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Section 30, Discipline during the Term, Re-marriage Negotiation

Surah Al-Baqarah, Verse 232

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا
بَيْنَهُم بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ أَزْكَى
لَكُمْ وَأَطْهَرُ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ

232. "And when you divorce women, and they have reached their waiting-period, do not prevent them from marrying their (former) husbands, when they agree between themselves in a fair manner. With this is admonitioned whoever of you believes in Allah and the Last Day; that is more virtuous and purer for you; surely Allah knows and you know not."

Occasion of Revelation

One of the companions of the Prophet (S) by the name of Ma'qal-ibn-Yasar opposed the marriage of his sister with her former husband named 'Asim ibn 'Ady. This man, 'Asim, had divorced her but, after concluding the prescribed waiting-period, both of them were willing to fasten their wedlock again by a new wedding.

For this reason the revelation was sent down and prevented him (Ma'qal) from opposing such a marriage.

It is also cited in another narration that the verse was revealed when Jabir-ibn-'Abdullah opposed the marriage of his cousin with her former husband. Perhaps, in the Age of Ignorance, this right had been

given to many close relatives.

(No doubt, in our jurisprudence, brothers and cousins have no guardianship (wilayat) over their sisters or cousins, but, as we will explain in this discussion later, the meaning of the above verse is a general ordinance about guardians and other than them that neither of these people may rightfully oppose such a marriage: neither father nor mother, nor cousin, nor non-relative persons.)

Another Chain Was Broken!

As was stated in the former explanations, in old times women were living bound in the chains of ignorance and were terribly captured by the will, desire, and lust of lewd men without having any regard for women's affection, thought and decision.

One of the examples of that status was the subject of choosing husband where the like or dislike and willingness of women had no place. Concerning to this style, even when the woman was formally married and then separated from her husband thereafter, her second marriage with him again depended on the decision of her guardian or guardians, although those two (the man and the woman) wished to continue their former conjugal life.

Their guardians, then, used to prevent that wedlock because of their (guardians') own interests or for some vain imaginations and superstitions.

The Qur'an has clearly condemned this style. It says that the guardians and other individuals have not such a right, because when both the man and woman, who are the main elements of marriage, have unanimity with each other and after that separation they are willing to marry again, opposition of others is meaningless.

"And when you divorce women, and they have reached their waiting-period, do not prevent them from marrying their husbands, when they agree between themselves in a fair manner...."

Thus, it is understood from this verse that divorcees need not to obtain permission or agreement of their guardians to marry again, and even the opposition of their guardians, if any, is invalid.

Now, the question is about the marriage of the virgin girls that: is it necessary to obtain her guardian's permission? The above verse is silent in this regard and we must refer to the jurisprudent books for its explanation. It only continues saying:

"...With this is admonished whoever of you believes in Allah and the Last Day..."

This part of the verse means that these ordinances, that are stated for individuals' benefits, affect on those who believe both in *Allah*, the Creator of the world, and in the Day of Judgment. It is in this case that a person, under the light of theology, can detach from egoism and, controlling his low desire, rescues himself from deviation.

"...that is more virtuous and purer for you; surely Allah knows and you know not..."

This concluding statement points to the fact that the fruit of one's action upon these ordinances is perfectly his, but as a result of insufficient information some individuals may not be aware of the philosophy of divine ordinances; while the Lord, Who knows all the secrets, has assigned these instructions for the sake of protecting their interests and purification and cleanliness of family members.

It is noteworthy that in this sentence, acting upon these instructions are introduced as the causes of both virtue and purity, (***more virtuous and purer***), which means that acting upon these instructions removes both the different impurities, resulted from doing some wrong deeds, from families so that it purifies them, and attains development, improvement, favour and blessing for them.

Surah Al-Baqarah, Verse 233

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى
الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ
بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَلَدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ
مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ
عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُمْ بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ
بَصِيرٌ

233. "And the (divorced) mothers shall suckle their children for two whole years for him (father) who desires to complete the period of suckling. It is (incumbent) upon the father to provide (sustenance) and their clothing (nursing mothers) in a fair manner. No soul shall have imposed upon it a duty but to the extent of its capacity; neither shall a mother be made to suffer harm on account of her child, nor a father on account of his child, and the same devolves upon the heir. But if they desire to wean by mutual consent and consultation, then it is no sin on them. And if you desire to seek a wet nurse for your children, it is no sin on you as long as you pay what you promised for in a fair manner; and be in awe of Allah, and know that Allah sees what you do."

In Arabic philology the term /walidah/ is used for 'mother' while the term /umm/ has a wider meaning and, besides applying the term for 'mother', its concept sometimes refers to the 'root' or 'source' of everything.

In this verse, the Qur'an points to several instructions about the problem of suckling and the different rights that mother, child, and father have in this regard. These instructions, on the whole, are seven various ordinances.

Seven Instructions upon Suckling

1– The right of nursing the child for two whole years is specialized to mother, because it is she who can suckle and look after her child during this time. In view of the fact that the nutrition of the baby, bodily and spiritually, has a close and firm relation with mother's milk and affections, although the guardianship of little children has been given to father, the right of protection and maintenance of a child is given to mother.

On the other hand, maternal affections should be observed, too, because the mother cannot bear to see that her bosom is empty from her child and remain silent in such sensitive moments. Therefore, specializing the right of suckling and maintenance of a child to mother is a kind of mutual right which is helpful for both the circumstances of the mother and the conditions of her child.

"And the (divorced) mothers shall suckle their children for two whole years..."

2– It is not necessary that the duration of suckling to be positively two years. This two-year-suckling period is for the one who wants to accomplish it perfectly.

"...for him (father) who desires to complete the period of suckling..."

But, regarding to the position of the child's body and observing its health, the mother has also the right to diminish this course when she thinks it is favourable.

A tradition from Ahlul-Bayt (as) says that the whole course of suckling is two years while its incomplete course is twenty one months.

This idea may be abstracted from gathering the concepts of this verse and **verse 15 from Surah Al-Ahqaf, No.46**, where it says: ***"...and the bearing of him and the weaning of him was thirty months..."*** And, we know that the course of pregnancy is usually nine months.

Therefore, the remaining time, which is twenty one months, is the ordinary time of suckling.

And, also in view of the fact that, in Surah Al-Ahqaf, the matter has not been cited in a compulsory form, hence, considering the health of the child, mothers may rightfully diminish the suckling months to less than 21 months, too.

3– Mother's expenses for food and clothing during the suckling course, even when she is divorced, is upon the baby's father in order that mother be able to nurse the child conveniently and with a peace of mind.

"...It is (incumbent) upon the father to provide (sustenance) and their clothing (nursing mothers) in a fair manner..."

Here, the Qur'anic phrase /almaulud-i-lahu / (i.e. the one for whom the child is born) which is used instead of applying the term, father attracts the attention. It seems the revelation intends to move the affections of the father all the more towards the path of doing his aforementioned duty.

That is, if the expenses of the mother and child during the suckling course have been trusted with father to pay, it is for the reason that the baby is his own beloved child and is the fruit of his heart, not a foreigner.

The occurrence of '*in a fair manner*', here, shows that mother's clothing and food should be given in a scale about the usage and also appropriate to her position. Neither stinginess nor immoderation is right in this regard.

Then, to remove any ambiguity, it explains more about this subject that the duty of a father is due to his capacity, as *Allah* has assigned no duty beyond the ability of any individual.

"...No soul shall have imposed upon it a duty but to the extent of its capacity..."

4- Neither father nor mother should disregard the fate of their child because of their own oppositions. This may cause harm for the mind and spirit of the child which cannot be compensated later.

"...neither shall a mother be made to suffer harm on account of her child, nor a father on account of his child..."

Men ought to be attentive to the mothers' right of suckling and protection. They should not tread it by taking the child from them. By the way, mothers should not abuse the right which is given to them, either, by restraining suckling through some various vain pretexts, or deprive the man from visiting his child.

5- After the death of the father, his heir should undertake this duty and provide the necessities of the mother during the time she nurses the child.

"...and the same devolves upon the heir..."

6- The allowance of weaning is given to parents though the previous verses have defined some limits for suckling the child. Parents, with the agreement of each other, can wean whenever they think it is suitable for the physical state of the child.

"...But If they desire to wean by mutual consent and consultation, then it is no sin on them..."

That is, if parents counsel and agree to decide to wean, there will be no problem for them.

In the meanwhile, the mother is not obliged to nurse the baby. So, whenever she wishes she can stop it, while it is better for her to forsake some of her own desires for the sake of development of her child and not let herself lose the cooperation and the due consultation of her husband alongside this way, so that

the mutual consent, pointed in the verse, actually happens.

7- It is impossible to prevent the mother from nursing her child, unless mother herself refrains from suckling, or there really comes forth a barrier for her. Hence, it says:

"...And If you desire to seek a wet nurse for your children, it is no sin on you as long as you pay what you promised for in a fair manner..."

The last part of the above sentence means that engaging another woman to suckle the child instead of mother after consultation and obtaining mutual consent, does not matter. It is of course, upon condition that this manner does not cause the mother's right due to the length of her former suckling to be trodden. This right should be paid to her in a fair manner.

Since disputes and oppositions between man and woman sometimes awaken the spirit of revengefulness in them, and their fate or that of their helpless child may be exposed to danger, and each of them may think of evil planning for the other, at the end of these ordinances, the Qur'an says: ***"...and be in awe of Allah, and know that Allah sees what you do."***

Note

A thin and delicate explanation is also cited upon this verse which we narrate exactly here: The root, 'darara' meaning harm; in its original form to do harm (transitive) and in its secondary form 'Tadarrar' meaning to suffer or to receive harm (intransitive).

Here the secondary form 'Mudarra' has been used which usually means mutual give and take, meaning neither to harm nor to get harmed. As such this passage means that on account of the child or the disagreement between the parents none of the three (viz. the father, mother or the child) should be harmful to the other, or should be harmed by the other. This interpretation covers the various commentaries given by the different commentators.

The implication of the passage regarding the mutual rights of the wife and the husband during the period of suckling of their issues, and the right and the duty of the heir of the husband and the condition for the permissibility of employment of a wet-nurse for the suckling of the issue, there are very subtle points for which you may please refer to 'Fiqh', jurisprudent books.

Surah Al-Baqarah, Verse 234

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا فَإِذَا
بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ
خَبِيرٌ

234. *"And those of you who die, and leave widows behind, they should keep themselves in waiting for four months and ten (days); when they have completed their waiting period, then it is no sin on you for what they do for themselves in a fair manner. And Allah is fully aware of what you do."*

Superstition against Women in Old Times

One of the main problems and basic difficulties for women is their marriage after the death of husband. Since the immediate marriage of the widow with another spouse after the death of her husband often contradicts with affections and keeping the regards of the ex-husband, it is not fitting, with the spirit and sensations of the relatives of the Late, besides that the lack of a child in woman's womb must become certain.

So, the above verse has conditioned the remarriage of the widows to keeping themselves in waiting for four months and ten days.

Observing the honour of matrimonial life even after the death of the spouse is a natural innate proposition. That is why there have always been some special customs common on this purpose among different tribes.

Sometimes in these social traditions, the behaviour has been so excessive that women would become helplessly captured in a manner that sometimes the worst crimes could be committed upon them. For example, in some tribes it was customary to burn the widow; and in some others they would bury her alive with the man.

Some groups of people used to deprive the widows from their remarriage forever and, thus, those kinds of widows were isolated thereby.

In some tribes, widows had to stay for a length of time beside their husband's grave inside a black tent and in some dirty shabby clothing, plain and without any ornamentation. They could not even wash themselves during days and nights.

The above verse put an end to all of these superstitions, and, in the meanwhile, it worthily and respectfully supported the principle of observing the honour of matrimonial life by keeping the waiting-period after the death of husband.

"And those of you who die, and leave widows behind, they should keep themselves in waiting for four months and ten (days)..."

The Arabic term /tawaffa/, which is used in many occurrences in the Qur'an, means 'to take'; and the term / ba'ṭr/, which has no past tense form in Arabic, means 'strewing'. So, the verse says the women who lose their husbands have to wait for four months and ten days as waiting-period and abstain from

remarriage.

"...when they have completed their waiting period, then it is no sin on you for what they do for themselves in a fair manner...."

The sense of / buluq-i-'ajal / refers to the conclusion of the period. This part of the verse indicates that after finishing this length of time, women can remarry everybody they want.

The prescribed waiting period of four months and ten days is compulsorily to be observed by a widow whether she had intercourse with the bereaved husband or not. In the case of her being pregnant the maximum prescribed waiting period or the period of the delivery, whichever be the later, should be observed.

Dealing with the divorce and the waiting period, it was appropriate to deal with the question of an outsider overtly or covertly proposing to marry the divorced one. Qur'an says there would be no harm provided the talk does not exceed the limit of modesty and no contract is finalized before the conclusion of the waiting period.

In view of the fact that sometimes concerning guardians hinder the marriage of the widows because of some superstitions and vain imaginations, the verse addresses them and tells them that they have no responsibility in this regard and widows can have their re-wedlock on a proper base with whoever they desire.

"...And Allah is fully aware of what you do."

The guardians should stand away from interfering in their children's affairs, and know that the Lord is aware of everything, and He recompenses all for their good actions and evil actions.

Surah Al-Baqarah, Verse 235

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ

235. "There is no sin on you if you make an indirect proposal of marriage to (such) women, or keep concealed (the intention) to yourselves; Allah knows that you will think of them; but make

no promise to them in secret, unless you speak in fairness. And do not resolve on a wedlock until the prescribed period is completed, and know that Allah knows what is in your hearts, so beware of Him; and know that Allah is Forgiving, Forbearing."

Can Widows Be Engaged during Warning Period?

As to the foregoing Qur'anic discussion about the waiting-period of women after their husband's death, in this verse, one of the important ordinances in relation to the widows in their waiting-period is pointed out. It says:

"There is no sin on you if you make an indirect proposal of marriage to (such) women, or keep concealed (the intention) to yourselves; Allah knows that you will think of them; but make no promise to them in secret, unless you speak in fairness...."

It is, in fact, a natural phenomenon that a woman may think of her future fate after the death of her husband. And, on the other hand, some men may also be in thought of marriage with them because of easier conditions that widows usually have.

Then, continuing the subject, the verse says:

"...And do not resolve on a wedlock until the prescribed period is completed..."

It is certain that if a person confirms a wedlock which is during the waiting-period, it is totally invalid / batil / Moreover, if he does it intentionally, that action causes the woman to be unlawful / haram / to him forever.

Then, it follows saying:

"...and know that Allah knows what is in your hearts, so beware of Him; and know that Allah is Forgiving, Forbearing..."

That is, *Allah* does not hasten to punish His servants, because He is 'Forbearing' about what they do.

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