Al-Islam.org
Ahlul Bayt Digital Islamic Library Project
Published on *Al-Islam.org* (https://www.al-islam.org)

Part Six: The Natural Basis of Family Rights

We pointed out that the spirit and foundation of the Declaration of Human Rights is that even human being should benefit from a kind of essential and honorable respect and individuality. In the context of his creation and formation, a series of rights and freedom were given to him which can no way be taken from or denied him.

We also said that this spirit and foundation is upheld by Islam and is in harmony with the philosophy of the east. What is incompatible with the spirit and essence of this Declaration, and what shows it to be false and baseless is the very explanation given in many of philosophical systems of the west concerning man and the make-up of his existence.

Evidently the sole reliable testimony to which we can refer for the purpose of finding out the true rights of human beings is the priceless book of creation. By referring to the pages and lines of this great book, the real rights held in common by all human beings and the position of the rights of man and woman in comparison with each other may be determined.

Strangely enough, there are some naive people who are not prepared to recognize the great testimony of the book of creation unless they see some reason to do so. In their opinion the only competent authority is the body of the people who had a hand in the preparation of the Declaration and are today the masters and the supreme rulers of the world. It does not matter if they themselves are not concerned to abide by the subject-matter of this Declaration. Others should not be so presumptuous as to question what they say. However, on the basis of these very same human rights we believe we have a right to question and to take note of what they say and do. We consider the huge process of creation, the speaking book of God, to be the only competent referable source of evidence.

I again apologize to my worthy readers that in this series of articles, certain of the questions which I put forward have a somewhat philosophical tinge and seem rather dry, and for some readers may be rather boring. I myself, as far as possible, avoid discussing these sorts of problem, but sometimes the relevance of these dry, philosophical matters to the problems of the rights of women are so great that it is impossible to avoid them.

The connection between natural rights and the direction in which nature moves

In our view, natural and innate rights come into existence when the handiwork of creation directs created beings towards the perfection of their qualities, the predisposition for which is inherent in them, although in a latent state, and does this with clear-sightedness and by keeping in view the function and purpose of all of them.

Every innate aptitude is the basis of a natural right. For example, the child of a human being has a right to education and schooling but a young lamb has no such right. Why? Because the aptitude for leaning and attaining wisdom exists in a human child, but not in a lamb. The plan of creation has assigned this aptitude of acquiring knowledge to mankind, but has not ascribed it to sheep. The right to think, to give expression to one's thoughts and to hold independent opinions, is of the same category.

There are some people who think that to assume natural rights and to claim that mankind has been given the distinction of having a particular kind of right by creation is a baseless and self-centered idea and should be discarded. There is no difference at all as far as the rights of human beings and other creatures are concerned.

This is a totally mistaken idea. As a matter of fact, natural aptitudes are very varied. The creative plan has assigned to every kind of creature its own particular sphere, and its well-being is also determined to be within the path of its own orbit. The creative process has its own plan in relation to this matter, and it has left this basic document in the hands if its creatures so that there could not the even the least possibility of an accident based on ignorance or lack of information.

The root and foundation of family rights, which is the subject under discussion, should also he looked for in nature like all other natural rights. By looking into the natural characteristics of men and women and the inborn aptitudes that creation has endowed them with, we can understand whether men and women have identical rights and duties. Do not forget us we have mentioned in our preceding articles, that the problem under discussion is the identicalness of the rights of men and women and not the equality of their rights.

Social rights

As far as non-family social rights are concerned, that is, as far as rights within society at large, outside the circle of the family, are concerned, an individual acquires both equal and identical rights. In other words, fundamental natural rights are equal and identical to each other. Every member of society has an equal right to benefit from his innate talents; everyone has the right to work; everyone has the right to take part in the race of life; every individual has the right to offer himself for any post or position in society and try to get it in a lawful manner; everyone has the right to demonstrate his personal academic

achievements and practical worth.

Of course, the same equality in basic natural rights gradually places people in an unequal position as far as acquired rights are concerned; that is to say, everyone has an equal right to work and to take part in the competition of life, but when the question of the result of the competition, the standard of work and the level of adequacy is considered, not every one come's up to the required standard. Some prove themselves more talented and some are found to be less talented. Some are more efficient and some less efficient, some are more capable and some are less capable. Some are found to be more learned, more proficient, more skilful, more useful and more efficient than others in the task, and so, naturally, their acquired rights assume an unequal patterning. If we resolved that people's acquired rights should also be equal like their basic natural rights, our decision could be called nothing but cruel and unjust.

Now, why should all individuals be considered equal in their natural fundamental social rights? The reason is that observation of human beings demonstrates that amongst human individuals no-one is born the ruler or the ruled. No-one has come into this world as a worker or a craftsman, or a professor, or a teacher, or an officer, or a soldier, or a minister. These are the merits and peculiarities which are a part of acquired rights. It means that individuals, by their competence, potential, work and activity, must take them from society, and that society by positive law give them to its individuals.

This is a very important difference between the social life of mankind and the collective life of gregarious animals like the bee. The institutions in the life of these animals are totally natural. Their duties and functions are all assigned by nature and not by their own choice. Some are born rulers and some are born to be ruled. Some are laborers and some engineers, while others are born executives. Evidently the life of man is not like this, and that is why some thinkers have totally refused to accept the old philosophical idea that man is by nature gregarious, and have considered human society to be based completely on arbitrary convention.

Family rights

This is the state of affairs in society outside the family. Do the individuals within the family unit also have identical fundamental natural rights, the difference only lying in acquired rights? There is a lot of difference between a family which consists of wife and husband, the father and mother, and sons and daughters, the brothers and sisters and society outside the family, regards fundamental rights, and the law of nature has set up family rights in a special pattern.

Here there are two different opinions. One view is that the fact of being a wife or a husband, a father or a child, a mother or a child, like all other social relationships and like the cooperation between individuals in public or state institutions, is not a reason in itself for some persons to have automatically a special status. Only required privileges can be a reason for some one of them, for example, to be the head and the other a subordinate, one to be obeyed and others to obey him, one to get more monthly pay and the other less. If a person is wife, or a husband, or a father, or a mother, or a son, or a daughter, this would

not be in itself a reason for him to have a special status. Only acquired privileges can determine their position in relation to each other. The idea of the identicalness of the rights of men and women within the family, to which they have wrongly given the name of equality of rights, is based upon this very opinion. According to this idea, a man and a woman with similar talents and needs who have an understanding of similar rights to which they are temperamentally disposed will get married. As a result, it is necessary that family rights should be based upon equality, identicalness and uniformity.

As opposed to this, the other view is that their basic natural rights are also different. To be a husband in itself, that is, the fact of being a husband, imposes certain obligations and signifies certain rights, and to be a wife in itself imposes certain obligations and implies certain rights, and likewise in the case of being a father, or a mother, or son, or a daughter. Anyhow, according to this view, the family is different from all social partnerships and associations. The unidenticalness of the rights of men and women, which Islam endorses, is based upon this principle.

Now, which of the two above opinions is valid, and in what way can we understand which of the two is correct?

The natural basis of family rights 2

In order that the respected readers may successfully draw their own conclusions, it is necessary that they should bear in mind the subjects mentioned in the previous chapter. We said:—
1. Natural rights exist due to the fact that nature has a definite aim, and, keeping that aim in sight, it has placed certain abilities in the being of created things, and given them rights.

2. A human being, because he is human being, benefits from a particular series of rights, which are called the rights of man, while animals do not benefit from these rights.

3. The method of determining natural rights and their special qualities, is to refer back to creation. Every natural aptitude is natural evidence for a natural right.

4. All individual human beings, as far as social life is concerned, have equal and identical natural rights the difference is in their acquired rights which depend upon work, the performance of duties and upon their taking part in the competition for carrying out these responsibilities,

5. All individual human beings' rights in society are equal and identical. The reason for this is that a close study of the innate value of individual human beings brings to light that amongst them (unlike in the case of gregarious animals such as bees) there is no one who is born a ruler or to be ruled, and likewise, no-one is born to submit or to be obeyed, to carry out orders or to command, to be a worker or to be the employer. They did not come into this world as commanders or soldiers. The careers of man are not demanded according to nature. Their tasks, jobs and responsibilities were not assigned by nature.

6, The theory of the identicalness of the rights of men and women is based upon the assumption that

social life within the family is the same as social life outside the family. The members of the family have equal and identical rights. A woman and a man with the same aptitudes and the same requirements join together in family life, and they have the same innate capabilities. The law of creation did not determine their status, and did not assigned certain tasks and functions to them.

On the other hand, the theory of non-identicalness in family life is based upon the idea that the circumstances of family social life are different from those of social extra-familial life. A man and a woman do not join together in family life with the same aptitudes and the same requirements, and they do not possess the same natural capabilities. The law of creation has placed them in different positions, and has designed a particular orbit for each of them.

Now, let us see which one of the above two theories is correct and find out in what way we can discover the correctness of one of them.

According to the criteria that we have already laid down, it is not so difficult a matter to determine which one of the two views is correct. If we refer to the natural aptitudes and requirements of men and women, namely to the natural capabilities with which the law of creation has endowed every man and woman, it is possible to determine the right course of action.

Is family life conditioned by nature or regulated by convention:

We mentioned in the last section that there are two views about human social life. Some think that mankind is by nature, social, and they consider man to be what is called “gregarious” by nature.

Others, on the other hand, consider social life to be based upon convention. They think that man, by his own free will, and under the pressure of certain unavoidable external factors (not any inner drive) has made his choice and has agreed to live with his fellow man.

Now, what about family life? Are there two opinions here? No, the family life of human beings is completely natural, that is, man is by nature created domestic. Suppose that we doubt whether the social life of man is natural; even then we cannot doubt whether his domesticity is natural or not. Many animals, for example, have a kind of “married” life, like pigeons or certain insects which live in pairs, although they do not, by nature, have much social life, indeed, they may have none all.

The question of family life is different from that of social life. Among human beings and among some animals there is a natural tendency towards a family life, establishing a home and having children, and this is according to a purposeful plan of nature.

History does not have any evidence for the theory that man was at any time without a family life. In other words, neither did man and woman ever live separated from each other, nor did sexual relations between individuals take a communal or public form. The life of wild tribes in the present age, which is considered to be a specimen of the life of primitive man, is also not like that.

The life of primitive man, whether matriarchal or patriarchal, did take the form of family life.

The theory of the four eras

As far as the question of the owner of property is concerned, it is admitted by all that in early times ownership took the form of joint-ownership and individual possession began after wards; but, in the case of sex, this has never been so. The reason that there was joint ownership in the early ages of human life was that at that time human society was arranged in tribes was based on the pattern of a large family.

In other words, the members of a tribe who lived together shared the benefits as in family life. This was the reason for joint-ownership. In early times, let us suppose, there was no ides of law, or custom or tradition that could make man or woman responsible to each other. Only nature and their innate natural feelings bound them to certain duties and rights, but even then they never had unrestricted sexual relations. Just as with animals who live in pairs and abide by no social or positive law but under the law of nature, and conform their behavior to certain rights and duties, their life and sexual relations is not without cheeks and conditions.

Mihr'angiz Manuchihriyan in the introduction to her book *Intiqad bar qavanin-e asasi va madani-e Iran* (Criticism of the Constitution and Civil Law of Iran) writes: "According to sociology, the life of men and women in the different parts of the world is passing through one of these four eras: 1. The natural era; 2. The era of male dominance: 3. The era of female protest; 4. The era of the equality of the rights of men and women.

"In the first era men and women associate and have sexual relations with each other without any restriction or condition."

Sociology does not agree with the above statement. What sociology accepts at the most is that amongst some tribes, and sometimes, some brothers may marry some sisters jointly. All the brothers can have sexual relations with all the sisters, and the children are related to all of them. In other instances, adolescent boys and girls, before they get married, are not bound by any restrictions, and only marriage imposes limitations over them. If it happens that the situation as regards sexual behavior is in some savage tribes more generalized than this and woman is, as it were, a "public" woman, that is an exceptional state of affairs and should be considered a case of deviation from the natural and normal situation.

In his *The Story of Civilization*, vol.1, Will Durant writes:

"Our animal forefathers invented it. Some birds seem to live as reproducing mates in a divorceless monogamy. Among gorillas and orangutans the association of the parents continues to the end of the breeding season, and has many human Features. Any approach to loose behavior on the part of the female is severely punished by the male. The Orangs of Borneo, says in De Crespigny, 'live in families:

the male, the female, and a young one'; and Dr. Savage reports of the gorillas that 'it is not in usual to see the 'old folks' sitting under a tree regaling themselves with fruit and friendly chat, while their children are leaping around them and swinging from branch to branch in boisterous merriment.' Marriage is older than man.

"Societies without marriage are rare, but the sedulous inquirer can find enough of them to form respectable transition from the promiscuity of the lower mammals to the marriage of primitive men."

The message is that family feelings are a natural and instinctive matter for a human being. It is not a product of habit or the result of civilization, it is just as for many animals who naturally and instinctively have a drive towards family feelings.

As a result we hold that there never was a period for mankind in which male and female, without any kind of restriction, condition or obligation, however natural, lived a completely free conjugal life. Such an imaginary stage is like sexual communism, which even the upholders of economic communism never claimed to have found any traces of in early times. The theory of four eras in the relations between man and woman is a bungled imitation of the theory of four eras which socialists believe in as regards the ownership of property. They say that mankind has traversed four eras as regards ownership: the first stage that of common property; then the stage of feudalism; then capitalism; and finally the stage of socialism and communism, which is a return to the first stage of common property, but on a higher level.

We are in for a pleasant surprise when Ms. Manuchihriyan gives the relationship of men and women the name of 'equality of rights of men and women' and does not follow the socialists in this matter, and does not give the last era the name of "common property".

Although the above-named lady believes that between the fourth era and the first era there is much similarity, the reason she gives for it is that "In the fourth era, which has much similarity with the first era, man and woman live together with absolutely no kind of domination or superiority of one over the other.

I am still at a loss to understand what Ms. Manuchihriyan really means by 'much similarity'. If she only means the non-domination and non-supremacy of man, and an equality of undertakings and conditions between each other, how do a similarity exist between each other, how does the similarity exist between the present era and the era when, according to her, there existed no undertaking, no condition and no limits whatsoever, and men and women did not lead a family life. If the underlying idea is that during the fourth era all limitations and undertakings will gradually disappear, family life will be abolished, and sort of sexual communism will prevail, it shows that the idea of these fervent believers in 'equality of rights' is something other than all other supporters of equality of rights imagine and demand. It would probably by rather horrifying for them.

We shall now divert our attention towards the nature of the family rights of men and women. In this connection, we should keep two things in mind: one of them is to see whether men and women have any difference in their nature, or not. In other words whether the differences of men and women are only

as far as concerns the sexual organs, or whether the differences are more profound than this.

The other thing is whether, if the differences and dissimilarities are there, they are of the kind which have an effect in the determination of their rights and duties, or whether these are only differences of color and birth which have no relevance to the nature of human rights.

Woman in nature

I do not think that there is a need for arguments to decide the first issue. Everyone who has studied this subject knows that the differences between men and women do not merely concern the sexual organs only. If there is anything which is worth thoughtful consideration, it is whether these differences have any effect in determining the rights and duties of men.

European thinkers and scholars have satisfactorily explained the first issue. The close study of biology and psychology and also the social aspect of this question by these eminent thinkers does not give the least occasion for an objection concerning this issue. The aspect which attracted their attention less was how far these dissimilarities can have an effect in determining family rights and duties, and as a result put men and women in different positions.

In his well-known book *Man the Unknown*, the world-famous French physiologist, surgeon and biologist Alexis Carrel admits both issues, that is, he acknowledges the fact that men and women, according to the law of creation, have been made differently, and adds that these differences and dissimilarities make their duties amid rights dissimilar.

In the chapter headed “Sex and Birth” he has discussed the subject. He says: Testicles and ovaries possess functions of overwhelming importance. They generate male and female cells. Simultaneously, they secrete into the blood certain substances, which impress the male or female characteristics on our tissues, humors, and consciousness, and give to all our functions their character of intensity. The testicle engenders audacity, violence and brutality, the qualities distinguishing the fighting bull from the ox drawing the plough along the furrow. The ovary affects the organism of the woman in an analogous manner.....

The differences existing between man and woman do not come from the particular form of the sexual organs, the presence of the uterus, from gestation, or from the mode of education. They are of a more fundamental nature. They are caused by the very structure of the tissues and by the impregnation of the entire organism with specific chemical substances secreted by the ovary. Ignorance of these fundamental facts has led promoters of feminism to believe that both sexes should have the same education, the same powers and the same responsibilities.

In reality, woman differs profoundly from man. Every one of these cells of her body bears the mark of her sex. The same is true of her organs, and, above all, of her nervous system. Physiological laws are as

inexorable as those of the sidereal world. They cannot be replaced by human wishes. We are obliged to accept them just as they are. Women should develop their aptitudes in accordance with their own nature, without trying to imitate the males. Their part in the progress of civilization is higher than that of men. They should not abandon their specific functions."

After the explanation regarding the way in which the cells of the male sperm and female ovule are created, and how their union with each other takes places; and after pointing out that it is the existence of the female and not the male which is essential for the generation of offspring, he says that pregnancy fully develops the body and soul of a woman. At the end of the chapter he says: The same intellectual and physical training, and the same ambitions, should not be given to young girls and to boys. Educators should pay very close attention to the organic and mental peculiarities of the male and the female, and to their natural functions. Between the two sexes are irrevocable differences. And it is imperative to take them into account in constructing the civilized world." (pp.89 —90 and 92)

As you have seen, this eminent thinker states the great number of natural differences between men and women, and also believes that these differences, in terms of their functions and rights, place men and women in different positions.

In the next chapter, also, we shall quote the writings of thinkers concerning the differences between men and women, and we shall infer from these in which areas of human activity they have similar abilities and requirements and in which they should have similar rights, and in which areas they do not have the same positions and in which they should have dissimilar rights and duties.

In the study and determination of the family rights and duties of men and women this is one of the most sensitive areas.

Source URL:
https://www.al-islam.org/rights-women-islam-murtadha-mutahhari/part-six-natural-basis-family-rights#comment-0