
Woman's Right to Maintenance in Islamic Law

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Abstract

Woman is financially dependent over her husband after marriage. Her economic dependency cannot be connoted as her intellectual deficiency. Islam bestows her honour by liberating her from the financial maintenance of her home. Maintenance is one of the basic rights of a woman after marriage. It includes not only the means of survival but also a right to dignified and prosperous life. Islamic Law demands husband to afford living expenses of his wife that is considered as his duty to provide all the basic means of life to his wife such as food, clothing and appropriate residency according to his financial positioning. The present paper defines the meaning of Nafaqah, highlights its significance and legitimacy in light of different sources such as the Holy Qur'an, Sunnah, Ijma' and Qiyas. This paper also demarcates different types of maintenance through various dimensions by focusing specifically over the maintenance of woman married or divorced through Islamic provisions. The study also denotes that who is entitled for maintenance in Islamic Law by examining the opinions of Muslim Jurists. This paper also manifests the quantity of maintenance provided to a woman by utilizing scholarly insights of Muslim Jurists. Finally, this research concludes that Islam is the only religion that protects maintenance as a right of woman that strengthens her social standing without negotiating or demanding any consideration.

Keywords:

Maintenance, Woman, Islam, Financial Right, Shari'ah

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Introduction

The word maintenance is used for paying living expenses to woman in accordance with financial capacity of a man. The Arabic term for maintenance is “*nafaqah*”, which means paying for living expenses of dirham and dinar etc. Nafaqa means something given by the husband to the wife as maintenance as living expenditures by providing her any type of food, any cloth to wear, a house to live and others as a responsible member of the family. The other term similar to “*nafaqah*” is “*infaq*”, that means “spending anything or money in the way of Almighty Allah as charity for the sake of Allah. The word “*nafaqah*” is a singular and its plural is “*nafaqat*” that includes any food items, clothes and housing facility, utilized easily and comfortably by one person.¹ Muslim Jurists defined the term *nafaqah* in different ways but all these definitions state that *nafaqah* means the provision of commodities of marital life for the wife and husband is obliged to provide. It includes everything that is indispensable for sustenance like food, clothing, housing, and other things that relate to marital life which are generally accepted by other people of the place where one lives.² Jamal Nasir, a contemporary Arab scholar, has defined the Shari’ah provisions of a wife’s maintenance as follows:

*“It is the right of the wife to be provided at the husband’s expense, and on a scale suitable to his means, with food, clothing, housing, toiler necessities, medicine, doctors’ and surgeons’ fees, baths and also the necessary servants where the wife is of a social position which does not permit her to dispense with such services, or when she is sick”.*³

The value or amount of this may not be specified as it varies from one husband to another and this has to do with his financial status to a large extent regardless of whether the wife is a rich or poor.

The significance of *nafaqah* emerges from the fact that it helps in keeping and maintaining oneself from loss and destruction because it can be looked at as a kind of social security for the woman, since it saves her the need to look for a job and earn her own living, given that this is usually done by the husband. Furthermore, when the woman gets her maintenance from her husband, she will have the feeling that she has a special importance and status and she means a lot to him and this contributes in strengthening the mutual understanding and love between the wife and her husband. This will make married couples live in peace and tranquillity as Allah Almighty states in the Holy Qur’an:

*“And among His Signs is this that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect”.*⁴

As discussed earlier that maintenance is a right of a woman that is to be paid by her husband to her. It also signifies that he has accepted her and she is in his guardianship and protection. Maintenance is actually compulsory because it is prescribed by Almighty Allah on the husband as stated in the Holy Qur’an as:

*“Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means.”*⁵

In this ayah, it is explained by the *mufassirin* that men are protectors to a women and they are preferred for the duty over a woman. Because husband has to take care, provide living expenses and pay dowers and maintenance to the wife. The

provision of maintenance to a wife by the husband is not something new, it was known from ancient times as stated in the Holy Qur'an:

*"Then we said: O Adam! Verily, this is an enemy to you and to your wife, so let him not get you both out of the Paradise, so that you will be distressed."*⁶

In this verse, Allah Almighty expressed about Hazrat Adam (AS), who lived a long time before Islam, was asked to pay maintenance for Eve, his wife. Imam Al-Qurtubi⁷ explained this verse and said that Allah used the Arabic verb "*fatashqa*"; It's mean you (male, masculine, second person) would be in misery, which is in the singular form and this implies Hazrat Adam alone and excludes Eve. Allah would have used the form for the dual "*fatashqaya*"; you (both) would be in misery, if the implication was to include Eve as well. Allah Almighty is referring to Adam alone because he is supposed to work hard and labour to earn their living. So he, and not Eve, would be landed in unhappiness that denotes the liability is on the husband for provision of maintenance to the wife.

The maintenance that the husband has to provide to his wife includes four things: food, drinking, clothing and housing according to his financial capacity. If the husband does this only, he would have fulfilled his obligation. However, if he gives more, he will be rewarded for that.

Legitimacy of Maintenance in Islamic Law

Legitimacy of maintenance is established from a variety of sources in Islamic Law. It is legitimised by the Holy Qur'an, the Sunnah of the Holy Prophet (PBUH), the Ijma' (consensus) and the Ma'qul (rational and logical reasoning).

The Holy Qur'an

Islamic Law has elaborated the rights and the duties of every individual in this world. In family system of Islam, provision of all the financial and other necessities is the duty of the male family members of the Muslim society such as father for their all members including kids and wives, husband to the wife. The Holy Qur'an enclosed maintenance as a right of woman and children in the following verses:

a) *"But he (the father) shall bear the cost of their food and clothing on equitable terms."*⁸

The Arabic phrase for the father in this verse is, *al-mawlud lahu*, because the noun is in the singular and masculine form. As for the expression "food", it is, *rizquhunna*, in Arabic and it refers to maintenance that is unspecified in terms of what and how much it is. This is the case because the word, *rizq*, includes everything. The purpose of this verse is to tell about the right of a divorcee who suckles her baby to have maintenance from her husband. If a divorcee deserves maintenance, then what about the one who lives with her husband. It is obvious that she deserves maintenance. Imam Ibn Kathir comments on this verse as:

*"The father of the child is responsible for the provision of maintenance of mothers and clothing them on equitable terms."*⁹

It means that husband has to provide wife and children living expenses i.e. dwelling, clothing, drinking, etc. according to the affordability and financial capacity. But she cannot demand him greater than what he can bear.

b) *"Let the women live (in 'iddah) in the same style as ye live, according to your means: annoy them not, so as to restrict them. And if they carry (life in their wombs),*

then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties let another woman suckle (the child) on the (father's) behalf."¹⁰

c) *"Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what Allah has given him."*¹¹

d) *"Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means."*¹²

e) *"For divorced women maintenance should be provided on a reasonable scale and this is a duty on the righteous."*¹³

f) *"There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them (a suitable gift) the wealthy according to his means, and the poor according to his means, a gift of a reasonable amount is due from those who wish to do the right things."*¹⁴

All the verses above mentioned, indicate that provision of maintenance is a financial right of a woman and the duty of the husband. The husband is obliged to provide maintenance to his wife in all the cases; either she is divorced wife or still living with him. It is obvious that a wife who actually lives with her husband deserves maintenance more than a divorcee. The limitation of affordability is also mentioned in the verses of the Qur'an that it must in accordance with the financial capacity of the husband.

The Sunnah of the Holy Prophet (PBUH)

The husband has to pay maintenance for his wife as mentioned in the following traditions by the Holy Prophet (PBUH):

a. *"Give them food what you have for yourself, and clothe them by which you clothe yourself, and do not beat them, and do not revile them."*¹⁵

This Hadith is narrated by Mu'awiyah al-Qushayri, he said: I went to the Holy Prophet (PBUH) and asked about the financial rights of wives over their husbands? The Holy Prophet (PBUH) replied: "Husbands are obliged to provide their wives with food and clothing on equitable terms."¹⁶ Muhammad Abadi¹⁷ explained that this Hadith includes food, drink, and residence, and clothing on equitable terms in accordance with the financial circumstances such as being rich or poor. One has to be moderate and nice to them and should treat them fairly.

b. The following Hadith is narrated by Hind Bint 'Utba that once she came to the Holy Prophet (PBUH) complaining about how mean and miser her husband Abu Sufyan was? He was not giving her wife and children enough money in maintenance, so she took secretly from his money without his knowledge to fulfil basic needs. She came to the Holy Prophet (PBUH) asking him about whether what she was doing was legitimate or not. The Holy Prophet (PBUH) said:

*"Take what is sufficient for you and your children, and the amount should be just and reasonable."*¹⁸

c. *"When a Muslim spends something on his family intending to receive Allah's reward it is regarded as Sadaqa for him."*¹⁹

The Holy Prophet (PBUH) did not only show that the man has a maintenance obligation towards his wife, but also stressed, in a Hadith mentioned

above, the importance of the man bearing the maintenance of all members of the family. He explained the great reward that the man will get in return for giving maintenance.

*d. "The most virtuous of the dinar is the dinar spent by a man on his dependants, and the dinar spent by a man on his beast in the Cause of Allah, and the dinar spent by a man on his companions in the Cause of Allah."*²⁰

This Hadith was narrated by Thawban that the Holy Prophet (PBUH) encouraged spending money for the sake of Allah Almighty to anyone poor, needy, slave but obviously preference and priority is your family. The reward will be greatest when a dinar is spent on your family. However, one may claim since maintenance is compulsory in the sense that men have to pay it for their wives, why is it then regarded as a sadaqah? Imam Al-‘Ayni²¹ answered this question by saying that although maintenance is obligatory, there is some kind of reward, so the Holy Prophet (PBUH) wanted to urge people to provide for, or spend it on, their families.

It is evident from all traditions mentioned above and other so many traditions in Sahih Al-Bukhari, and Sahih Muslim and other tradition's books under different chapters on the Obligation of Maintenance for Family and Children. It is evident from all these traditions that provision of maintenance to the wife and children is the duty of the husband and it is the financial right of a wife and children. Imam Ibn Hajar Al-‘Asqalani²² says in this regard that what is meant by family is his wife and then he added the children as an instance where the general is added to the specific.

The Ijma‘ (Consensus)

All the Muslim Jurists agreed unanimously from the era of the Holy Prophet (PBUH) till today that maintenance is considered a right of a wife and to be provided by the husband to her and children. Imam Ibn Qudamah²³ states that:

*"Muslim Jurists had agreed that the responsibility of the husband is for provision of maintenance to his wife if they are both of the marriage legal age and she is not disobedient".*²⁴

The Rational and Legal Reasoning (Al-Ma‘qul)

When the marriage contract concluded between husband and wife, she gives herself to him, becomes his own, and she confines herself to him for his benefit and not to anybody else. As a result, she cannot try to earn her own living in her way. Thus, if the husband does not provide for her in a fair way living expenses, she would be in deep trouble and she would be ruined. The Muslim Jurists have made an analogy among the status of the wife with that of the judge. The judges are maintained by the government or state because they work for the welfare and benefit of the government. If they were not given money from the state or the government, they would become bankrupt and be in deep trouble. The same rule applies to the wife; she has to be provided for by her husband.²⁵ In this regard, Imam Ibn Hummam states that:

*"The right of the wife is to get maintenance from her husband even if she were one of the people of the Book or Scriptures. If she gives herself in to him, then he has to provide for her living, clothing and housing".*²⁶

It is incumbent and evident from all what has been said that it is a financial right of a woman to get *nafaqah* from her husband. The reason that the maintenance is to be provided by the husband is that the wife is restrained to the husband all the

times and she had already given herself to him in contract of marriage.

Entitlement to Maintenance for a Wife

The wife who deserves and entitles to maintenance has to meet some requirements according to the Muslim jurists. The following conditions must be fulfilled for entitlement of the maintenance. The first condition is validity of a marriage contract. Because if it is not, whatever the reason may be, the wife does not qualify for a provision of maintenance. She is also not entitled to get it if she apostates. Another aspect that nullifies the marriage contract is where a man gets married to a woman and later he knows that she is his foster suckling sister. Immediately, the marriage contract becomes invalid and she neither gets her maintenance nor can she ask for it. As for what the man has already spent on her, he cannot get it back. A Hanafi Jurist, Imam Al-Khassaf said:

*"The woman who got married in accordance with a marriage contract that is invalid deserves no nafaqah."*²⁷

The second condition is that a woman must surrender herself to husband and she should be of the legal age for marriage and stay in the marital home for as a result of marriage. Imam Ibn Qudamah states:

*"If the woman gives herself in marriage to her husband in the way she is supposed to, she has the right to get everything that she needs in terms of food, drinking, clothing and housing."*²⁸

However, if she had not attained the age of puberty, the Muslim jurists disagreed on whether she should get the living expenses as nafaqah from husband or not. Maliki Jurists opined that if she could have sexual intercourse then, her maintenance becomes an obligation. But if she could not then, the man will not be obliged to pay for her. They further explain that maintenance is imposed on the husband after enjoyment and consummation with his wife. Thus, maintenance is countered by sexual access. Therefore, if the wife is too young and not possible to be enjoyed with her or if she cannot bear sexual intercourse, the purpose of maintenance is not achieved. In this regard, Imam Al-Baji states:

*"It may be the case that the man may have sexual intercourse with the woman though she might still not be sexually mature. If the husband was also too young for marriage, or the wife was impossible to have an intercourse with, due to her young age, there is no maintenance for her."*²⁹

The Hanafi³⁰ and Hanbali³¹ Jurists having the same opinion like Maliki Jurists as for as the Shafi'i Jurists³² is concerned, they had a different opinion regarding this issue. They stated that the sexual maturity of either the husband or the wife does not count as a factor that severs maintenance, as long as she had given herself to her husband in marriage and there had been sexual intercourse even though she might not be sexually mature. One of the Hanafi jurists, Imam Abu Yusuf,³³ is with Shafi'yyah in this matter. He said that a very young wife deserves maintenance if she is somebody who one feels at ease with, if she does the wife's work at home, and if she gives in to her husband although he cannot have sexual intercourse with her. Thus, according to the Shafi'i jurists and Imam Abu Yusuf, maintenance is counted by obedience rather than by sexual access.

The third condition for entitlement of maintenance is, when a husband is too young and cannot enjoy with his mature wife, in this case, the husband is responsible

for her maintenance, provided that she gives free access and surrenders her to the husband. In this regard Imam Ibn Qudamah states:

*“If the woman was old enough for marriage and able to have sexual intercourse, and she gave herself in marriage to her husband or tried to, and if she did not hold herself from him nor did her guardians hold her from her husband, then the sexually immature husband, who is only a boy, is responsible for her maintenance”.*³⁴

In this case, nafaqah has become an obligation upon the husband because the wife giving herself to her husband and she satisfied on her part. In all such cases where the husband could be ill, imprisoned for commission of a crime or an unpaid debt, the same ruling applies here in this case that maintenance is to be provided by the husband. Imam Malik did not agree with this point of view that if a husband is very young, not attained the age of puberty, in this case, provision of maintenance to the mature and major wife by the husband has not been made obligatory. He stated as: *“A sexually immature husband is not obliged to pay maintenance. The maintenance is due only when both the husband and the wife are mature enough to enjoy a sexual relationship.”*³⁵

The final condition for provision of maintenance is that if woman is not giving herself to her husband in marriage, or not allowing her husband coming near to her for sexual relationship due to some acceptable reasons. These reasons may be for example:

- a. If the wife demands her dower and the husband is not giving her a dower,
- b. If she is having her menstrual period,
- c. If the husband beats her or if she knows that he is not trustworthy.

In all these cases, the wife deserves to get her provision and she cannot be considered disobedient. Imam Ibn Taymiyyah agreed with the majority of Muslim Jurists in this opinion and he said:

*“If the woman does not allow her husband to touch her or have intercourse with her, or if she leaves his house without his permission, she has no right to ask for nafaqah, or clothing because in this case she is taken to be a shrew or disobedient in things she is supposed to obey”.*³⁶

It is evident from all what has been discussed above that provision of maintenance to the wife relies significantly on two qualifications: first, whether the marriage contract is valid or not and second, whether the wife has enabled her husband to have sexual relationship with her. The first requirement states that the marriage contract should not be invalid or void. The second requirement is fulfilled if the wife enables her husband to marry her and this can be done in one of two ways. The first way, the wife is restrained in the husband's house as Hanafi Jurists having the opinion. The other way is through enjoyment as Maliki, Shafi'i, and Hanbali Jurists made their point of view. If both conditions are fulfilled, the wife gets the maintenance and it is an obligation on husband for provision of nafaqah in accordance with the opinions of four schools of thought.

However, Imam Ibn Hazm disagrees with the majority of Muslim jurists and argues that the wife's maintenance is obligatory on husband once marriage contract is concluded without any consideration, whether the husband had touched his wife or not or whether she is disobedient to her husband or not. He is coming with evidence for this from the Holy Qur'an: “The husbands are liable for provision of maintenance to their wives according to their means”. He further argues that there is no statement

of this in any of the Holy Qur'an, or the Sunnah of the Holy Prophet (PBUH), or the Companions' sayings, and analogy.³⁷

It is concluded from the above discussion regarding the conditions and qualifications for wife's right to maintenance by the Majority of Muslim jurists, that marriage has legalized the husband's right to enjoy his wife; if this enjoyment is not achieved due to some reasons from the wife's side only, her right of getting maintenance is dropped. But according to Imam Ibn Hazm the wife's maintenance is imposed on the husband when the contract of marriage is completed. I do not see any contradictions among these Muslim jurists. The Jamhur (four schools of thought) focus on two things: the obligation that the wife should have maintenance, and the man's right to get peace, tranquillity and stability in marriage. Imam Ibn Hazm thought the conditions of paying maintenance should not be restricted only to these two requirements for the good of the Muslim family. Therefore, I believe that the wife's right to get maintenance should be an obligation as long as she is married to husband and she gives herself to him. In addition, there should be other elements that are required such as love, and spiritual or moral enjoyment which spouses share like tranquillity, confidence, assurance, and intimacy. All these factors play an important role in making a wife worthy of maintenance from her husband. I also believe that it is more convenient for the husband to take this sensitive point into consideration and make sure that his wife is paid what she deserves as maintenance, of what he can financially afford.

Maintenance of a Divorcee

The divorcee after a valid marriage contract is entitled to get maintenance and residence during 'Iddah period. The duration of 'Iddah results from a divorce or death of the husband. The following divorcees are entitled to maintenance during 'Iddah:

- a. Divorcee through three repudiations at once
- b. Divorcee through a single repudiation
- c. Pregnant divorcee

Divorcee through a single Repudiation

The Muslim Jurists³⁸ agreed on the issue that divorcee woman in revocable divorce is entitled residence and maintenance because she is still considered the wife of husband. The Holy Qur'an points out these rights of woman as Allah Almighty stated:

*"Let the women live (in 'iddah) in the same style as ye live, according to your means: annoy them not, so as to restrict them."*³⁹

Divorcee through triple Divorce at once

The Muslim Jurists disagreed about provision of maintenance to a divorcee in irrevocable divorce (Talaq Ba'in). Hanafi Jurists⁴⁰ opined that in case of Talaq Ba'in, she is entitled to maintenance and residence. They argued that rulings regarding divorcee in Surah Al-Talaq signify that divorcee is entitled for maintenance and residence as the Holy Qur'an states:

*"O Prophet! When ye do divorce women, divorce them at their prescribed periods, and count (accurately), their prescribed periods: and fear Allah your Lord: and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness."*⁴¹

A contemporary Scholar Hussain Hamid Hassan stated in the regard of this verse as: *"This verse gives every divorced woman the right of residence and declared her staying in the house obligatory on her and she, who withholds herself from going out, is entitled to maintenance."*⁴²

Hanbali Jurists⁴³ do not provide maintenance as well as residence to a divorcee in irrevocable divorce. This is also the opinion of Dawud, Abu Thawr, Ishaq and a group of jurists.⁴⁴ They support their view by a tradition narrated by Fatimah Bint Qays as:

*"Fatimah bint Qays narrated that my husband divorced me with three repudiations and Allah's Messenger (PBUH) made no provision for residence and maintenance."*⁴⁵

As for as the Shafi'i and Maliki Jurists⁴⁶ is concerned, they opined that woman in Talaq Ba'in is entitled only residence not maintenance. They are coming with evidence from the Holy Sunnah as:

*"Fatimah reported that Abu 'Amr ibn Hafis divorced her absolute divorce when he was in Syria. He sent some barley to her by his agent, (when an agent brought barley and delivered the message of divorce), she was displeased with it and said: By Allah, I do not expect anything from you. Then she went to the Holy Prophet (PBUH) and prescribed the whole story to him. The Holy Prophet (PBUH) said: The husband is not obliged to pay maintenance to you and you have no maintenance further stated that you have to complete the duration of 'iddah in the house of Umm-e-Sharik".*⁴⁷

The reason for their disagreement is the various traditions of the Holy Prophet (PBUH) on the issue and the apparent meaning of the ayah 6 of Surah al-Talaq.

Pregnant Divorcee

The Muslim Jurists⁴⁸ agreed that a divorcee, who is pregnant, is entitled residence and maintenance on the basis of verse of Surah al-Talaq as Almighty Allah stated:

*"Let the women live (in 'iddah) in the same style as ye live, according to your means: annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties let another woman suckle (the child) on the (father's) behalf."*⁴⁹

The Quantum of Maintenance

There is no explicit statement regarding the quantum of maintenance in the Holy Qur'an and the Holy Sunnah that accurately specify how much the husband has to pay for his wife as maintenance. It is unclear whether it depends on the circumstances of the partners or it has to do with the man's financial conditions. Due to the unavailability of such a statement, the Muslim jurists express their views and opinions to explain this issue. There are basically two different views to address this matter.

The first opinion is of Maliki, Hanbali, and some of Hanafi Jurists, they say that the financial conditions of the spouses (husband & wife) are of prime concern when deciding how much the woman's maintenance should be.⁵⁰ Thus, if both the husband and the wife are rich, they have high maintenance in accordance with the traditions of the time and place where they live. However, if they are both poor and facing some financial difficulties, they have little maintenance, and the husband has to

pay only what he can afford. Sometimes, the woman is poor and the husband is well off. In this case, the maintenance she gets is higher than that obtained when they are poor but less than the maintenance that is usually obtained when they are both rich. And if the husband is poor, he pays according to his financial capacity and affordability. Imam Malik stated that:

*"The financial status of the wife and that of the husband have to be taken into consideration when fixing or calculating maintenance."*⁵¹

To support this view, he comes with evidence from a Hadith by the Holy Prophet (PBUH) in which he ordered to Hind Bint 'Utba: "What can satisfy yours and your child's needs, you can take it but it must be realistic amount."⁵² Here, the Holy Prophet (PBUH) took into consideration the circumstances of both partners and permitted her to take from husband's property an amount of money that is just, reasonable and sufficient for her and children.

The second opinion is of the Shafi'i, Hanbali, and some Hanafi Jurists, particularly Al- Karkhi,⁵³ they say that the amount of nafaqah depends only on the husband's circumstances and not the woman. If a man is poor, he may only pay the kind of maintenance that is normally paid by people suffering from insolvency, although the wife may be quite rich. But if the man is rich, he may pay the kind of maintenance usually paid by rich people, although the wife may be poor. Shafi'i Jurists say that this does not apply to the cost of housing. They argue that the estimation of the housing benefit or cost has to do with the woman's status and not with that of the man alone. Because she spends most of her time in the house, due to the requirement that she should be confined to her husband's house, the residence has to be convenient to her. They also support their opinion from the verses of the Holy Qur'an as Allah Almighty stated:

*"A man of vast means should spend according to his vast means. And anyone whose sustenance is limited should spend from whatever Allah has given to him. Allah makes no one liable beyond what He has given to him. Allah will soon bring ease after a difficulty."*⁵⁴

The second opinion of Shafi'i and some Hanafi Jurists is more appropriate as it takes into consideration the husband's circumstances only. Because the husband on his own has to provide the wife's maintenance and the wife already has some knowledge of the man's financial situation and his ability to pay for her living expenses. She agreed to marry him after she knew all about this matter. This makes it crystal clear that the estimation of the woman's maintenance is based only on the man's financial or economical position. This is in accordance to the words of Almighty Allah as He states:

*"Allah does not obligate anyone beyond his capacity. For him is what he has earned, and on him what he has incurred."*⁵⁵

The maintenance of a wife can be fixed, estimated or calculated on a daily, monthly or yearly basis according to the resources of a husband. But, the way it should be paid may take into account the husband's circumstances and the most appropriate way for him to provide the maintenance. If he works and gets a monthly salary, he pays the maintenance monthly, and if he is a worker and gets his wages daily, the payment may be daily or weekly, and so on. It is very common nowadays that maintenance is paid on a monthly basis. Another option regarding to the provision of maintenance is, it is left to the wife, she either gets fixed money from

husband or everything she needs from her living expenses may be provided. Maintenance as has already been established earlier includes food, clothing, and housing. This had been clearly confirmed by the Islamic Law and there seems to be no disagreement among the jurists in this regard.

Conclusion

The provision maintenance is an obligation on husband and a right of a woman. *Nafaqah* includes gourmet, clothing and residency. In this paper several issues have been discussed regarding provision of maintenance to woman by defining the meaning and legality of maintenance through the sources of Islamic Law. Muslim jurists have specified the conditions over the provision of maintenance; if these conditions are fulfilled as the marriage contract is legal and properly consummated, then woman is entitled to claim maintenance but according to Imam Ibn Hazm wife's maintenance is imposed on husband by mere the contract of marriage. The current paper has argued that wife should be qualified for maintenance the moment her marriage is consummated. It is concluded that the amount to maintain wife can be fixed, estimated or calculated according to the financial condition of a husband. It can be suggested that maintenance should be provided on daily, weekly, monthly or yearly basis while considering the nature of job of husband and needs and urgency of wife; however, monthly payment is the common practice at the present time.

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