

Mistress Obedience to Husband from Islamic Jurisprudence and Civil Law Perspectives

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Abstract

The subject of mistress obedience to husband plays a considerable role in couples' disputes. What is perceived from jurists' vote is that husband presidency on wife stands to be substantial, but the husband is also required to follow some instructions. Although, family satisfactions may be attributed to the obedience issue, it has a closely interdependent association to the mistress' obedience to the husband in public opinions.

Thus, knowing about limits of presidency and obedience a handful of family problems would be resolved. It is frequently claimed that by the mistress obedience, it refers to absolute subordination of wife, however detailed investigations account for the legislator stress on compassionate management and participation.

Keywords: obedience, compliance, presidency, guardian, autonomy, couples

Introduction:

What we know as family rules pertain to behaviors each couples has been demanded to be committed and responsible for. As reinforcement and weakening of family organization holds a close relationship with the couples devotion. Any disorder in duties also referred to as anarchy intensifies family disputes and as a result increased rate of divorce. The husband and wife tasks are of the most critical duties of family can lead to stability or instability of the family.

The couples' duties is also known as mistress obedience and husband presidency are indeed derived from Islamic verses and Hadith. Actually, good judgment about men and women needs for mediation over relevant verses and Hadiths in order to inhibiting from unjust treat towards both sexes. So, they will be in tight position and are committed to their responsibilities.

“Men are guardians of women. Because of advantages God gives to some (in terms social system) is as a result of their charity (about omen) “ (Nisa: 34).

The concept of being guardian

Allameh Tabatabaei defines “guardians” as: protector refers to the person rises in charge of other person and the word conservator is exaggerated form of the word uprising (Al-Mizan).

In Rahnama Commentary, guardian refers to the person who is responsible for others' reform and guidance. Husbands are in charge of their wives protection (Rahnama Commentary).

So, Go bestows the responsibility of family affairs and protection to husband. According to the commentaries, being a conservator implies that husband has the responsibility of managing life. Whether or not we accept men's supervision

over women, the verse principle remains constant. That is, still men are women's guardians. The civil law derived from Islamic verses and Hadiths, according to Article 1105 states that in couples' reactions, family presidency is a property of men. So, according to Holy Quran the presidency of man over woman is specified and additionally couples' responsibilities are also defined. For instance, as Rahnam Commentary states, family is a social unit requires a director. Stability and survival of family therefore is ensured by kind and faithful participation.

Association of man's conservation with woman's autonomy

Most Islamic commentators and scholars describe man's protection for directing family. In fact, man in this view is a conservator and guardian of the family members. This differs from dictatorial governing of family. If any member of family is introduced as others' supervision it will be an indication of a wise decision.

However, some may argue by male guardianship it pertains to absolute subordination of woman from despotic orders of man. A close mediation over Quranic verses and Hadiths account for the meaning of guardian. As he governs the subordinates and it does not imply slavery of members and not doomed to act as their superior ask them to do. Being somebody's protector requires paying close attention to members' needs and emotions (Al-Manar commentary).

Allameh Tabatabaei states:

Husband's guardianship over wife has not to do with surpassing woman's freedom and will. Male protection does not mean to hinder woman's autonomy in preserving her social and individual rights and interests. Thus, woman still maintains her independency and freedom. She can uphold either personal or civil rights or shields them. Woman can stick to fundamentals

seem to be essential to achieve her rights (Al-Mizan).

Man's presidency in civil law

In civil law the right to supervise family is granted to man, yet the right should not lead to dictatorial dominance. Since male governance more has a guiding and coordinating nature. According to Article 1102 when couples get marry their responsibilities, rights, and duties would be established.

Also, in Act 1103 husband and wife are demanded to compassionate interaction with each other. Act 1104 requires couples to co-operate to reinforce family basics and children rearing. Accordingly, reciprocal rights and duties of pairs grounds on initially legal marriage. Subsequently, couples are instructed to collaborate in house affairs and since every organized system needs a regulator, according to Article 1105 man is decided to be the family's person in charge. The male presidency right could be traced back in Article 1114 which gives the right to select housing to man. Woman needs to live in husband's accommodation unless the right is granted to woman.

Article 1117 states husband has the right of inhibiting wife from any job endanger family benefits and couples' respect.

So, the law puts emphasis on supervision as a definite responsibility of man and it is possible therefore to ban female employment in case of strengthening family fundamentals when working acts to contradict family interests.

Man's supervision in Islamic jurists'

viewpoints:

The Javaher commentator has considered male's presidency definite. In addition to discussing about mutual rights of couples, there are some Hadiths imply husband's supervision. He states each of husband and wife has some right to the other, yet some rights are inessential but are recommended to

be done (Javaher Al-Kalam). Then, he argues the obligatory duty of man is alimony including providing clothes, foods, drinks, and settlement. Contrarily, woman is required to deference refers to being obedient to the man (Javaher Al-Kalam).

Imam Khumeini also asserts that couples has rights to each other must be performed. However, husband's right is more than the woman's. of husband's right to the wife is women's obedience, and not to leave home unless she takes the admission . Some Hadiths state that if the woman is married she is exempted from making a vow, donation and charity unless in case of paying for Haj, zakat, and compassion to parents (Tahrir Al-Vasileh,). What is understood from jurists' views is that man's supervision is mandatory, but he also is ordered to follow some rules.

Limits of husband's supervision vs. limits of wife's obedience

Something is clear and that because of general differences among men and women, God bestows family's presidency to man. So, this right is thanks to commitments men hold towards women like alimony and supporting women financially.

However, it should be mentioned here that if couples intend to interact based on tough rights, family sympathy disappears. Accordingly, the present study aims to analyze legal effects of man's supervision.

Wife deference

As one legal impact of man's supervision, deference has always drawn the lawyers and jurists' attention. But, as male's presidency is relative deference is similarly not absolute. By deference, it does not pertain to unquestioning obedience of woman, rather the principal point of deference is conventional humanistic behavior (Katouzian, 1992).

Further, Katouzian (1992) argues that the necessity of deference does not mean overlooking woman's emotions in martial relationships. She has not to be behaved like a machine as she is a human and the man needs to treat her as human personality demands for. But, in legal issues the measure by which the husband's expectations are defined is social norms.

Giving the right to divorce to men:

The Holy lawyer recommends divorce a scenario for family disputes are likely to separation of couples. The right to divorce is legal principle in family life is also Islam concord its legitimacy. Yet, the common belief that husband is allowed to get divorce does not sound husband is the divorce supreme. Indeed, divorce is permitted in its balanced and logical essence away from extremes. In Islam, divorce is neither absolutely banned nor is accepted unconditionally. The fact that man has the right to get divorce is thanks to the close intersection of the natural rules and couples' temperament. Since man and woman possess some dissimilar rights, thus Islam has given the right to divorce to man.

However, the right is legitimate till then the marital life continues normally and the husband deserves wife's rights entirely. In cases if he was unwilling to stay further and live with the woman, he can get a divorce.

The right to chastisement as an effect of man's supervising

God describes the right to discipline as one impact of male presidency and says: " and women whom you are feared of their disobedience , first advise them , then avoid martial relations and if not effective punish them (Nisa : 34).

Imam Khumeni in Tahrir Al-Vasileh states if any trace of woman's defiance becomes clear

and she changes her manner verbally and non-verbally, husband should notice her. So, the man guides her and if she was reluctant, it would be the sign of non-deference. Therefore, the husband is recommended to quit martial relationships.

But, the physical punishment must not cause injuries in the wife as this for improving a behavior not for taking revenge, otherwise the husband must pay blood money . The statement implies that Holy Quran assigns the task of family management to man.

In other words, when the woman performs her duties by aphorism, the husband is not allowed to behave harshly. The second stage, punishment, occurs only when the former solution is ineffective and so, Holy Quran permits physical punishment, however clarifies it for persons are not going to be improved otherwise.

After reviewing Qurani verses and Hadiths , the first thing comes to our mind from man's supervision is that woman is completely controlled by the husband . The following points signify monitoring woman by man :

1. Not leave the house without her permission (Vasael-Shie, Hadith 25300)
2. Lady getting ready for husband (Vasael-Shie, Hadith 24942)
3. Not to avoid presenting to husband (Vasael-Shie, Hadith 25300)
4. Avoid to present to strange men (Vasael-Shie, Hadith , 24942)
5. satisfying husband by performing financially and non-financially optional duties (Vasael-Shie, Hadith 24453)
6. following husband's instructions (Vasael-Shie, Hadith 25451)
7. not to harm husband (Vasael-Shie, Hadith 24959)

8. good temperance to husband (Vasael-Shie, Hadith 249848)

Husband's presidency and wife's rights

Although supervision of man over the woman is one of the principles of Islamic law and in Civil Law it is clearly explained in Article 1105.

As Imam Khomein says each of husband and wife has right to other must be considered. However, husband's rights direct woman not to leave house without permission, stay obedient and so forth.

And the woman's right is to be supported well by the husband financially and emotionally (Tahrir Al-Vasileh).

Yet, we need to stress here that since one of our major resources is Hadiths we discuss the mentioned points as philosophy of the sentence not the reason of sentence. we also emphasize that not leaving house without husband's permission does not imply necessity of not leaving house , rather the central point is pleasing the husband , so it is intended to be one of woman's duties. Also, Holy Prophet states that the best of Muslims are those who are the best for their wives . As I'm the best of you for my wives (Vasael Al-Shie).

Finally, man and woman's rights are inherently similar, but different in quality of rights.

Conclusion

Considering the Hadiths and Quranic verses affirms the point that family supervision belongs to man and it is not however absolute. Presidency therefore requires two principal conditions as physical, intellectual and mental characteristics and alimony. Occurrence of the requisites together gives the possibility of

supervision to man. Now, if one or both conditions are absent and the husband fails to guide family, then he would be no longer the family supervisor.

Thus, if husband does not afford the wife properly, he should not be treated as family guardian and the woman will take the responsibility. In conclusion, it is clearly mentioned that Holy Quran and Civil Law have bestowed the right to supervise to man, yet they have not sentenced to humiliation and oppression of women. The women's right is reserved and she is beneficial in marital life.

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