physical, emotional, psychological, sexual and economic abuse committed by a respondent against women, children, vulnerable

persons, or any other person with whom the respondent is or has been in a domestic relationship that causes fear, physical or psychological harm to the aggrieved person.” And so, if passed, the law would be much broader in scope.(23)
The bill says that these actions would be defined as domestic violence:

1. Threats of divorce or second marriage
2. Invasion of privacy
3. Insults
4. Threats to cause physical pain
5. Character assassination
6. Willful or negligent abandonment
7. Stalking
8. Harassment
9. Forcing or compelling a wife to cohabit with anybody other than the husband. (24)

By expanding the type of violence, the new domestic violence bill thus plugs loopholes in the Pakistan Penal Code by making punishable actions not covered in the older law.

The bill recommends punishment of six months to three years in prison and up to Rs100,000 in a fine for domestic violence.

Under this legislation, it has been explained about the safety, freedom and privacy of the housewife and children or dependents that the family head or guardian is not allowed to interfere with these rights. Any kind of threat, threat of divorce, insulting words or disrespect will fall under the category of violence. The definition is further extended to the fact that the guardian cannot, in any confidential manner, obtain information about the character or activities of his wife or children. This action is known as stalking, i.e. getting any information about the activities of the family or their character and relationship or saying it in front of their wife and children has become a crime in itself.(25)

Article 4 prescribes punishments for domestic violence. Imprisonment of six months up to three years and fine up to one lakh rupees has been introduced for domestic violence and at least twenty five thousand rupees will be paid by the guardian to the oppressed wife or daughter or son as compensation. The Kafil (guardian) cannot evict this oppressed or grieving person from the house, but if he wants to, his residence will be arranged separately and the head of family will pay the rent.(26)

If the court feels that the offense of domestic violence is felony, then interim orders regarding residence and security will be issued and the guardian will not have any contact with the grieving person under any circumstances, stay away from him and so on. will remain at a safe distance as determined by the court and will wear a GPS tracker so that the victim cannot be accessed and will also be evicted from his house and the concerned police station will also be instructed to take care of the victim. Protect and support the person during this period of separation, the sponsor will

definitely continue to pay all the expenses, rent, accommodation, etc. Under Section 10, the victim may be placed in the custody of any appropriate person or authority.()

Under Section 15, a Protection Committee will be formed whose duties are given in the section to clarify the rights of the victim.(27)

Analysis:

Islam has given the most emphasis on the strength of family life. It is a fact that love can never be born out of hatred, if the wife and children displace their husband and father and put them in the court and put them in the eyes of the people by putting a "tracker" on them before the decision. If the wife and children are kept at a "safe distance" from him, then the respect of the Kafeel (head of family) and his determination and purpose will be called life. If in this way the son sends the father to jail or the wife sends the husband to jail, will the problem be solved and love will remain intact? Not at all, but the opposite result will be in the form of divorce and separation. When the result is divorce and separation, then divorce or separation should be taken first, what is the purpose of separation after so much humiliation?(28)

Under this law, the foundations of private life will be shaken by disempowering the head house. Under this law, the husband cannot discipline his wife and the father with regard to his children, and it is also a crime that the sponsor who is the head of the house has been presented as an emotionless machine of financial support.

If the parents harass or beat the children, now these children will be able to register an FIR against the parents regarding this law. It did not say who would pay the child's costs in the case. Is the police so good and free of corruption that they will arrest the father on the request of the child? Let's suppose , the father gets arrested and he works on daily wages , Will his arrest disrupt the system of his home? Who will meet the needs of his remaining children? It is not known whether doing so will reduce or worsen the problems.(29)

In this law, everyone is given all kinds of freedom except the head of the house and the head of the house will not have the courage to maintain the stability of the house and the privacy of the private life. In this act, the both, male and female, are basically put into conflict with each other and the cause of domestic violence was declared to be unnecessary restrictions on women and lack of equality between men and women. Freed from all kinds of heads, made self-sufficient and opened doors to jobs, giving them equal status with men. The question is, did the incidence of domestic violence decrease with the advent of this law in these countries? Far from diminishing, the facts on the ground suggest that these incidents are increasing at an alarming rate.

Conclusion:

Islam has paid special attention to the family, so that this institution is made stronger and stronger and a strong, righteous and welfare society is established. Islam has set separate rights and limits for each member of the family, the jurisdiction of one of them is so wide that only that person can

be made the guardian of the whole family and assign responsibilities to the other members of the family ordered to do all their matters according to it. In this context, the important character that Islam chooses is the role of the head, a male member has been appointed as the head of the household. Giving responsibility and authority within the family does not mean that he is made an oppressive and cruel ruler of the house and the woman and other people are his servants. It is also the duty of the leader to use his powers for reform, not for excess. Males are the guardians, protectors, counselors and guardians of the affairs of women and other members of the household. Men are ordered to live a good life with their families, cruelty and excesses are prohibited. Nowadays in our society, men abuse their authority, power and patronage and behave violently towards their wives and children. The rise in domestic violence has led to legislation that seeks to diminish the role and respect of the male guardian. This legislation attempts to destroy the true spirit of the family system of Islam. This legislation is based on the assumption that violence is committed only by men, which is completely wrong and contrary to facts. Under the guise of this legislation, everything that is necessary to maintain the family system has been targeted. The role of the head in the family is very important, he plays an important role in the education and training of the wife and children. He monitors and tries to correct every activity that disturbs the order of the house due to which the atmosphere of the house remains calm and orderly. But in this legislation, this responsibility of the head has been declared as cruelty and coercion and it has been made domestic violence. In the light of this law, the head's job is only to meet the expenses, and then whoever spends is also ordered to stay away from home. Fathers and husbands are protectors, but according to this law, women have been kept away from home and given to police protection. Everyone in Pakistani society knows how the police protect women. Is a woman safe at home with her husband or in shelter homes? The application of this law is increasing the problems of domestic life. This problem needs to be solved through education and training. If the domestic life is to be saved from chaos, then the real concept of Qawam has to be highlighted. There is a lack of connection, harmony and happiness between husband and wife, children and parents. The atmosphere of the homes is devoid of happiness, respect, love, compassion and affection. Islam upholds the rights of both spouses. These rights are generally disregarded, women are treated like servants, children's rights and education are not paid attention to. Men need to pay attention to the aspect that they should protect and respect women and children and take such measures for their family that increase the dignity in this world and the feeling of being present before Allah Almighty prevails in the family. This responsibility is also imposed on the other members of family, that they should keep the respect of their head in mind, obey him in well-known matters and fully support their head of family in performing the tasks that are in accordance with Islamic teachings. Islam also gives the right to the head of the family that if the head of the family feels, based on his knowledge, experience and goodwill, that the family honor will be harmed by such and such person's work or this person will be harmed religiously and morally, So he can stop him from this work by force. Of course, the rights that Islam has given to the individual in a personal capacity, it is not right for the head to fulfill them intentionally or to impose restrictions on individuals regarding their acquisition. There is no justification for this in Islam.

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