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Part Eight: Dowry and Maintenance

One of the oldest customs in the relationships within the human family is that man has acknowledged the rights of the woman to a dower (*mahr*) on the occasion of marriage. He used to pay something of value to the woman or to her father. More over, he was responsible, during the whole period of marriage, for the maintenance and upkeep (*nafaqah*) of his wife and children.

What is the origin of this custom? Why and how did it come into existence? What form does the dower take? Why should the husband pay for the maintenance of the wife? If it is agreed that both the husband and the wife should abide by their natural and human rights, that absolutely just and humane relations should subsist between them, and that man should live with woman entirely in his capacity as a human being, is there any justification for dower and maintenance? Or are dower and maintenance handed down as a remnant from those ages when woman used to be the property of man? Should dower and maintenance be abolished, according to the demands of justice and equality of human rights, especially in the twentieth century, so that marriages take place without the right to dower and maintenance, and should woman bear her own financial requirements, and also share equally in defraying the expenses arising from the children?

We begin our chapter with the topic of the dower. We shall see how the dower came into existence and what its purpose was, and how sociologists have interpreted its coming into existence.

A short history of the dower:

Sociologists say that in prehistoric times human beings led a savage life, lived in tribal groups, and that, for unknown reasons, marriage among blood relations used to be considered taboo. The young men of the tribe who wished to marry were obliged to make the selection of their spouses and lovers from other tribes and for that purpose they had to approach the other tribes to make this choice. In those ages man was not aware of the part he played in the birth of a child. In other words, he did not know that his intercourse with a woman was effective in bringing about the birth of a child. He considered children to be the children of his wife and not his own. Despite the fact that he could see the likeness of his features

in the children, he could not understand the reason for that likeness.

Consequently, men used to consider children, as well as themselves, the children of women. The lineage was constructed by reference to mothers, and not by reference to fathers. Men were considered barren and unproductive and after marriage they lived in the tribe of the woman like parasites, and the woman needed him only for his company and his physical strength. This period according to sociologists, is known as the matriarchal period.

It was not long before man came to know of his part in the birth of children and identified himself as the real person to whom his children were to be attributed. From that time on, he brought woman under his control, and took the position of the head of the family; the patriarchal period, as it is called, began.

In that age, too, marriage between blood relations was not considered admissible, and man was obliged to select his spouse from some other tribe and bring her to his own tribe. As there was always a state of conflict and hostility among tribes, the selection of spouse was by means of abduction, in other words, a young man abducted the girl of his choice from another tribe.

Gradually, peace instead of hostility reigned, and the different tribes could peacefully live together. At that point the custom of abduction became unnecessary, and in order to get the girl of his choice man used to bind himself to the service of the father of the girl and in lieu of the services rendered by the would-be son-in-law, the father of the girl gave his daughter to him, and then he would bring that girl to his tribe.

Eventually the economic situation improved, and man reached the conclusion, that, instead of working for years for the father of the bride, it was preferable to present a worthy gift to him at the time of marriage, and thus obtain his daughter from him. He began to do this, and from here the dower came into existence.

Thus according to the sociologist, in the first period, man lived as a parasite and as an attendant on woman. In that period the woman used to rule over the man. In the subsequent period, when the power fell into the hands of man, he abducted the woman from her tribe. In the third period, in order to obtain the woman of his choice, man used to go to the father of the woman and work several years for him. In the fourth period, man paid an amount of money as a 'present' to the father of the woman, and from here the custom of the dower began.

They say that from the time mankind dropped the matriarchal system and adopted the patriarchal one, man made a woman his slave, or at least his servant or laborer, and looked on her as an economic tool which might occasionally satisfy his passion also, he did not give her any social or economic independence.

The product of her labor was meant for others, namely, the father or the husband. Woman had no right

to select a husband for herself or to commence on her own initiative, or for her own profit, any business for economic or financial amelioration. As a matter of fact, they say, the money that man paid her as a dower, and the money he spent for her maintenance, was in lieu of the economic gain that he derived during the period of his marriage to her.

The dower in the Islamic system of rights:

There is also a fifth period, about which sociologist and theory-makers are silent. This is the period in which man, on the occasion of the marriage, presents a gift to the woman herself. Neither of the presents has any share or right in that gift. No sooner does the woman receive that present from the man, than she attains her social and economic independence. Firstly, she makes the selection of her husband by her own free will, and not in compliance with the will of her father or brother. Secondly, as long as she is in the house of her father, and, likewise, as long as she is with her husband, no one has the right to exploit her for his own benefit. The profits from her work and toil are for herself, and in the matter of her rights she does not need the guardianship of man.

Man, as far as “exploiting” is concerned, only has the right to sexual intercourse with woman in the period in which she is his wife; and as long as the marriage lasts, and man has sexual relations with her, he is responsible for arranging the comforts of life for her, as far as his means allow him.

This period is the very period which Islam acknowledges and it has laid the structure, of marriage on this foundation. There are a number of verses in the Qur’an ordaining that the woman’s dower belongs to her and not to anybody else, and that for the duration of the marriage too, man should be responsible for defraying the expenses of the maintenance of his wife. More over, any profit that a woman earns by way of returns for her work is her own income and not anybody else’s, whether father or husband.

It is now that the question of dower and maintenance becomes a bit of a puzzle. For, when the dower used to belong to the father of the girl, and the girl used to go as a slave to the house of her husband, and the husband used to exploit her, the reason for the dower was in consideration of the purchase of the girl from her father. Besides that, the justification for maintenance was that every master has to bear the expenses of his slave. When it was resolved that nothing was to be given over to the father of the girl, and that the husband had no right to exploit her and derive any economic benefit from her, and that woman was economically independent, and that this independence was to such an extent that, as far as rights were concerned, she was not in need of the guardianship permission and supervision of her husband, why, then, should there be a payment of dower, and an arrangement for her maintenance.

A look at history:

If we want to understand the philosophy of dower and maintenance in the fifth period, it is necessary to divert our attention for a while to the four periods that were listed previously. As a matter of fact, whatever is said on this matter is only a series of suppositions and guesses. These are neither realities

of history, nor scientific facts derived from experiment. A few ideas brought together here and a few philosophical assumptions about man and the universe there, and these suppositions and guesses come into existence. We should not be too much of a hurry to believe all that is said about the matriarchal period, as they call it, nor all the things that are said about the selling of daughters by their fathers and the exploitation of women by their husbands.

In their suppositions and guesses, two things are especially noticeable. Firstly, an effort is made to interpret the early history of mankind as extraordinary cruel, crude and devoid of all human sentiments. The other thing is that nature, which always functions with wonderful planning to reach its objective, is totally ignored.

This kind of interpretation and theory about mankind and nature is acceptable to a person in the west, but for a person in the east, provided he is not under the spell of the west, it has no value. Because of certain special reasons, an occidental does not have a good understanding of human sentiments, so naturally he cannot believe that the spark of human feeling and the warmth of emotion play a basic role in human history.

An occidental's characteristic way of thinking is that when he gets up from the economic side of his bed, in other words, when he sees history from the economic angle, he sees bread alone. Then, in his eyes, history is a machine, and will not budge unless you give it nourishment. When he sees human affairs in terms of sex, humanity and the history of mankind with all its literary, artistic, moral and religious facets and manifestations of glory and intellectual splendour is nothing but the play of sublimated sexual forms. Likewise, if he looks at things in terms of domination and gaining the upper hand, the adventures of mankind seem to be entirely a tale of bloodshed and cruelty.

In the middle-ages, the people of the west saw torture in religion and in the name of religion, they experienced atrocious persecution, and witnessed cases of people being burnt alive. That is why they are afraid of the name of God, of religion and everything associated with it. So despite the fact that they see abundant signs and clear, verified indications of metaphysical purposes that the universe is not left to take care of itself, occidentals rarely venture to acknowledge the real final cause.

We do not ask these interpreters to believe in the existence of the prophets, who appeared throughout history, expounded and heralded justice and integrity, campaigned against deviation, and suffered for the success of those campaigns. We only wish them not to pass by and ignore the conscious role of nature.

There is no doubt that, in the history of the relations of women and men, excessive cruelties and innumerable atrocities have been chronicled. The Quran has narrated the most horrible of them, but still it cannot be said that the entire history of these relations has been one of cruelty and barbarity.

The real philosophy of the dower:

We believe that the introduction of the dower is the result of a very wise plan which is employed in the context of creation to keep a balance in the relations of men and women and to keep them united.

The dower has its basis in the fact that the way of loving of man and woman is different in each of them within the scheme of creation. Those who are spiritually enlightened believe his law to be transmitted throughout all existence. They say that the law of love, the bond of affection, attraction and attractiveness dominates all creatures and all things that exist; with the peculiarity that all creatures and all things that exist are different in so far as every creature has to fulfill a particular role. Thus an earnest longing in one and a calm indifference in the other is the way things are.

The famous Iranian poet, Fakhru'd-Din 'Iraqi wrote:

Who knows what the ecstatic harp of love is
Whose plectrum sets the nine heavens spinning?
There is a secret behind the veil; If you knew it
You would understand behind which allegory reality is to be founded.

It is love which at every instant colors everything else;
In one place, glory; in another submission and need.

Whoever comes as the lover burns with ardor,
Whoever is dressed as the beloved waits with patience?

In connection with the chapter where we stated the differences between man and woman, we said that the natures of the feelings man and woman have towards each other are not alike. The law of creation has ordained beauty, dignity and an element of indifference on the part of woman, and neediness, beseeching, love and serenading on the part of man. The bodily weakness of woman has thus been harmonized with the physical strength of man, and this very thing has caused man to always take the initiative in asking woman's hand in marriage. We have seen before that, according to the version of the sociologists, it was always man who went out in search of woman, even in the matriarchal and patriarchal periods.

Scholars say that man is more sensual than woman. In Islamic traditions it is narrated that man is not more sensual than woman, rather, it is exactly the other way round. However, woman is created with more self-control against her passion, more strength of will. The result of both is the same: man is weaker than woman in controlling his instincts. This peculiarity has always given the woman the opportunity not to pursue the man and not to hand herself over to him so easily. On the contrary, she has always forced the man to court her, and to take steps to win her over. As one of the first steps to seeking her pleasure, and as token of respect for her acceptance, a gift was given to her.

Why is it that individuals of the male sex were competing, disputing and fighting amongst themselves for the hand of a female, and why it is the individuals of the female sex never showed any signs of desire or impatience to take possession of the male sex? It is for the very reason that the roles ascribed to the male and the female sexes are not the same. It has always been the role of the male and not of the female to be the one who asks, and the female sex has never, with any ardent desire, restlessly pursued the male sex. She has always shown herself to be unconcerned and indifferent.

Dower is connected with the modesty and chastity of a woman. Woman has been made instinctively aware that it is necessary for her honor and respect that she should not give herself up freely to the authority of man but should give herself worth.

These are the reasons that made it possible for her, in spite of all her physical weaknesses to draw man to her threshold, and compel men to compete with each other; by withholding herself from the reach of man she created romance. So many *Majnuns* are made to run after their *Laylas*¹ and when she entrusts her body in marriage to man she accepts a present and a gift from the man as a token of his sincerity.

It is said that in some savage tribes, girls who were sought after by several restless suitors and lovers used to persuade them to duel between themselves. The one who defeated or killed his rival used to get the girl.

Some time ago, the daily newspapers in Tehran wrote that some girl had suggested to two boys, her lovers that they should duel here in Tehran. Before her eyes, they fell upon one another with knives.

For those persons who consider power to be limited to only physical strength, and consider the history of the relations of women and men to be entirely a story of cruelty and exploitation by man, it is unbelievable that woman a weak, delicate being has the power to throw members of the strong and powerful sex against one another. Nevertheless, if someone has just a little insight into the skillful plan of creation and the wonderful hidden power that was invented in the being of woman, he will be aware that these things are not strange.

Woman has had a great deal of influence over man. The influence of woman over man has been greater than man's influence over woman. In most of his feats, his bravery, heroism, ingeniousness and individual characteristics, man is indebted to woman and her delicate self-control, indebted to woman's modesty and purity, indebted to her attractiveness. Woman has always built man, and man society. When the modesty, purity and self-control of woman disappear, and woman aspires to play the part of man, man will first of all eat away the dower of woman, then man will forget his manliness, and society will be destroyed.

The same female power, by which she could keep her dignity throughout the long ages of history by not pursuing man by which she could draw him to seek for her at her threshold, by which she could make men fight in rivalry with each other for her hand, by which she could drive men to the degree of killing each other, by which she could guard her modesty and chastity and could keep her body covered from

the eyes of man, by which she could display herself as something mysterious, by which she could be a source of inspiration to man and an instigator of man's feelings of love, by which she could be the motivation of his skills the inspirer of his valor and ingeniousness, and by which she could create in him such emotions as to make him sing her praise in songs of love and adoration and reduce himself to humility, humbleness and insignificance before her, this same power impels man to present her, on the occasion of marriage, with what is called a dower.

The dower is one of the articles of a general character of traditions, the foundation of which is established in creation itself, and has been provided by nature.

Dower as in the Qur'an:

The Qur'an did not introduce and devise the dower in the form we spoke of above in discussing the fifth stage. The reason is that the dower in this form was invented by natural creation. The only work the Qur'an did was to restore the dower to its natural form. The holy Qur'an with unrivalled fineness and sensitivity says:

صدقة

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

And give the women their dower as a gift spontaneous; (4:4).

That is, the women's dowers which belong to themselves (and not to their fathers or brothers) and are gifts and presents from you to them are to be given to them.

The Qur'an has referred to three basic points in this verse: Firstly, dower is referred to as sadaqah with a dhimmah (short 'u') following the letter 'd', and not as the usual mahr. Sadaqah is derived from the root sadaq, and dower is thus sidaq or sadaqa صدقة for it is a token of the truthfulness and earnestness of the affection of the man. Some commentators like writer of al-Kashshaf⁴⁴ have made this point clear. Similarly, according to the opinion of Raghīb Isfahani, in his book Mufaradāt gharib al-Qur'an (The Obscure words of the Qur'an), the reason that, sadaqah with a fathah (short 'a') following the letter 'd' is written saduqah is because it is the sign of sincerity of spiritual faith. Secondly, the pronoun hunna (third person feminine plural) in this sentence means that it is ordained that the dower belongs to the woman herself and not to her father or mother. Dower is not the wages for having brought her up, nursed her and fed her.

Thirdly the word *nihlatan* (willingly, spontaneously, and not reluctantly) makes it complete clear that the dower has no other purpose apart from being an offer, a present, or a gift.

Two kinds of sentiments in animals:

This is not especially the case just for human beings. In all animals who are divided into two sexes, because this is needed for completeness, the male is born more needy, that is, his feelings are more in need of the female than vice versa. This is the reason that, at the time of their mating, the male takes many steps to attract the female and make her accept. It is also instrumental in balancing the relations of the two sexes, so that the male does not misuse his strength, and so that he keeps an attitude of humility and meekness.

Presents and gifts in illicit relations:

Presents are not confined to marriage and the legal relation of wife and husband. When a man and a woman want to take pleasure from each other against the divine law, and want, as it is called, 'free love', even that, it is the man who gives presents to the woman. If they incidentally spend money on coffee, tea or food, the man knows that it is his function to pay the bill. Woman considers it a sort of insult for her to have to pay for man. For a young man, "having a good time" requires money and financial resources, and, for a young girl, it is a source of getting presents. These habits prevail even in unlawful relationships, and the root-cause of this is the different natures of the feelings of women and men towards each other.

European love-affairs are more natural than their marriages:

In the western, world, where, in the name of the equality of human rights, they have altered family rights from their natural form, and have tried, despite the law of nature, to put man and woman in the same situation, and leave them to act out the same roles and to perform the same duties in the family, still, when 'free love', as it is called, appears, and the laws of the land do not change man and woman from their natural course man performs the same function, which is natural to him, of seeking, requesting giving something of value, and spending money. Man presents gifts to the woman, and bears her expenses, in spite of the fact that in European marriage there is nothing like a dower, and, as for maintenance, the burdensome responsibility is left to the lot of the woman. It means that European love-affairs are more in agreement with nature than European marriages.

The dower is one piece of evidence which leads to the conclusion that woman and man are created with different aptitudes, and that the law of creation has bestowed upon them different attributes, according to their natural and innate rights.

Dower and Maintenance 2

In the last section we dealt with the philosophy of the dower and the reason why it came into existence. It will by now be clear that the basis of the dower is the fact that in relations between man and woman different roles are assigned to each of them by the law of creation. It will also be clear that the dower originates in man's feelings of kindness and gentleness, and not from his harsh, domineering and possessive characteristics. The woman's own part in this matter is her characteristic attitude of self-restraint, and not feebleness or lack of strength of will. The dower is a contrivance of the law of creation to raise the worth of woman and to elevate her to a higher status. The dower gives personality to a woman. For woman, the moral value of the dower is greater than its material value.

The customs of the pre-Islamic period that were abolished by Islam:

The holy Qur'an abolished the customs of the "Time of Ignorance" (the pre-Islamic period) concerning the dower and restored it to its original and natural position.

In the pre-Islamic period, fathers and mothers of girls considered the dower as their right in lieu of their services in having brought them up and nursed them.

In al Kashshaf and other commentaries, it is written that when, a daughter was born to someone and somebody wanted to congratulate him, he used to say

هنيئاً لك النافجة

(*hani'an laka'n-nafijah*), that is, congratulations, may she be a source of wealth (lit. a pouch of musk) for you". This was an allusion to the fact that father of the girl would marry her in future and would receive the dower.

In pre-Islamic days, fathers, or, in case they had died, the brothers believed they had the right if guardianship and power over daughters. In the first place, they married their daughters according to their own choice and not according to the will of the girls, and, in the second place, they considered the dower of their daughters to belong to themselves and not to their daughters. They also used to exchange daughters.

The custom was that one man used to say to the other, "I will marry my daughter (or sister) to you in exchange for your daughter (or sister) becoming my wife". The other man, then, would agree to it. In this way each one of the two girls became the dower for the other girl, and was married to the father or brother of the other girl. Such a kind of marriage was called a *shighar* marriage. Islam annulled this custom. The Holy Prophet commanded:

(*la shigara fi'l-Islam*), that is, the exchange of daughters or sisters, is forbidden in Islam.

It is mentioned in Islamic traditions that not only does the father have no right to the dower of his daughter, but that he also cannot put down any other condition in his own interest, although the dower may have been paid to the girl on marriage. This means that the father has no right to any personal benefit from the marriage of his daughter, even though it may be with regard to something different from the dower.

Islam annulled the system whereby the sons-in-law worked for the fathers of the bride, which, according to sociologists, was the custom when there was no system for the exchange of wealth.

The work of the sons-in-law for the fathers of the brides was not only because the fathers wanted to profit from their daughters. There were other causes and motives also, and, quite possibly, it was necessary at one stage of civilization, and, to its own extent, was not oppressive. However, such traditions were certainly practiced in the ancient world.

The story of Moses and Shu'ayb, which is told in the Holy Qur'an, is evidence of existence of such custom. When Moses escaped from Egypt and reached the well of Madyan and the daughters of Shu'ayb were standing with the sheep with nobody paying attention to them, Moses felt sympathy for them and drew water for their sheep. The daughters described the occurrence of that day to their father, who sent one of them to invite Moses to his house. After getting to know one another, Shu'ayb one day told Moses that he wished to give one of those two girls in marriage to him provided he worked for him for eight years, and in case he himself wanted to work for another two years that would be an act of grace.

Thus, he would work for him for ten years; Moses accepted this and he accordingly became Shu'ayb's son-in-law. That was the custom, those days. The reason for it lies in two things. One was the non-existence of wealth. The only helpful thing that a son-in-law could offer to his bride or to the bride's father was probably to work for them. The other thing was the custom of the father giving something to the daughter.

Sociologists believe that the custom of the father giving something to the daughter was an old one. In order to be able to do this, the father took the future son-in-law in his service or received money from him. In practice, all that the father of the girl received from the son-in-law was for the daughter.

Anyhow, this custom was abolished in Islam, and the father of the girl has no right to consider the dower as his property, even in the event that his aim and motive was to spend it for his daughter. It is the daughter herself who has the right to exercise her will regarding that amount. She has the authority to use it in any way she likes. It has been expressly mentioned in Islamic traditions that the kind of dower

just mentioned above is not permissible in Islam.

In the “Time of Ignorance” there were also other customs which practically used to deprive women of their dower. One of those customs was inheriting the wife. In the case of the death of a man, his inheritors, like his sons or brothers, inherited his wives in exactly the same way as they inherited the property of the deceased. After the death of a man, the son or the brother of the deceased assumed that the marriage right was still valid and considered himself empowered to marry the wife to anybody he liked and take the dower for himself, or, otherwise, to take her as his own wife without a new dower on the strength of the dower that the deceased had paid for her in the past.

The Holy Qur’an annulled the custom of the inheritance of the wife. It ordained:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا

O believers, it is not lawful for you to inherit women against their will. (4:19)

In another verse, the Qur’an prohibits absolutely marriage with the wife of the father, even if it is not by way of succession, and even if she wishes to marry of her own free. It is ordained:

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ

And marry not women whom your fathers married. (4:22)

The Holy Qur’an abolished all those customs and practices which were detrimental to the woman’s dower. One of them was that when a man was bored with, and had developed an aversion to his wife, he could maltreat her and subject her to torture. His motive for torturing her was she would agree to a divorce, and he would be able to take back all or part of what he had paid to her as her dower. The holy Qur’an ordered

وَلَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ

Neither debar them that you may go off with part of what you have given them. (4:19)

Another one of those practices was that a man would marry a woman and negotiate a large amount as the dower, but as soon as he was fed up with her and wished to marry a new wife, he would accuse the poor woman of obscenity and tarnish her reputation and then would claim that the woman did not deserve to be his wife from the very beginning and that the marriage should be dissolved, and would claim that the dower he had paid to her be returned to him. The Holy Qur’an took notice of this practice and forbade it.

Islam has its own system of dower

One of the undisputed laws in Islam is that a man has no right over the property or labor of a woman. He can neither order her to do a particular job of work for him, nor take without her permission the money which she may have earned by doing some work. In this respect a woman and a man have equal status, in contrast to what was the usual practice in Christian Europe up to the beginning of the twentieth century.

According to Islam, a married woman is not under the control of her husband as far as her business dealings and her rights are concerned. She is perfectly free and independent in the execution of her business affairs. In spite of the fact that Islam gave woman this much financial independence from her husband and in spite of the fact that it did not assign any right to him over her wealth, over her work or over her dealings, it did not annul the dower system.

This in itself makes it evident that according to Islam it is not the meaning of the dower that the man should derive financial benefit from the woman, and should exploit her physical power. So we arrive at the conclusion that Islam has its own system of dower.

This system of dower and its rationale should not be mistaken for the other systems of dower, and the objections that are reasonable when made against the other systems should not be considered applicable to this system too.

Rule of nature

As we said in the former sect the Holy Qur'an explicitly mentions that the dower is a gift. The Qur'an considers this present or gift to be obligatory. It has scrupulously observed the obscurities of human nature, in order that both man and woman, each of whom has been assigned his or her special role as regards their mutual affections, should not forget that the need for the dower is insisted upon. The role of woman is that she should respond to the love of man. A woman's love is good when it is a reaction to the love of a man, but not as the instigator of that love. An instigating love from a woman that is, a love that begins from the woman without the man has desired her, is bound to fail, and is a cause of the diminishing dignity of the woman. On the other hand the love which develops in a woman in response to the love of a man will neither fail itself nor will it discredit the personality of the woman. Is this because a woman is not faithful and because the love of a woman is unstable and so one should not trust the love of woman?

This is both true and false. It is true when the love originates from the woman. If woman takes the lead in loving a man and makes him the object of her love, the fire of her love is soon extinguished. One should not trust this sort of love. And it is untrue when the fire of the love of a woman is kindled as a reaction to the true love of a man and in response to his sincere love. This kind of love is practically impossible to do away with. It fails only when man's love becomes cold, and then, of course, the

woman's love comes to an end. The love which is natural to a woman is this form of love.

The reputation of a woman for faithlessness comes from the first kind of love, and the tributes that are paid to her faithfulness relate to cases of love of the second kind. If society wishes to place the relations of a husband and wife on a sore footing, there is no alternative but to observe the path that the Holy Quran has ordained. One should keep the laws of nature in view, and should especially remember the respective roles of men and women in the matter of love. The law of the dower is in harmony with nature for the reason that it is the sign and indication of the fact that love started from the man, and that the woman is responsive to his love; and so man, as a token of his respect, presents her with a gift. This is the reason that the law of the dower which is an article of an absolute and fundamental constitution which was drawn up by the Designer of the human disposition, should not be annulled under the pretext of equality of rights for men and women.

As you have seen, the Qur'an made changes only in the customs, practices and laws of the pre-Islamic period in respect of dower, much against the will of the people of those days, while it could have annulled the dower and entirely relieved the people of that burden. So it cannot be said that the Qur'an does not attach any importance either way to the continuance or discontinuance of the dower.

Criticisms:

Now that you are familiar with the Islamic view and its rationale, it is better that you also hear the comments of the critics regarding this Islamic law.

Ms. Manuchahriyan, in her book *Intiqad bar qavanin-e asási va madani-e Iran* (Criticism on the Law and Constitution of Iran), in the chapter that she starts off under the title of "Dower", writes:

"Just as a man must spend money to take possession of an orchard or a house or a mule, so he should spend money out of his pocket for the purchase of a woman, and, just as the price of a house, an orchard and a mule varies according to its being large or small, ugly or beautiful, useful or serviceable, the price of a woman also varies according to her ugliness and beauty and to her being wealthy or otherwise. Our kind and stalwart law-givers have drawn up twelve articles concerning the price of a woman, and their rationale is that if there were no question of money in this matter, the firm relationship or the husband and wife would become weak and would be likely to break up quickly."

Had the law of dower come from foreign sources, would it then also have been the object of so much ill-feeling, false accusation and disparagement? May be a person who wants to buy another person will give him some money; but does that mean that the custom of offering a present or a gift should be abolished? The source of the law of the dower which is made mandatory in the Civil law is the Qur'an. The Qur'an explicitly mentions that the dower is nothing but a gift, a present. Besides that Islam has organized its laws in such a way that a man has no right to take economic benefit from the woman. In such conditions, how can the dower be referred to as the price of a woman?

You could possibly say that Iranians, in practice, do derive financial benefit from their wives. I accept that many Iranian men do. Nevertheless, how is this related to the dower? Men do not say that because they paid a dower, they should domineer over their wives. The domineering of Iranian men over their wives is because of other reasons. Instead of reforming men, why should you destroy the law of nature and encourage evil? In all this talk and commentary there is only one implied motive, and that is to induce Iranians and all orientals to forget themselves, the philosophy of their lives, and their human standards, and adapt themselves to a foreign mould, so that they may be made ready to be absorbed more easily.

Ms. Manuchahriyan says: "If woman is to be economically the same as man, then why should it be necessary to believe in maintenance and dower for her. Just as these precautions and provisions are not made for men, so, in the case of woman also, there should be no occasion for them."

If we examine this remark analytically, it means that in eras when people did not believe in the right of ownership and economic independence of women, dower and maintenance may have been to a certain extent, reasonable, but that if a woman is given economic independence, as this independence has been given in Islam, then there is no reason for dower and maintenance.

These people have supposed that the purpose of dower is only so that, despite her being deprived of economic rights, money should reach her. Would not have been better for them to have referred a little to the verses of the Qur'an, and to have pondered for a while over how the Qur'an has represented dower, and thus got to the core of its rationale? They could then have been proud that the revealed Book which is followed in their country contains such a high level of thought.

In issue no. 89 of *Zan-e ruz* page 71 after stating the miserable condition of women in the pre-Islamic period, and referring to the help given by Islam in this connection, the author of the forty proposals writes: "Because men and women are created equal, the payment of any sum or wages by one to the other has no logic and is not a reasonable thing. Just as man is in need of woman, man is also needed by woman. They are not created indispensable for each other, and are in an equal position in this respect. So, to make it compulsory for one to pay a sum to the other has no sense. Nevertheless, since divorce is in the hands of man, woman has no security for a shared life with man, and so a right is given to the woman that, besides the trust in the person of the husband, she may demand a sort of economic assurance and guarantee from man."

The same author writes on page 72 that if section 1133 of the Civil Law, which says that a man can divorce his wife any time he pleases, is amended, so that divorce does not depend on the sweet will and fancy of man, dower will completely lose the rationale for its existence.

All that we have said up to this time clearly shows the groundlessness of these ideas. It was made clear that dower is not a sum or wages, and that it is quite reasonable too. It is also evident that man and woman in their mutual need for each other are not alike, and that creation designed that they exist in two different modes.

The most fallacious of all is the reasoning of the above mentioned author who has interpreted dower as a financial security against man's right of divorce. He is altogether wrong to have claimed that the cause of Islam's ordaining the dower is this.

Such persons should be asked whether Islam, gave the right of divorce to man, so that woman should be in need of financial security, besides that, it would mean that the reason the Holy Prophet gave a dower to his wives was that he wanted to give them a financial security against himself. Similarly, it would mean that on the occasion of the marriage of 'Ali to Fatimah, he stipulated a dower for her so that he might obtain a financial security in favour of Fatimah against 'Ali, and thus find a source of confidence.

If it were so, why did the Holy Prophet advise women to give back their dower to their husbands and mentioned divine rewards for this? Besides that, why did he advise that the dower of a woman should as far as possible not be too much? Was there any other object in the eyes of the Prophet other than that the presenting of gift called the dower by the man, and the giving back of the dower or something equivalent to it by the woman to the man should be a source of an increase in the affection and firmness in attachment between the husband and the wife?

If Islam's aim was that the dower should serve as a financial security, why does it say in the revealed Book:

And give the women their dowers as a gift spontaneous

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

and not, *And give the women their dowers as a security.*

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ وَثِيقَةً

Above all, the writer of the forty Proposals thinks that the custom and practice of dower at the beginning of Islam was the same as it is now. Nowadays, no doubt, the practice is generally that the dower has an aspect of a guarantee and an undertaking, that is, the man makes an agreement for a certain amount in the form of dower, but the woman does not generally demand it, except on the occasion of a difference or dispute that might arise between them. This kind of dower can transform itself into a security. In the early days of Islam, the practice was that the man used to give as a dower in money or in kind, anything that he undertook to part with. So it cannot be said that the object of Islam on ordering the dower was to provide woman with a financial security. History shows evidence that the holy Prophet was never ready to hand over a woman to a man without the payment of the dower.

An incident is reported with a slight difference between the Shi'ite and the Sunni books that a woman

came to the Holy Prophet and stood before the gathering. “O Messenger of Allah,” she said “accept me as your wife.” The Holy Prophet, in respect of the request of the woman, kept silent and said nothing. The woman sat down in her place. One of his companions stood up and said, “O Messenger of Allah, if you are not ready I am prepared to accept her as my wife.”

The Holy Prophet asked: “What would you submit as a dower?” “I have not got anything” was the reply. “This cannot be. Go to your house; perhaps you will find something there to give as a dower to this woman,” The Prophet said. The man went to his house, came back and said, “I could not find anything in my house”. The Prophet said, “Go again and look well, If you can find a metal ring, even that would suffice” said the Prophet. He went twice and came back and said, “I cannot find even a metal ring in my house. I am ready to present her with the clothes that I am wearing as her dower”. Another one of the companions, who knew the man, said: “O Messenger of Allah, by Allah, this man has no other clothes except those he is wearing. So half of the clothes may be assigned as the dower of the woman”.

The Prophet said: ‘If half of these clothes are to be the dower of the woman, who will wear which half? If one of them wears them, the other will remain undressed. No, it can not be like this.’

The man who had made the request sat down The woman also waited in her place. The gathering took up some other topic and the discussion lasted for a long time. The man who had requested the hand of the woman started to go away, but the Holy Prophet called him.

“Come over here!” He came.

“Speak, tell me, can you recite the Qur’an?”

“Yes, O Messenger of Allah, I can recite some of the surahs.”

“Can you recite from memory?”

“Yes, I can.”

“Very good. Now it is all right. So I marry this woman to you and her dower will be that you teach her the Qur’an.”

The man took the hand of the woman and went away.

There are many other things which could be said concerning the dower, but we will close our discussion at this point.

Dower and Maintenance 3

We have stated the Islamic view of dower and the rationale of dower. Now it is suitable time to discuss the subject of maintenance.

We should take note beforehand that in Islamic laws, maintenance, like dower, has a status and position special and peculiar to it, and so it should not be confused with, or considered the same as what is the case in the situation that was or is now 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

maintenance would have been evident. The reason would have been obviously, that if some person makes use of an animal or another person to derive some financial benefit, he should necessarily provide the expenses for that animal or person's livelihood. If carter does not give grass and oats to his horse, the horse will not draw his cart for him.

However, 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 for 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 this?

Unfortunately our westernized people are not ready to think these matters over for a moment. They look into our faces and repeat exactly the same criticisms about the Islamic systems which occidentals 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 man in the west until the nineteenth century was nothing but a ration of food, drudgery, and the insignia of slavery, then he is right in his criticism. For if it was the duty of woman to carry out the housework of man for free and to have no right 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 homework, gives her the right to amass wealth, gives her complete financial independence, and yet still 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.

The repression of European women up to the second half of the nineteenth century:

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 beginning is not to be found in ancient Greece or Rome or Japan, or, till a short time ago, in the rights of most of 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. 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. In Italy in 1919 AD, a law removed woman from the category of interdicted persons. In the Civil Law of Germany after 1900, and in the Civil law of Sweden after 1907, a woman has had the same legal capacity as her husband.

"However, a married woman in Portugal or France is still on the list of interdicted persons, although Act

18 of February 1938 in France has amended the limits of the interdiction.”

As you have seen, is still under a 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.

Why did Europe suddenly grant financial independence?

Now, how was it that a century ago such an important event happened? Did the human feelings of the men of Europe suddenly come to the boil, and the oppressiveness of their treatment becomes revealed to them?

Listen to the reply to this question from Will Durant. In his *The Pleasures of Philosophy*, he begins an inquiry under the heading “Reasons”. There he comments upon the reasons why freedom was granted to the women of Europe, 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.

A century ago, in England men found it hard to get work but placards invited them to send their wives and children to the factory gate. Employers must think in terms of profits and dividends, and must not be distracted by the considerations of morals, institutions or states. The men who unwittingly conspired to destroy the home were the patriotic manufacturers of nineteenth – century England.

“The first legal step in the emancipation of our grandmothers was the legislation of 1882, by which it was decreed that there after the women of Great Britain should enjoy the unprecedented privilege of keeping the money they earned. It was a highly moral and Christian enactment, put through by the factory-owners in the House of Commons to lure the ladies of England into attending upon their machines. From that year to this the irresistible suction of the profits motive has drawn women out of the drudgery of the home into the serfdom of the shop.” (pp. 131 — 132)

As you see, it was the capitalists and mill-owners of England who, simply for their material gain, took this step “in the interest of women.”

The Qur’an and the financial independence of woman:

One thousand four hundred years ago, Islam passed this law and ordered:

لِّلرِّجَالِ نَصِيبٌ مِّمَّا اكْتَسَبُوا ۖ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا اكْتَسَبْنَ

To the men a share from what they have earned, and to the women a share of what they have earned. (4:32)

In this verse the Qur'an considers men to have a right to the fruits of their labor and efforts. In exactly the same way it considers women to have the right to the fruits of their labor and efforts.

In another verse the Qur'an ordained

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ

To the men a share of what parents and kinsmen leave, and to the women a share of what parents and kinsmen leave. (4:7)

It means that for men there is a share in the wealth which their parents or relatives leave behind at death, and for women there is a share in what their parents and kindred leave behind on their death.

This verse has established the right of inheritance of women. There is a long history regarding the dispute as to whether woman has a right of inheritance or not, to which we will refer, if God wills, afterwards. The Arabs of the pre-Islamic period did wish to grant the right of inheritance to women, but the Holy Qur'an firmly established that right.

A comparison

So the Qur'an gave financial independence to women thirteen 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. In the case of Islam there were no such initiatives as the avarice of the factory-owners of England, who, in a desire to get more and more profits, got his law passed, and then trumpeted through-out the world that they had given official recognition to female rights and had acknowledged the equality of the rights of men and women.

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 house work and imprisoned her in stores and factories for hard work and toil. In other words, Europe took one set of collars and chains off 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 for the upkeep for the

whole family, freed woman from all sorts of obligations and impositions on her own spending, as also 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.

Anyhow, what can we do? The eyes and ears of some of our writers are too tightly closed for them to think over these in disputable historical and philosophical realities.

Criticism and reply

Ms. Manuchihiyan in her book criticizing the constitutional and Civil law of Iran says on page 37:

“Our Civil Law requires, on the one hand, that a man give maintenance to his wife; that is, he should provide for her dress, food and dwelling. Just as an owner of a horse or mule provides for its food and stabling, so the owner of woman should make her reach this lowest standard of livelihood. On the other hand, it is not clear why in Art. 1110 of the Civil Law it is particularly mentioned that during the period of *‘iddah* after the death of the husband (a period during which the widow may not remarry) the woman is not entitled to maintenance.

On the occasion if the death of her husband, a woman badly needs sympathy and condolence and naturally she wants that, after the loss of her owner, she should not be put to financial difficulty and distress, You may possible say, ‘You are so fond of freedom and you wish that you should be equal to men in all respects, so why should you desire here that a woman should remain the ration-eater a slave of man, and that man should have kept in view that after his death also her capacity as a ration-eater should continue?’ We in reply say that in accordance with the same rationale of the slavery of woman on which foundation the structure of this Civil Law is raised, it was proper that the law-makers should themselves have taken measures to provide for the maintenance of the woman, and that the law should have been compassionate on this subject”

We ask this author from where in the Civil Law of Iran and from where in the law of Islam, (or according to her that philosophy of female slavery) she has discovered that man is the owner of woman, and that the cause of man’s giving maintenance to woman is that woman is the property of man? What kind of owner is it who is not entitled to ask his slave to give him a cup of water? What kind of owner is it whose slave may do any work for the slave’s own benefit and not for his owners? What sort of owner is it whose slave may demand, if she wants, wages for the smallest piece of work the slave does for him? What kind of owner is the man who he has no right to force his slave to suckle his baby for nothing, the child she has herself begotten in the house of her owner?

Secondly, is everyone who is maintained by some other person his slave? According to Islam, and according to every law, it is the obligation of the father, or the father and mother, to maintain their

children. Does it follow that under every law of the world, children are considered as the slaves of their parents? According to Islam, the father or mother, if they are destitute, must be maintained by their sons, without the sons being entitled to impose their will upon them. Should we say that Islam considers fathers and mothers the property of their own sons?

Thirdly, and most surprising of all, is that she asks: Why, during the period of 'iddah after the death of the husband maintenance is not obligatory, whereas the woman at that time is most needful of the money of her husband.

It seems that the worthy author lives in the Europe of a century ago. The basis of the maintenance of the woman by the man is not her need. If, according to Islamic laws, a woman, as long as she lives with her husband, has no right of ownership, it would be right that immediately after the death of her husband, the condition of woman is disturbed. But when a law which gives the right of ownership to the woman, and says the woman can keep her own wealth, even though all her expenses are met by her husband, why should it be necessary that after the household is disturbed, the woman should, for a period continue to get maintenance. Maintenance is a gift for a man's household, but when the household itself is shaken up, it is not necessary that this right should continue.

Three kinds of maintenance

In Islam there are three kinds of maintenance:

The first kind is what an owner should spend on what is owned by him. The expense incurred by someone who owns animals comes under this heading. The basis of this kind of maintenance is ownership, and the fact of being owned.

The second kind is the maintenance which a person spends for his children, when they are under-age or without any resources, or which he spends on his father and mother when they are in need. The basis of this right of maintenance is not ownership and the state of being owned, but these are the rights which the children naturally have from the persons who are responsible for their coming into existence, and the right which a father and a mother have on account of their sharing in the birth of their sons and on account of the sufferings they underwent during the upbringing of their sons. This maintenance depends upon the inability of the person whose maintenance is obligatory.

The third kind of maintenance is that which a man spends on his wife. The basis of this maintenance is neither the link of ownership and of being owned, nor the natural right mentioned in connection with the second kind, and neither does it depend on incapacity, inability or poverty.

Suppose the wife is a millionaire and has an enormous income, and the husband has fewer resources, still the husband has to arrange for the family expenses and also the personal expenses of the wife. The difference which this kind has with the first and the second kind is that if the man who is under the obligation does not perform his function as regards the first and the second kind, and does not give the

maintenance, he is a sinner; but non-fulfillment of that function does not take the form of a recoverable debt or of a legal liability.

In other words that default creates no legal cause of action. But in the third kind, if someone having that duty ignores it, the wife is entitled to take precedence against him in a court of law, and, if he is proved to be in fault, to recover the maintenance from the man. What is the basis for this kind of maintenance? We shall discuss this thing in the next section.

Does modern woman not want a dower or maintenance?

We have pointed out that, according to Islam, it is the function of the husband to provide for the family expenses, including the personal expenses of the wife, and that the wife has no liability in this respect. The wife may have enormous wealth and may possess many times more wealth than the husband does, but still she has no obligation to contribute towards the family expenses. The contribution of the wife towards family expenses in money or in the form of work is optional, and depends upon her own will and inclination.

Despite the fact that the expenses of the wife are a part of a family's expenses and are the responsibility of the husband, he, in view of Islam is not entitled to take financial benefit from, or to have a share in the proceeds of the wife's labor and earnings. He cannot exploit her. The maintenance of the wife, in this respect, is like the maintenance of a father and mother which, in certain circumstances, it is the duty of a son to provide, but in lieu of the fulfillment of which the son is not entitled to any right in return for the services he has rendered.

An advantage to women in financial matters:

Islam has given women an unprecedented advantage in financial and economic matters. On the one hand, it has given her full financial independence and freedom, and has prevented man from having any power on her property and work. It has taken away from man the right of guardianship over the affairs of woman, such as existed in historical times and was customary in Europe up to the beginning of the twentieth century. Over and above that, by freeing her from the responsibility of family expenses, Islam has exempted her from any liabilities or obligations to run after money.

When those who worship the west wish to criticize this law, in the name of protecting women, they find no alternative except to have recourse to the invention of a bold lie. They say that the reason behind maintenance is that man considers him the owner of woman and engages her in his service. Just as the owners of animals are obliged to bear their expenses so that they may ride the animals, or so that the animals will carry loads for them, the law of maintenance has demanded, for the same purpose, the provision of the lowest, hand to mouth subsistence for woman.

If somebody were to take upon himself the task of attacking Islamic law with the criticism that this law

has unduly favored woman and is not fair to man and has treated him as a wageless attendant of woman, he could more plausibly bring forward arguments in favour of his plea and give it an ostensibly more realistic form than the person who attempts to criticize this law in the name, and for the protection of, women.

The reality is that Islam does not seek to devise a law in favour of women and against men, nor in favour of men and against women. Islam is neither a partisan of woman nor of man. In its laws, Islam has kept in view the prosperity of the woman and the man, and the children who are to be brought up under their care, and has, in the long run, kept the prosperity of all human society in view.

According to Islam the prosperity of men, women, their children and the whole of human society depends on the condition that the rules and laws of nature, which are conditioned and shaped by the strong and prudent hand of the Creator, should not be blindly acted upon, without any sight into their wisdom.

As we have repeatedly mentioned, Islam has always observed the rule that man is a symbol of humility and need, and woman a symbol of needlessness. Islam recognizes man as a purchaser and woman as the owner of necessary goods. In the eyes of Islam, when the married couple lives together, it is the man who should consider himself the beneficiary and should bear the family expenses. The man and the woman should not forget that in the matter of love two different roles are assigned to them. The union will be stable, firm and harmonious only when the man and the woman behave within their natural roles.

Another reason why the maintenance is obligatory on the husband is that the pain, suffering and loss of energy involved in the birth of the next generation is left by an act of nature to be supported by the woman. Man's natural function in this connection is only an act of pleasure and nothing more. It is the woman who is incommoded by menstruation who undergoes the burden of the period of pregnancy and the indispositions peculiar to it; it is she who bears the hardships of childbirth and the resultant dangers; it is she who nurses and takes care of the child.

All the above mentioned things drain the physical and nervous strength of the woman, and sap the energy which she could have spent in work and earning money. In the face of these hard facts, it were decreed that man and woman should be equally responsible for contributions to the family budget, and if the law did not come to her support, woman would be placed in a pitiable situation. These are the reasons that even among animals who live in pairs the male always stands in support of the female and helps to find food for her during her period of confinement when she gives birth to the offspring.

Besides that, man and woman are not created the same as far as their power to perform difficult, economically productive work is concerned. If there is a case of estrangement and the man takes a stand against the woman and says that he will not spend even the least amount of his earnings on her, the woman is never able to earn a sufficient amount to reach the standard of the earnings of the man.

Leaving aside all the above everything else is the fact that woman is in need of more money and wealth

than man. Articles of luxury and ornaments are the primary needs of a woman. What a woman spends on articles of luxury, on make-up and self-adornment is equal to the expenses of many men. This inclination towards adornment creates by itself an inclination towards variety and fancy in woman. For a man, simple clothes, as long as they are fit to be worn and are not old and worn out, will do, but for a woman what is the case? For a woman! dress is fit to be worn as long as it is to display some few charm. I often do we with, that a dress or some jewelry should have more value for a woman than merely to be worn once! The energy and effort of a woman in earning wealth is less than that of a man, but a woman's sagacity to spend wealth is many times more than a man's.

Besides that, in order for a woman to remain a woman that is, to maintain her beauty, her elegance and ride, a much more comfortable, peaceful, and easy-going life is required, and fewer worries about necessities. If women were obliged like men to be always in search of and looking for resources and running after money, her pride would dwindle, and those wrinkles and knots would appear on her face which economic worries cast even on the face and forehead of man. It has been heard very often that those poor western women who are obliged to struggle for their livelihood in workshops, factories and offices, envy the life of eastern women. It is evident that a woman, who has no peace of mind and does not find time to attend to herself will also not be a source of delight and happiness for her husband

The result is that not only is it proper for the woman, but rather it is in the interest of the man and the well-being of the household also, that she should remain exempt from the compulsory struggle to finding the means and resources for living. Man also desires that his home should be a place of tranquility, a place for rest fatigue where the worries of the outside world may be forgotten. His wife has the power to make the home a place of repose and tranquility and a place to forget anxieties and worries, and she herself should not be exhausted and worn out by the fatigue caused by the outdoor tasks a man is required to do. How pathetic is the condition of a man who enters his house and finds his spouse more tired and more weary than he himself. Thus the wife's comfort, well-being, happiness and peace of mind are of abundant value for the husband also.

The secret of a man readily giving money to his wife, the money which he brings home after strenuous labor and hard work, to be spent by her liberally as she likes, is that the husband understands that his spiritual needs are with his wife. He has realized that God has placed in his wife the source of his comfort and the solace of his spirit

وَجَعَلَ مِنْهَا زَوْجَهَا لِيَسْكُنَ إِلَيْهَا

And made of him his spouse that he might rest in her. (7:189)

He has understood that the better the arrangements he makes for the requirements, comforts and tranquility of his wife, the better indirectly, he makes his own happiness and the comforts of his own home. He has come to understand that out of the two married people at least one should not be under

the strain of struggle and fatigue, so that that one may be the source of comfort to the spirit of the other. In this division of work, the one who is more competent to step into the struggle of life is man, and the one who can better comfort and tranquilize the spirits of the other is the woman.

Woman is created in need of man in the material and financial aspects of life, and, likewise, man needs woman on the spiritual side. Without dependence upon man, woman cannot defray the expenses of her excessive material requirements which are many times those of man. Due to this, Islam has specified the woman's legal spouse as the only centre of her independence.

If woman wished to live as she desired but not to depend exclusively on her legal husband, she would have to depend upon other men. This is unfortunately the case. Examples are easily found and the number is on the increase.

The purpose of propaganda against maintenance

The women-hunters have understood this point, and one of the reasons for the propaganda against the maintenance of wife by her husband is this very thing. If excessive demands for money by the wife culminate estrangement, the woman can easily fall prey to the huntsman. If you look into the extravagant rationale behind rights that is being inculcated in the minds of women in certain institutes and organizations you will see exactly what I mean.

There is not the slightest doubt that the annulment of maintenance is a cause for the increase of promiscuity.

How is it possible for a married woman to separate the conduct of her life from man, and to manage her affairs according to her own preferences?

If you want to know the true position, it is the anxiety also of those men who are tired of the sumptuousness and extravagance of their wives which is a factor helping the movement to annul maintenance. These people desire that, in the name of freedom and equality, and by the endeavors of women themselves to attain these goals, they should take their revenge on women for their luxuriousness and extravagance.

In *The Pleasures of Philosophy*, after he has defined modern marriage in the words, 'legal marriage, with legalized birth control, and with the right to divorce by mutual consent for childless couples, usually without payment of alimony' (p. 150), Will Durant says: "Very rapidly the luxurious ladies of the bourgeoisie are bringing down upon all their sex the revenge of the tired male; marriage is changing to a form that will not tolerate the unproductive women who are the ornament and horror of so many expensive homes; the men are inviting their modern wives to earn for themselves the money which they are to spend. For companionate marriage provides that until maternity is in the offing, the wife shall go to work. Here hides the joker by which the liberation of woman shall be made complete: she shall be privileged henceforth to pay her fare from A to Z. The Industrial Revolution is to be carried out to its

logical and merciless conclusion, woman is to join her husband in the factory; instead of remaining idle in her bower, compelling the man to produce doubly as a balance to her economic sterility, she shall become his honored equal in toil as in reward, in obligations as in rights.” (*ibid*, p. 151)

Wealth in place of husband

The point that the natural functions of a woman in giving birth to children necessitate that in monetary and economical matters she should have something to rely upon is not something which can be denied.

In today's Europe there are persons who, in support of woman's freedom, have gone to the extent of advocating the return of the matriarchal system and banishing the father altogether from the family circle. They believe that with the full economic independence of woman, and her equality to man in all respects, man will, in future, be considered an extra limb, and will be dropped from the family forever.

Quite simultaneously the same individuals invite the state to come forward as a substitute of the father. To mothers who would never be able to establish and form a family and perform all the necessary duties single-handed, the state, they say, should make grants of financial assistance, so that they do not need to refuse to become pregnant, and the continuation of society in the next generation may not be interrupted. In other words, the mother of a family who lived on maintenance, and, as those who attack this position put it, has been the property of her husband, will henceforth live on the maintenance of the state, and will be the property of the state. The duties and the rights of the father should be transferred to the state.

How sincerely we wish that those individuals who, with a pick-axe in their hands, blindly and indiscriminately demolish the equilibrated structure of our sacred homes which has its foundation in the sacred revealed law could think over the consequences and could look ahead of them and see the light ahead of them.

In his book *Marriage and Morals*, Bertrand Russell discusses certain cultural interferences and the welfare works of the state. Concerning children he says:

“There is another powerful force which is working in the direction of the elimination of the father, and this in the desire of women for economic independence. The women who have been most politically vocal hitherto have been unmarried women, but this state of affairs is likely to be temporary. The wrongs of married women are at the moment much more serious than those of unmarried women...There are two different ways in which married women might acquire economic independence. One is that of remaining employed in the kind of work that they were engaged upon before marriage.

This involves giving their children over to the care of others, and would lead to a very great extension of creches and nursery schools, the logical consequence of which would be the elimination of the mother as well as the father from all importance in the child's psychology. The other method would be that women with young children should receive a wage from the State on condition of devoting themselves to

the care of their children. This method would, of course, be not alone adequate, and would need to be supplemented by provisions enabling women to return to ordinary work when their children ceased to be quite young. But it would have the advantage of enabling women to care for their children themselves without degrading dependence upon an individual man.

“Assuming such a law to have been passed, its effects upon family morals will depend upon how it has been drafted. The law may be so drafted that a woman receives no payment if her child is illegitimate; or again it might be decreed that if she can be proved even once guilty of adultery, the payment should be made to her husband instead of her. If such is the law, it will become the duty of the local police to visit every married woman and make an inquisition into her moral status. The effect might be most elevating, but I doubt whether those who were being elevated would altogether enjoy it, I think there would presently come to be a demand that police interference should cease, with the corollary that even the mothers of illegitimate children should receive the allowance. If that were done, the economic power of the father in the wage-earning class would be completely at an end, and the family would probably cease after a time to be bi-parental, the father being of no more importance than among the cats and dogs.

“I think that civilization, at any rate as it has hitherto existed, tends greatly to diminish women’s maternal feelings.... It is probable that a high civilization will not in future be possible to maintain unless women are paid such sums for the production of children as to make them feel it worth while as a money-making career. If that were done it would, of course, be unnecessary that all women, or even a majority, should adopt this profession. It would be one profession among many others, and would have to be undertaken with professional thoroughness. These, however, are speculations. The only point in them that seems fairly certain is that feminism in its later developments is likely to have a profound influence in breaking up the patriarchal family, which represents man’s triumph over women in prehistoric times. The substitution of the State for the father, so far as it has yet gone in the West, is in the main a great advance.”

According to these supporters of the materiel independence of women, the annulment of maintenance would, according to the above statements, bring about the following results. The rejection and banishment of the father from the family, or at least the father’s diminishing importance, and a return to the age of the matriarchy, the State taking the place of the father, together with enfeebled maternal feelings, and a situation in which mothers, instead of having the attachment of love, will be reduced to the position of persons having a certain occupation and duty and having a certain job as a source of their earnings.

It is obvious that the consequence of all this is the complete ruin of the family, which will undoubtedly be succeeded by the ruin of humanity. Everything shall be put right, and only one thing will be missing, and that will be the prosperity, the pleasure and the enjoyment of those intellectual delights peculiar to the affection, of the home.

Anyhow, my contention is that even the supporters of the independence and complete liberty of woman, and the upholders of the total banishment of the father from the family, consider that the natural function of woman in giving birth to children requires some money or some assistance, and even, it may happen, wages and rent, but they consider it the duty of the State to give that right, as opposed to the father whose natural duty requires no fee.

In the International Labor Laws the minimum wages granted to a workman include the necessities of life for his wife and children. This means that the International Labor Laws officially recognize the right of maintenance for the wife and children.

Is the Declaration of Human Rights an insult to woman?

In the Universal Declaration of Human Rights, Article 23, clause 3, it is written: “Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity...”

In Article 25, clause 1, it says: “Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, and housing and medical care and necessary social services,.....

In the above two articles of the Declaration it has indirectly been confirmed that every man who establishes a family should bear the expenses and the cost of maintenance of his wife and children. The money spent on them is to be reckoned as the necessary expenses of that man.

In the Declaration, despite explicitly mention that men and women have equal rights, the fact of the husband's giving maintenance to the wife has not been considered incompatible with the equality of rights. Therefore, those persons who every now and then invoke the authority of the Declaration of Human Rights and its approval in the two Houses of the Iranian Parliament should consider maintenance as a settled question. Would the worshippers of the west, who call everything which has an Islamic color reactionary and outdated, allow themselves to be disrespectful in the sacred presence of the Declaration of Human Rights as well, and continue to think of maintenance as bearing the traces of the ownership of man, and the slavery of woman?

What is more, in its Article 25, the Declaration says: “Every body has the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

Here, not only does it treat the loss of the husband as a loss in the means of livelihood for a woman, but it has included widows in the same rank as the unemployed, the sick and those with physical disabilities. Is it not a grave insult to women? If in any of the books or any legal work of the east an expression like this had been found, the wailings of the objectors would have reached the skies, as we ourselves witnessed

in certain cases in respect of the laws of Iran.

Nevertheless a reasonable man, who is not biased and prejudiced, and has his eyes on all the sides of a question, will see that neither the law of creation, which has made man one of the means of a woman's livelihood, nor the Declaration of Human Rights, which has included widowhood as a loss of the means of sustenance, nor finally the law of Islam, which has considered woman as entitled to maintenance has insulted her. The fact that a woman is created in need of man, and that the husband is considered to be the source of dependence of the wife is only one aspect of the problem.

The law of creation created man and woman in need of each other with a view to fitting man and woman more firmly together, and making the home, which is the basis of the real happiness of man, stronger and more secure. If, in monetary matters it has made man the source of dependence of woman, in spiritual tranquility it has made woman the source of dependence for man. These two different requirements make them more close and united to each other.

¹. Majnun and Layla are the idealised lovers in Arabic and Persian literature. (Tr).

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