



Research Paper

Wife's Alimony and its Role in Providing Financial Needs of Woman

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HTTPS: 10.22034/MFU.2023.62895

Received: May, 16, 2023

Accepted: July, 2, 2023

Available online: July, 12, 2023



Keywords:

proofs of alimony, obligation, alimony, economic status.

Abstract

One of the Qur'anic rulings in the field of family is the payment of alimony (*nafaqah*) to the wife by her husband. Since in the contemporary society, women have an equal or superior economic and social position that sometimes the compliance or non-compliance of this task causes problems between couples, the present study by using the descriptive-analytical method with document-library tools aims to answer the questions, "What is the legal basis of the payment of alimony in the permanent marriage?" and "Can the payment of alimony be a function of the economic conditions of the couple?" Findings indicate that the concept of alimony directly implies its philosophy, which is to meet the needs of wife through husband. One of the main Qur'anic foundations also expresses the economic needs of women due to lack of employment and income. It also proves the rationality of such obligation. Also, the philosophy of need is confirmed on the basis of narratives. From the jurisprudential view, alimony is more compatible with the principles of "need" and "compensation of retention." Reasons such as non-devotional nature of alimony, non-compensation of alimony, theory of validity of non-alimony condition, rightfulness of alimony, conventional conjecture and exigencies of society, and macro policies of the country prove that alimony obligation is based on the woman's need and in case of her need, it is absolutely necessary, but in case of self-sufficiency and having income, its ruling can be determined based on its philosophy. In addition, in case of return of need, the ruling of obligation can be established again.

Kalbasi, F. (2023). Wife's Alimony and its Role in Providing Financial Needs of Woman. *Comparative Studies on the Schools of Jurisprudence and its Principles*, 6(1), 212-185.

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Extended Abstract

1- Introduction

One of the Qur'anic rulings and obligations regarding family is the issue of paying alimony by the husband. These days, women have equal or superior economic and social status, and as sometimes compliance or non-compliance with this obligation causes problems between spouses, the payment of alimony by the husband is one of the results of a permanent marriage contract, as it is the consensus of all jurists and is mentioned in the Civil Law, Article 1106. Social and economic developments in human societies have changed the position and role of women in society so that today women play a role alongside men and may have a greater share than men in earning the family's income in addition to performing their feminine duties such as housekeeping and child-rearing. Nowadays, many women not only no longer see themselves as in need of their husband's almsgiving, but also voluntarily participate in providing for the expenses of joint life and the family economy, so that non-participation of women put the family in economic hardships. On the other hand, many of these women who have a good economic position and see themselves as not needing a man's alimony will face legal obstacles if they want to marry a man with the condition of alimony cancellation. Also, a large part of the lawsuits raised in the judicial courts are dedicated to the demand for alimony; but the issue of many lawsuits is raised by women who, due to employment or financial resources, not only do not have financial needs but also voluntarily contribute to the common costs of living. The couple's effort in establishing the foundations of the family is the duty of the parties (Article 1104 of the Civil Code). An attempt that can strengthen and build the foundations of the family is cooperation in financial dimensions. This does not mean that the

woman is also required to provide part of the living expenses. It means that the husband and wife should cooperate in the better management of the family to the best of their ability. The word alimony (*nafaqa*) comes from the root of "n-f-q" meaning a hole in the ground. "*Al-nāfiqā*" is also derived from the root "n-f-q" meaning a hole related to an animal called *yarbū'* (jerboa), similar to a lizard or a mouse whose house has two holes, one hidden called *nāfiqā* and one visible called *al-anfāq*. The latter also is derived from n-f-q, which is the plural of *nafiqā* meaning a hole. The original word "*nafaqa*" is also used in the Qur'an (*al-An'ām*: 35) as a gap and hole. Alimony technically means the cost of family's necessities. Therefore, based on the literal meaning, "alimony" is a man's financial donation to his wife to meet her needs.

2- Method

This research uses the descriptive-analytical method with library-document tools.

3- Result

The findings of the research indicate that the concept of alimony has a direct implication on its philosophy, which is to meet the needs of women through men. One of the main Qur'anic foundations also expresses the economic need of women due to the lack of employment and earnings. It proves the rationality of this duty as well, in which the philosophy of need is confirmed based on narratives. From the jurisprudential point of view, alimony is more compatible with the principles of "need" and "detention compensation". Reasons such as non-obligation of alimony, non-reimbursement of alimony, theory of correctness of non-alimony condition, right of alimony, customary dependence (*irtikāz-i 'urfī*) and requirements of society and macro policies of the country prove that the duty of alimony is based on the needs of woman,



and if a woman needs it, it is a definite obligation. However, in case of no need and having income, its ruling can be determined based on philosophy, and in case of returning to need, the ruling of obligation can be established again.

4- Conclusion

All the rules of the Qur'an are based on wisdom and God-given nature and rationality, which is the secret of the immortality of this holy text. One of the Qur'anic obligations regarding family is the payment of alimony, which jurists consider as one of the results of permanent marriage based on the Holy Shari'a. The main Qur'anic basis for alimony is verse 34 of *Surah al-Nisā'*, which by analyzing the keywords, the tone and mood of the revelation and the context, conveys the meaning that men have superiority over women due to financial giving and they must be servants of their wives. Also, in the analysis of "superiority" it was proved that it means the superiority of physical strength, which was needed to earn money and work when due to the delicacy of creation, women were not able to earn money, and as a result, they needed money. According to the life of the Prophet (PBUH), the philosophy of alimony explains the need of a woman and a rational matter. Based on narratives, the woman's need confirms the obligation of alimony. Also, from the jurisprudential point of view, with the principles of "detention compensation" and "need" and With great thanks to God Almighty that with His help I was able to take this small step for knowing the divine task and many

evidence such as the non-obligation of the alimony, the non-reciprocity of alimony, the theory of the correctness of the condition of no alimony, the right of alimony, the customary dependence, the criterion of alimony for the slaves and relatives, the theory of observing the status of the husband or wife, the strengthening of family foundations and the necessity of today's life and social and legal effects, it indicates that the duty of alimony is based on the need of the woman. If there is a need, the obligation to pay is definite, but in the case of no need and having income, it can be determined based on the philosophy of need, and with the return to the neediness of the aforementioned ruling, it is also changed to a definite obligation. Finally, what the Qur'anic culture emphasizes is "maintaining and strengthening the foundation of the family" and the discussion of alimony and financial issues on the part of couples should be applied to this goal.

5- Funding

There is no funding support.

6- Authors' contribution

Fahimeh Kalbasi, the corresponding author of this article, is an Assistant Professor, Department of Theology, Quran and Hadith Sciences, Payame Noor University of Tehran, Iran.

7- Conflict of Interest

Authors declared no conflict of interest.

8- Acknowledgements

thanks to the editorials of the Journal of Comparative Studies of Principles of Jurisprudence and Religions.