

Problem of Domestic Violence and Its Solutions in the Light of Maqasid Shariah

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Abstract

The spread of family problems in the contemporary period leads to divorce and family disengagement in society; the study revolves around the emergence of social problems resulting from wife's work outside home which makes her neglects her certain rights and obligations. Moreover, cases of domestic violence have increased such as beating and verbal abuse in all its forms. Accordingly, the study lies in building a happy family which is the first nucleus of society whose integrity and corners must be protected, and also highlights the role of maqasid shariah in solving problems of modern family; thus, the study aims at highlighting the rights and obligations between spouses in accordance with Islamic law, and to identify the reasons and motivations that lead to the existence of these problems and how to solve them from the maqasid shariah perspective. The study adopted the inductive and analytical approach and looked into schools of Islamic jurisprudence, and discussed the views of the jurists through explaining their authorities in the issue, and discussed the points of agreement and disagreement, and then analyzed the texts and issues in the light of maqasid shariah. The result shows that the main reason for having family problems is the lack of knowledge of the spouses with rights and obligations and abiding by them. And that wife's work is permitted within limits and restrictions that are not contrary to maqasid shariah, and a working wife has to balance between her work and paying attention to family matters, and it also shows that domestic violence within the family is contrary to maqasid shariah that is based on love and compassion between the couple and that occurs as a result of ignorance of the shariah secret in building a family; and it is compulsory on each of them to abide by the shariah teachings and stick to its maqasid (purposes) and to implement them in the family life, and with this, family life will last in the obedience of Lord Allah (swt).

Keywords: problem of domestic violence and its solution in the light of maqasid shariah

1. Preface

Although, domestic violence was known in the ancient human societies, but discussing it was not as strong as it is today. This is due to many factors, such as globalization of the issue of violence and attempt to find global solutions to it, even if these solutions are not in line with religious beliefs of some nations, such as the issue of wife-beating, nonstop birth, polygamy and some other issues that some are trying to raise suspicion about them in order to reject resorting to shariah in finding their solutions but to replace the shariah with the man-made law. Also, some global women associations and organizations advocate for women's rights, including the issues of violence against women in the family and society. Some of these women's groups question the validity of Islamic law and demand the modification of some rulings that encourage violence in their eyes. Again, the spread of media and the media's openness which focuses on this violence and highlights some of the cases that occur from time to time is another factor. Furthermore, there are shortcomings from Islamic scholars, cultural and educational institutions in showing the truth of Islamic law and its purposes in establishing a Muslim family and cooperation between its members, and to overcome traditions and customs prevailing over the true Islamic values in most Islamic societies, with the spread of misconceptions attributed to Islam either wrongly or deliberately or out of ignorance. This part will address several issues related to maqasid shariah against violence by husband towards wife and vice versa, and violence towards children, elderly and maids.

2. Concept of Violence Literally and Technically, and Its Reasons and Types

Literal definition of violence: violence in Arabic refers to something that is not praised and not encouraged by the Shariah, because the shariah incites kindness, simplicity and softness, and violence is on the contrary.

Violence refers to distress and lack of compassion (Razi, 1999). It is understood from this definition if one orders another to do something beyond his capacity, this is considered a kind of violence prohibited by Islam. And why not, if a camel which is an animal refuses to be in another country, then preferably a human being that has been honored from the seven heavens not to agree with what is not in line with his temperament or his nature. And one of the meanings of violence is to exercise physical force with the intention to harm others; and this may be material damage through the exercise of physical force by beating or mental through intentional insult.

3. Technical Definition of Violence

“Violence is an expression of power exerted to compel an individual or group to do act or acts that is needed by an individual or another group; violence is a reflection of violence in the methods of beatings, imprisonment or death, or a form of social pressure” (Muhammad, 1990). It is worth noting in this definition that there is a strong link between the literal and technical definition, and it is also understood from this definition that violence is a severe dealing and forcing a person or persons to do what they are not capable; it is also understood that violence might be by beating, imprisonment or death, and all these are types of violence. It is deduced from this that any man that forced his family to do what they are not capable is considered as violence, and the same goes to a woman that forced her husband to do what he is not capable or couple that treat their children severely and with what they are not capable.

4. The Causes of Domestic Violence

Of the most important reasons that leads to violence is socialization, such as the existence of ongoing marital disputes and lack of respect for the other or control of parent over the other or husbands, or control of elder brother over younger brother, and the failure to meet the basic needs of women may lead to the creation of violent or aggressive conduct, and lack of showing passion and compassion for women may also lead to violent conduct. Domestic violence is a result of internal accumulated habit that grew since the period of childhood and adolescence, where the custom gives a severe and violent treatment with the aim of training and roughness and cruelty of life, especially in villages and tribal societies dominated by inherited values, it is internal and external environment that makes human loses his most important capability which is ability to manage emotions and strong control, the Prophet (saw) said: “Toughness is not in fighting orders but it is in controlling oneself at the time of anger” (Ibn Hajar, 2001). Domestic violence has many reasons, and we will mention the most important ones that are widespread in the society:

- 1) The weakness of religious faith and Islamic education in the knowledge of legal rulings of building a family.
- 2) Poor upbringing received by the husband from his environment, society and his family that taught him violence; it is like a normal happening in every house and in every family. It is possible that the husband learnt violence from a young age, making it to stick to his mind, and brings the tendency of committing violence in the future. And the belief that wife-beating will make her a better person, or proves the manhood and prestige of the husband, and that beating will make her more obedient to her husband and to implement his orders.
- 3) The presence of agitation and irritability in some souls and complexions.
- 4) The economic problems of unemployment, poverty, and difficult living conditions, especially if all these happen to people that are impatient, discontent and lack satisfaction; and other things that increase psychological pressure and problems; and they always try to find solution by using violence within the family.
- 5) The disproportion between the spouses of the intellectual aspect, particularly on the part of woman when she is educated and her husband is ignorant, and then he tries to use power, force, domination and violence over her.
- 6) Taking alcohol and drugs, where statistic shows that a large proportion of violence occur when one of the spouse takes alcohol or drug.
- 7) Extreme jealous from one spouse towards the other, and it becomes worse when it comes from both sides and none of them is rational (Qara Dagi, 2011).
- 8) Disobedience of wife to husband's orders and a lot of those that commit violence rely on this reason besides stubbornness which is one of the aspects of disobedience (Turaif, 2005).
- 9) Influence of the media that shows violent scenes, including watching violent movies; studies have proved this theory wrong as the media that display violent practices does not breathe for the individual as much as it pushes and encourage him to practice in a violent behavior (Qara Dagi, 2011).
- 10) disregarding the offender and trying to underestimate him in front of others, which compels him to take revenge to recover his dignity; example of such provocative behavior: arguing with husband and disrespecting his ideas and scathingly criticizing his actions in front of others, which may lead to also be provoked by others,

and this may raise his anger and pushes him to assault his wife in retaliation by beating; a couple mentioned a reason for beating his wife by saying: “my wife completely disgraced me in front of others”. Other examples of provocation are provocation of children towards their parent when they neglect their studies, or making noise at home when the parents want silence and rest, or while abusing their bothers, or when they refuse to abide by performing religious duties (Turaif, 2005).

11) Refusal of wife for sexual intercourse when her husband needs her; and this is the issue that the Prophet (saw) warned against: “If a man calls his wife for his need she has to come.” (Tirmidhi, 1999)

Reasons why women refuses her husband in this day differs slightly with the past, especially working women that suffer inside and outside the home, which increases their psychological pressures and burdens their physical ability, which makes them to refrain from husbands under the influence of fatigue and tiredness.

These are the main causes of domestic violence and are connected to each other in creating complexity; economic crisis within the family and the difficult living conditions facing families often lead to the emergence of family disputes that lead to psychological and mental turmoil among family members, and perhaps to destroy them.

5. Types of Domestic Violence

There are many types of domestic violence, including physical that has tangible results and mental which does not leave a clear effect on the body, but leaves traces on the mind.

First: physical violence: it is of many kinds such as beating, burning, use of weapon etc.

Second: psychological violence: any mischievous and psychological violence that has no any physical traces, such as shouting, insults, humiliation, sexual violence etc. And this often destroys the human personality and undermines self-confidence, and affects his life in the future.

Third: economic violence: This includes monopoly, demand by a wife to get her salary, and preventing wife from possessing anything.

The problem of domestic violence and its solution in the light of maqasid shariah:

Violence against wife and its solution in the light of maqasid shariah:

Islam is keen on women’s dignity as mother and wife just like when she was small; this honour has been demonstrated in several things, including:

12) Making a good wife is the cause of happiness in this life. It was reported from the Prophet (saw): (three things are of happiness and other three are of misery; of happiness is a righteous woman, when you look at her she impresses you and when you are away you entrust her on herself and your wealth) (Razi, 1999).

13) Freedom of choice for a woman to choose the husband she loves as Islam does not force her to live with someone she does not love. The Prophet (saw) said: (a married woman (divorced, widow) may not be married until she has been consulted, and a virgin should not be married until her permission is sought (Tirmidhi, 1999).

14) Commandment of good treatment by husbands to their wives with love and mercy as opposed to tyranny and injustice. The Prophet (saw) said explaining this meaning: (The best of you is the best to his family and I am best to my family) (Tirmidhi, 1999).

This is enough as honour by Islam to wife; but claiming that Islam permits wife-beating and having sexual intercourse with her against her will as encouragement for violence against women, that is totally unacceptable and can be refuted by the following issues:

First issue: problem of wife-beating; some Muslims exploit the permissibility of Islam for light wife-beating in extreme cases to exercise their illegal violence against their wives relying on the verse in Sural an-Nisa: (As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all) (Qur’an, Nisa, 34: 4). Ibn Abbas said: turn his back for her and not have sexual intercourse with her, and Mujahid said: avoid sleeping with them, Ibn Jubair said: it is migration from talk: that means do not talk to them. And the saying “in bed” Abu Al-baqa mentioned two views:

First: avoid sleeping with them and do not refuse talking to them.

Second: it means ‘causation’, which means migrate in bed, as you say: there is a penalty in this crime (Razi, 1999).

Its cure in the light of maqasid shariah is that violence against wife and beating her severely violates the purpose

of shariah based on love and compassion between the spouses; thus, the husband should remember the punishment of Allah (swt) for oppressing her, and one of the purpose of shariah is the protection of soul, and attack on the body by severe beaten is considered a violation of the purpose of shariah. Of the arguments to renounce severe wife-beating by Islam there are two different hadiths: the Prophet (saw) said: (One of you may recklessly beat his wife like a slave and may need her in the end of his day" (Ibn Hajar, 2001). In another hadith: (why should one of you beat his wife and then he may hug her" (Ibn Hajar, 2001). Thus, wife-beating is against the purpose of shariah and the guidance of the Prophet (saw).

And this justification for wife-beating is not true at all because this verse is concerned with a defiant and disobedient wife; and literally a defiant wife refers to a wife that rose above the husband, disobey him, anger him and gone out of his obedience (Ibn Manzur, 1994). Thus, this verse cannot be relied on to justify wife-beating because beating is a solution to exceptional cases. This verse does not give a husband permission to commit violence against wife but gives guidelines of solving problem and maintaining the integrity of the family. And these guidelines must be followed chronologically; that means it is not permissible to jump one solution without following the next one; the steps are as follow:

a. Advice and gentle counsel and showing love. In this situation, a husband may seek the help of someone that can influence his wife and know the cause of her defiance and subsequently advise her and guide her to what will be for the interest of her marriage. This advice may come from parents or from social or psychological professionals who work in this field.

b. Desertion in bed. It is mentioned in tafsir al-Mannan: desertion in bed has meaning that may not be achieved in bed or house desertion, because meeting in bed is what shakes the marital feelings and each couple feels comfort to one another, and the misunderstanding disappears, so, if husband abandons his wife in this situation, this makes her to ask the reason which may lead to agreement between them (Ridha, 1999).

c. A non-severe beating; and to avoid face and apparent organs; and not to beat her except related to disobedience, and he cannot beat for the right of Allah such as prayer according to majority of the jurists (Kuwait Encyclopedia of Jurisprudence, 1983).

Thus, the meaning of beating here is non-severe beating, and some scholars say such as beating by siwak, or small stick etc.

Second issue: Sexual intercourse by husband with his wife against her will: Islam prescribed certain etiquette for attainment of sexual harmony, when the Prophet (saw) said: "I swear with Allah that My soul is under His control, any husband that calls his wife to his bed and she refuses, all that are in the sky are angry with her until he (husband) is pleased with her" (Muslim, 2013) He means that wife that has no legitimate excuse; but if there is an excuse such as illness, stress and other legitimate excuses such as menstruation, postpartum, a husband must take all these into consideration and not to force his wife for sexual intercourse during these periods, because Allah (swt) said: (They ask thee concerning women's courses. Say: They are a hurt and a pollution: So keep away from women in their courses, and do not approach them until they are clean. But when they have purified themselves, ye may approach them in any manner, time, or place ordained for you by Allah. For Allah loves those who turn to Him constantly and He loves those who keep themselves pure and clean.) (Qur'an, Baqarah, 2: 222), and the hadith of the Prophet (saw): "Listening and obedience are compulsory on a Muslim as long as he is not ordered to commit a sin; when he is asked to commit a sin, he shall not listen and shall not obey" (Tirmidhi, 1999). And also for harm on her, and there is a legal maxim that says: "no harm, no harm".

Third issue: uttering insult and abuse to the wife and undermining her and this is contrary to the maqasid shariah of the protection of human dignity, Allah (swt) said: (Verily, We have honoured the sons of Adam). Muslims have certain etiquettes prescribed by their religion in dealing with women, and all Muslims must be fully aware with them, and their hearts must also be full of compassion and kindness towards women (Abu Shaqqah, 2009).

Prof. Dr. Hossam says: We believe that Islamic law prohibits unjust discrimination against women, which neglect her rights or undermines her dignity, and there is no right of discrimination by men that takes away justice from women in Islam, but only what is in mind of sick people of personal defeat, or those that are ignorant of pure shariah, those that do not understand the existence of natural differences that lead to differences in shariah rulings, jobs and rights of life, and every action contrary to this, whether issued by an enemy or ignorant friend, it is based on illusion or rebuttal evidence of the rights of a Muslim woman and her duties (Afanah, 2007).

6. Wife's Violence and Its Solution in the Light of Maqasid Shariah

Wife's violence against her husband: there are several types of violence perpetrated by wife against her husband in the family, and these types are as follows:

- 15) Physical violence by killing and beating, deliberate distortion, abuse and defamation.
- 16) Refusal to share the same bed due to hate or negligence, or reluctance as a means of humiliation.
- 17) Instigating children against him by lying that destroys his image in front of them.
- 18) Attempt to demoralize his morale, by accusing him with failure and abusing him if he is poor (Suzan Mashhadi, www.alarabiya.net).

7. Treatment of Wife's Violence against Her Husband and Its Solution in the Light of Maqasid Shariah

Husband's beating: it is normally surprising for a wife to beat her husband because she is weaker, and man is physically stronger, but studies show that beating of wife to her husband has become a phenomenon in some families. And what confirms the worsening of this violence is the establishment of associations for husbands that have been subjected to violence, which is considered as first of its kind, then establishment of the first refuge for husband that are oppressed by their wives in Tunisia (BBC Arabic, 21 September 2007, <http://news.bbc.co.uk/hi/arabic/news>).

And the factors leading to woman's violence against her husband are many, amongst them: woman's marriage to a spineless man, bearing the responsibility of the home and families by feeding and upbringing of the children by women.

8. Problem of Wife's Violence and Its Solution in the Light of Maqasid Shariah

First: the purpose of protection of religion, in strengthening faith in Allah (swt) in the establishment of an environment of faith to generate guidance in people's heart, and the demolition of inattention environment to adhere properly to the guidance that corrects all affairs of their lives.

Muslim wife should fear Allah (swt) and obey her husband, and should not beat him, as we mentioned that this it is against the maqasid shariah based on love and compassion between the spouses.

Second: violence against husband is also contrary to the shariah as the shariah orders her to obey her husband. Reported by Abdurrahman bin Auf the Prophet (saw) said: "if a woman pray five daily prayers, fast in the month of Ramadhan, protects her private part, obeys her husband, she would be told: enter paradise from whichever doors of paradise you wish (Hanbal, 2001).

Third: violence against husband is contrary to the shariah that asks a woman to respect her husband because of the degree of his right on her, as reported in a hadith by Abu Hurairah from the Prophet (saw) said: "If I would ask someone to prostrate to someone I would have asked a wife to prostrate to her husband" (Tirmidhi, 1999).

Fourth: violence against husband is affront to human dignity, and one of the purposes of shariah is the protection of human dignity.

9. Problem of Domestic Violence against Children and Its Solution in the Light of Maqasid Shariah

Islam renounces violence against children in the family and commanded us to be gentle with them and not to oppress them as mentioned in a hadith from the Messenger of Allah (saw): "be gentle and beware of violence and obscenity" (Ibn Hajar, 2001).

10. Violence against Children and Its Treatment in the Light of Maqasid Shariah

The following are some violence against children:

Emotional assault or harm: is the psychological and social damage to child, such as denying him to play, love and compassion; Islam renounced this kind of violence as the guidance of the Prophet (saw) is compassion for children and nice treatment. The best evidence to this is what was reported by Abu Hurairah that Aqra bin Habis saw the Prophet (saw) kissing Hassan and he said: (I have ten children but never kissed any of them, and the Prophet (saw) looked at him and said: he who does not have mercy will not receive the same) (Ibn Hajar, 2001) because of the purposes of shariah are good care and upbringing of children and not ignoring them.

The issue of disciplining children: Discipline is a fundamental concept of the concepts of education, which is a necessity of life for the children, and is a right of the child based on the hadith of the Prophet (saw): "he who gets new baby, he must give him a good name and discipline him" (Baihaqi, 2003). The Prophet (saw) also said: "It is better for one of you to discipline his son than to give charity of sa'in" (Tirmidhi, 1999).

Sexual assault and harm: is a form of physical abuse, and Islam came to protect dignity which is one of the five necessities, and prohibits assault on it and impose punishments for those who abused it.

States have decided to put laws and compensation for this heinous act, and we know that prison and compensation are not enough to compensate this tragedy, and is not enough deterrence for criminals. Hence, there is a call for the adoption of Islamic rule in incest, which ranges from penalty for adultery in an opinion by Imam Ahmad, Malik and Shafi'i, and the punishment for murder in an opinion by Imam Ahmad where he said: "he would be killed and his wealth would be taken to bait al-Mal, and this is because of what was narrated from Barra that he said: I met my uncle with flag, I said: Where are you going? He said: The Prophet (saw) sent me to man committed adultery with his father's wife after his death, to strike his neck and confiscate his wealth) (Abu Shamah, 2005). Ibn Qayyim mentioned an incident that took place in the era of Hajjaj where he said: "Salih bin Rashid informed us that: a man was brought to Hajjaj for raping his sister and he said: tight him and ask who is here from the companions of the Prophet (saw), and they asked Abdullah bin Mutraf where he said: I heard the Prophet (saw) saying: "he who exceeds two sacredness, exceed his waist with sword" (Ibn Qayyim, 1983). Violent beating: Problem of mother's beating of her children is caused by many reasons: 1- Husband's violence to his wife and she tries to retaliate on the children. 2- Lack of mothers' awareness with the requirements of the stages of children's ages which are constantly changing. 3- Bad upbringing of the mother from her parents' house, a person who came from a family where a member of that family committed violence against him, mostly he is expected to perform the same, believing that it is normal as he experienced it before. The use of violence in raising children is unacceptable by shariah as the Holy Qur'an guides parents to preach to their sons in love and kindness and to use style of speech indicative of love, kindness and care for them. This is the teachings of the Prophets (AS) in addressing their children even if the child is disobedient or not at his father's guidance; we find that in the commandments of Luqman to his son, Noah's call to his son, and Jacob's call to Joseph and his brothers all carry the word (My little son) because of the special resonance of this expression that is not present elsewhere (Muhammad, 1990), and also in the hadith narrated from the Prophet (saw) "Allah is kind and He loves kindness, and he gives in kindness what he does not give in violence and others" (Muslim, 2013).

11. Problem of Violence against Elderly in the Family and Its Solution in the Light of Maqasid Shariah

Neglect and Violence against elderly in the contemporary world take many forms: physical, psychological, emotional, financial and material. These forms of violence occur in all areas of social, economic, ethnic and geographic.

A study carried out by the Saudi Arabian Ministry of Social Affairs in 2006 under the title "violence against the elderly" shows the increase in rates of violence against elderly in Saudi society, and that the most common types of abuse is neglect as the average reached 2.8%, followed by psychological abuse at an average of 2.49% according to a Saudi economic newspaper. The study revealed that most of the social problems of the elderly are: social deprivation, diminished relationship, and loss of economic security, loss of role, retirement, widowhood, divorce, and leisure-time problems. Add this to the problems of personal care in the cleanliness of the body, clothing and food (Saudi Arabia: study recommends the confrontation of violence against the elderly: www.lahaonline.com).

In a survey conducted by the Ministry of Health in Bahrain, the definition of mistreatment of the elderly has been defined, and has been divided into sections:

"Physical abuse: is the physical damage to the victim, such as deprivation of food, clothing, and lack of personal care and loss of affection. The use of violence and force are considered as one of the most prominent manifestations of physical abuse.

Emotional abuse: includes humiliation, harassment, threats, tone raise and emotional neglect.

Physical abuse: the disposition of funds and property and daily expenses without the consent of the victim.

Sexual abuse: sexual harassment, force or coercion for sex without the consent of the victim (Maltreatment of the elderly, the website of the Ministry of Health in the Kingdom of Bahrain: www.moh.gov.bh).

Violence against the elderly is different from the one against woman and child as it will leave an everlasting physical and psychological pain on the elderly. The shock effect may compound on them because of fear and shame may make the elderly reluctant in seeking for help (Report of the Second World Assembly on Ageing. Madrid, 8-12 April 2002, United Nations), or make a complaint. Thus, it is observed that the elderly may be exposed to repeated attacks which may be revealed by social circles more than what is revealed by official statistics.

12. Problem of Violence against the Elderly and Its Solution in the Light of Maqasid Shariah

The shameful incident of violence against the elderly are practiced by the closest people to them, we find some children that are stripped of their humanity engaged in various kinds of violence against their families, including:

19) The problem of bullying that begins with verbal abuse and ends with a beating. This type of violence hurts the elderly and destroys his morale, which is barely stable due to age factor. The solution to this is for a person to fear Allah (swt), and to preserve the dignity of human beings, especially closer ones and not destroy their dignity preserved by Allah (swt) for all human beings by His saying: (Verily, We have honoured sons of Adam. (Qur'an, Isra'i, 70: 17). And that one of the purposes of shariah is the preservation of human dignity; this is not restricted to sex or age, but it is more emphasized for the elderly, in order for the Islamic ummah to preserve its strength and integrity. The Prophet (saw) says: "He is not one of us who does not have mercy on our young ones and respect our old ones" (Tirmidhi, 1999).

20) Problem of sending parents and the elderly to nursing homes without any mercy or compassion. The solution is to remember the words of Allah (swt) in His book: (Thy Lord hath decreed that ye worship none but Him, and that ye be kind to parents. Whether one or both of them attain old age in thy life, say not to them a word of contempt, nor repel them, but address them in terms of honour.) (Qur'an, Isra'i, 23:17). Islam does not allow taking the elderly to nursing homes unless if they do not have children or relatives. Allah (swt) ordered us to have a kind dealing with parents at all times, especially in old age, because they need more care.

13. The Problem of Violence against Maid and Its Solution in the Light of Maqasid Shariah

Amongst violence that occurs within the family is the violence against maid, which may exceed taunting and beating up to murder. Violations of maids' rights and violence against them is an issue confirmed by a recent study carried out by Human Rights Watch, which recently published a report about some violation of foreign maids' rights in Lebanon, Saudi Arabia, Kuwait and U.A.E. Interview was conducted for 170 persons in Sri Lanka who served as maids. The result came to show the types of violence against maids which starts by verbal taunting until it reaches to abuse by beating and ends by rape. The report showed that deprivation of the maids' freedom, their papers and their salaries ranked first in the violations (Kuwait Encyclopedia of Jurisprudence, 1983). This suffering by the maids exacerbated to the extent that it has become a dangerous phenomenon that needs attention as said by Psychological consultant Dr. Taher Shaltout: who also noticed that complaint of physical or verbal torture comes from women more than men. This is because mixing between the maid and the mother of the family is more frequent than other members of the household. This may also be due to feeling by the wife that the maid carry out some roles that she supposed to be performing which may create a sort of hidden jealousy which is sometimes explained as impulsivity and neurological from ladies towards maids (Nasha'at Amin, Violence against maids raises questions: www.amanjordan.org).

14. Treatment of Violence against Maid in the Light of Maqasid Shariah

We will mention the most important treatment for violence against maid, amongst them:

First: to fear Allah in secret and in public, and should know that Allah is watching all his actions and his words, and would be held accountable in the day of Resurrection; he should not oppress, abuse, and beat the maid; fear of Allah brings someone closer to Him, and person must remember that the power of Allah is above all things; and hearts will be clean and keep away from injustice, and brings a spirit of tolerance and sincere love between them and good morals advocated by the shariah. Reported by Jabir that the Prophet (saw) said: "The most loved one and closest to me amongst you in the day of Resurrection is the one with best moral, and the most hatred to me amongst you and most distant from me in the day of Resurrection are talkative and arrogant ones" (Tirmidhi, 1999).

Second: there is a need for a person to deal with the maid with respect and love. The Prophet (saw) said: "he who has his brother under his control should feed him from what he eats and clothe him from what he wears and do not ask them to do what they cannot, and if you ask them help them" (Ibn Hajar, 2001). We have good example in the life of the Prophet (saw) in dealing, Anas said: I served the Prophet (saw) for years and He never asked me why you did so and so? And never criticized anything I did" (Muslim, 2013). Islam commands us to be kind in dealing with maid. Islam urges us to be humble with all human beings and vilifies arrogance.

Third: The purpose of shariah is based on compassion and tolerance. The Prophet (saw) said: "Those with mercy Allah (swt) will have mercy on them; have mercy on those on the earth and the one in the sky would have mercy on you, family-tie is from the Merciful, whoever connects it he would be connected by Allah, and whoever disconnects it he would be disconnected by Allah (Tirmidhi, 1999).

15. General Means for the Prevention of Domestic Violence

There are general means for the prevention of domestic violence, below are some of them:

21) Commitment to the teachings of Islam and its application in family life, from choosing spouses, or raising children and dealing with them or respect to parents, and making Islam as a way of life not only for rituals. There is the need to clarify the purpose of the shariah from Qur'anic verses and hadiths which mentioned beating in order not to be abused in the name of Islam. Reported by Aisha that the Prophet (saw) said: "O Aisha Allah is Soft and likes softness, and He gives in softness what He does not give in violence, and what He does not give elsewhere (Muslim, 2013). Abu Hamid Ghazali says: Know that softness is praised and its opposite is violence, and harshness and violence are results of anger, and softness and easiness are results of righteous virtues and peace, and the reason might be greed and its dominance in that it deprives from thinking and stops verification, softness is the result of righteous virtues which can only be attained by controlling anger and desire, and that is why the Prophet (saw) praised softness where He said: O Aisha whoever his given softness, he has been given the good of here and hereafter and vice versa. And the Prophet (saw) said: "If Allah wished good for a household, He gives them softness". He also said: "The praised thing is in between violence and softness as in the other virtues, but since the nature is more to violence and harshness, which is why the need to encourage them in softness is more. That is the Shariah praises softness many times but not violence, even though violence is good in its place just like softness is good in its place (Ridha, 1999).

22) Mutual respect between spouses and using good words as word has a deep impact on the human psyche, and Allah (swt) commands his believing servants to say kind word and to say gentle words at all times. Allah (swt) said: (Say to My servants that they should (only) say those things that are best: for Satan doth sow dissensions among them: For Satan is to man an avowed enemy.) (Qur'an, Isra'i, 53:17). Is saying the best in all situations in order not to allow satan spoils the love that is between them; satan spoils between spouses with stiff word where he seeks mouth lapses and tongue pitfalls and to spread enmity and hatred; and good word blocks the pitfalls and prevent hatred and enmity (Fa'iz, 1992).

23) Changing perceptions and attitudes about violence. This is not only confined to the victim, but must also include the offender in order to notify him of the seriousness of violence on the victim, and help him to refrain from such act and not to repeat it. This may require the help of the consultants, psychologists and social workers in order to help individuals from families where violence is widespread.

Islam legislated hudud and punishments in order to preserve individual and society. And identified ways in which Muslim must avoid because of what is there in attack on oneself and others, the following are some of them:

a) Simplifying litigation procedures in order to fasten it without prejudice to the merits of the trial. There is also need for rigorous enforcement of the sentence, taking into account the interest of the individual and collective interests alike.

b) Activating the role of the arbiters, following the saying of Allah (swt): (If ye fear a breach between them twain, appoint (two) arbiters, one from his family and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things.) (Qur'an, Nisa'i, 35:5), because arbiters look into the dispute more comprehensively than judge. The judge relies on evidence while arbiters try to reconcile through various ways, and if they could not then they try to decide on the marital life based on their estimate, especially they are the closest people to the couple (Abdul Salam, 1996).

c) Encouraging the victim to report the offence, as many legal scholars believe that reporting to the police is the main method that reduces the spread of crime because failure to do that will make the criminal to continue committing the crime.

d) The establishment of Islamic social institutions looking into the issue of domestic violence, and find hot lines to these institutions which can provide advice and assistance. The task of these institutions would be given attention to the victim and trying to rehabilitate the social life after the occurrence of the offense, and to mitigate the physical, psychological and economic suffering. This is absolutely necessary, especially with the presence of some secular societies that are trying through this way to violate dignity of our Islamic societies to exploit some cases of violence in order to prove the injustice of Islam and violation of women's right especially in terms of permissibility for wife-beating. (Tha'alaby, 1997)

e) Censorship on the media, as it has been proven that the scenes being broadcasted by the media play an important role in the spread of violence, and this control may require inter alia some issues that include: highlighting domestic violence through evidence, and educating families with its psychological and social results

and its negative impact on society and the individual, and training on how to deal with family problems and finding out the reasons that lead to violence and ways to prevent it.

f) Work to avoid some of the reasons that lead to domestic violence, such as lack of justice between wives in polygamous marriage, and the mitigation of parental involvement and relatives in marital affairs for their children and relatives, and following the natural way before embarking on marriage, such as asking about suitor, and not to force the couples to marry someone they do not love, and avoiding housing with family except in the event of the need for parental by the boy, and taking into account the situation of the children in the teenaged age that bring hormonal changes that affect the growth of the child physically, intellectually and emotionally. In all cases it is best to resort to specialized offices and people to address the issues of marriage and divorce. And also to spread some of the necessary culture about marital life before and after marriage will help in addressing the problem of domestic violence suffered by Muslim and other communities in the modern era. (Tha'alaby, 1997)

g) Establishment of institutions specializing in providing practical training for those preparing to get married on dealing with contemporary family problems, and also the study of the danger of the use of violence within the family and that it is contrary to the purposes of Shariah based on compassion and tolerance.

16. Conclusion

After this humble effort of the study, I reached to the following results:

First: the research shows that both husband and wife must respect rights and follow obligations, and this will ensure happiness and love between them.

Second: the Shariah came to ensure the interest of human beings here and after; thus, every family must apply this purpose in the family life.

Third: women's work is permissible by Shariah, but with certain conditions and guidelines that must be fulfilled.

Fourth: it is permissible for the husband to prevent his wife from work if she neglects his right, or the work is detrimental to the husband.

Fifth: Islam urges preservation of human dignity, and keeping away from violence in all its forms with every individual of the family, and ordered us to protect soul, and forbid transgression on it.

Sixth: the study shows that beating disobedient woman is the last resort, after using advice and avoidance of the same bed, and the beating must not be severe.

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