

## AN ANALYSIS OF THE LITERATURE ON CHILDREN'S MAINTENANCE RIGHTS UNDER ISLAMIC LAW AND SHARIAH

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### **Abstract:**

*The divine being known as Allah Ta'ala is credited with the creation of humanity, which was then placed into the earthly realm and interconnected through a multitude of ties. Subsequently, he included the affection inherent in these interpersonal connections into the fabric of human nature, wherein individuals derive contentment from companionship with their fellow human beings and exhibit a preference for cohabitation. There exists a strong bond between parents and children. To ensure the sustainability of this partnership, Allah Almighty has established specific rights and responsibilities. Similar to how children are obligated to fulfil their parents' requests, parents likewise possess certain rights that Allah Almighty has mandated about their children. According to the revered hadith, it is stated that every individual assumes the role of a guardian, and consequently, each guardian will be held accountable for those under their care. The individual persist in their prayers, praying to Allah to bestow virtuous offsprings to them who would bring them immense joy and not become a source of hardship or adversity.*

*The primary concern in present-day family affairs revolves around the issue of child support determination and the corresponding financial obligations associated with it. As per Islamic teachings, the family structure holds significant importance in Muslim countries, particularly within Pakistani society. Under their respective social standing, individuals in these societies demonstrate a substantial commitment to financially supporting their parents. Typically, affluent families experience fewer challenges and disputes about child support, whereas parents from middle-class and economically disadvantaged backgrounds express concerns stemming from limited financial means. However, disagreements within these latter groups are relatively few. Child support delinquency escalates into a critical situation when a marital dissolution or separation occurs between spouses. In this scenario, both the rearing of the offspring and the financial obligations associated with fulfilling their necessities are impacted. They are unquestionably affected by the circumstances.*

*The emphasis on children's rights in the context of Sirat al-Taiyybah has led to the recognition of their importance. The Holy Prophet (peace and blessings of Allah be upon him) established a revered tradition known as the Sunnah, which the entire Ummah has to follow until the Day of Judgement. The dissemination of jurisprudence and legal precedents about children's rights, particularly the right to maintenance, should be made accessible to the general public. Individuals would thus be able to learn about and successfully apply these principles in practical settings, addressing the current problems in this field era.*

**Key Words:** Children's Maintenance Rights, Parents, Islamic Law, Shariah, Islamic jurisprudence

### Introduction:

In pre-Islamic Arabia, parental obligations for their children's financial support and well-being were not established. In historical contexts, it was observed that females, in particular, were often stigmatized as prostitutes and subjected to the cruel practice of being buried alive. However, with the advent of the Prophet and the establishment of the Islamic faith, a significant transformation occurred wherein the responsibility for children's welfare and support was placed upon parents. Islam, which places considerable emphasis on the inherent value of the human soul, establishes guidelines and regulations to safeguard human life, regardless of gender. According to the Holy Quran, it is mentioned that:

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ<sup>1</sup>

The pronoun *هُنَّ* are meant wives, and the *الْمَوْلُودِ لَهُ* is the husband. There is also a tradition which says:

حق الزوجة على زوجها أن يشبع بطنها ويكسو جثتها وإن جهلت غفر لها

A woman's right over her husband is that he feeds and clothes her, and if she acts out of ignorance, to forgive her.

The Qur'an has referred to the maintenance of relatives in the phrase *وبالوالدين إحسانا*, and the Prophet ﷺ has said (You and your property are for your father).

Our discussion comprises the maintenance of relatives' (قرايب) children.

### Previous study on the subject:

In contemporary times, an in-depth examination of this topic is commonly undertaken through scholarly publications dedicated to family law. A significant component within this sequence is the intellectual work titled "Al-Fiqh al-Islami Wa-adillah," authored by Dr. Wahaba al-Zahili, wherein a comprehensive examination of the subject matter is presented. In his work titled "Nasab wa Asaar," Muhammad Yusuf Musa thoroughly examines the legal provisions about the maintenance rights of children. Nevertheless, it is essential to note that the texts mentioned above have primarily focused on the subject within the context of Islamic law without comparing it with other legal systems. Similarly, English literature also briefly touches upon

the topic of child support. Furthermore, the book "Collection of Laws of Islam" by Tanzil-ur-Rehman also emphasizes the significance of the right of maintenance. The abovementioned topic has been addressed in the literature; nonetheless, it remains incompletely explored and lacks a comprehensive analysis of other legal frameworks for comparison purposes.

### Definition and Shariah Status of Nafaqa:

The term "Nafaqa" is derived from Arabic, and its literal translation refers to the act of spending. In lexicographic terms, the concept denoting an individual's financial outlay on their familial unit is commonly referred to as expenditure. The meaning of the Arabic language can be elucidated as follows:

ما أنفقت، واستنفقت على العيال وعلى نفسك<sup>2</sup>

Nafaqa pertains to the expenditures incurred by an individual for the well-being and support of oneself and one's family members.

The esteemed scholar Allama Ibn Najeem, may his soul rest in peace, articulates the following statement:

According to the dictionary, maintenance refers to the financial resources an individual allocates for the support and well-being of their family members.

In jurisprudence, the act of one individual providing the basic needs of another individual in return for their labour is sometimes referred to as alimony. Islamic Sharia provides three (ازدواج، ملک اور قرابت) justifications for imposing alimony (Maintenance) obligations.

The maintenance of the wife is obligatory due to the marital relationship. Due to kinship, the supervision of parents and children becomes wajib; similarly, the care of enslaved people and maidservants becomes wajib due to ownership.

### Children's economic rights in Islam:

Religion Islam has given other rights to children, i.e. religious, moral, personal, and social rights; they have also been given economic and financial rights. In this regard, children have been given the following rights:

Right of Inheritance: Where Islam brought changes in every aspect of life with its revolutionary teachings, it also introduced inheritance laws. Women and children were formally entitled to inheritance. Allah declares:

وَالْمُسْتَضْعِفِينَ مِنَ الْوُلْدَانِ وَأَنْ تَقُومُوا لِيَتَامَى بِالْقِسْطِ وَمَا تَفْعَلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ كَانَ بِهِ عَلِيمًا<sup>3</sup>

### Acceptance of a will:

The child is granted the privilege to consent to a testament made in their favour. According to Hanaf's perspective, the child should approve the will since it is advantageous and devoid of any negative consequences. The appointment of the guardian by the court ensures the

protection of the child's financial interests and mitigates any potential harm that may arise from accepting the will.<sup>4</sup>

### Maintenance rights:

Kid maintenance is a fundamental entitlement bestowed upon the kid, both in religious and legal contexts, and it is incumbent upon the father to assume this responsibility. The concept of non-maintenance pertains to the entitlement of a kid who lacks a means of financial support. The entitlement to spousal and child support are distinct legal rights and responsibilities mutually independent. Despite the children residing with the mother, the father provides financial support<sup>5</sup>. He bears the responsibility for the upkeep and care of the children<sup>6</sup>. In familial rights, entitlements such as inheritance, walayat (guardianship), and maintenance are allocated by the child's ancestry and legal standing. According to Mansoor Bin Yunus Bin Idris, maintenance is an obligation rooted in the principle of Wilayat. By Islamic jurisprudence, the father assumes the role of guardian for the kid until the establishment of the child's parentage, as any deviation from this arrangement may be deemed detrimental to the child's well-being. The determination of alimony is contingent upon the financial circumstances of the father.<sup>7</sup>

Non-maintenance encompasses essential provisions like sustenance, attire, housing, education, and other obligatory expenditures, which the father financially provides until the child reaches the age of puberty. This commitment encompasses both religious and legal dimensions.

### Proof of child maintenance from the Quran and Sunnah:

The paternal figure bears the obligation of providing for the upkeep of the offspring. According to the Holy Qur'an, Allah has assigned the father to provide financial support for both the mother and the kid. The term "رِزْقٌ" and "وَكِسْفَةٌ" was employed in Surah Al-Baqarah to refer to the concept of sustenance and provision. As it was said:

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنْفِقَ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْفَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ وَبَوْلِدُهَا وَلَا مَوْلُودٌ لَهُ بِوَلَدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ<sup>8</sup>

In this particular verse, Allah Ta'ala has ordained that the financial responsibility for compensating a nursing woman is with the father. Consequently, it may be understood that this expenditure is attributed to the kid, as the sustenance provided to the infant is facilitated by the nursing woman in question.

The evidentiary support for child maintenance is further substantiated by the inclusion of a revered verse from Surah Talaq in the Holy Quran:

لِيُنْفِقَ ذُو سَعَةٍ مِنْ سَعَتِهِ وَمَنْ قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا<sup>9</sup>

Similarly, it can be inferred from the authoritative hadiths that the obligation of providing financial support is with the father. According to a hadith recorded by Ibn Majah, the Prophet

Muhammad, may peace be upon him, made a statement regarding child upkeep. Additionally, the verse in Surah Talaq of the Holy Quran further supports this notion.

"Whatever a man earns by working with his hands and what he spends on himself, his family, his children, and his servants is charity."

According to Hazrat Abu Huraira's (RA) tradition:

I have one dinar, said a man to the Prophet (peace and blessings of Allah be upon him). Spend it on yourself, said the Prophet (peace be upon him). I have another dinar, he said. He answered, "Spend it on your children; I have another dinar." Spend it on your slave, servant, said the Prophet, peace be upon him. I have another dinar, he said. To this the Prophet (PBUH) replied that now it is up to you where you want to spend it".

According to a hadith narrated by Hazrat Aisha Siddiqah, may Allah have mercy on her:

Hind bint Utbah asked the Prophet (PBUH) why her husband did not give her the permissible amount. The Prophet (PBUH) responded, saying:

«خُذِي مَا يَكْفِيكِ وَوَلَدِكَ بِالْمَعْرُوفِ»<sup>10</sup>

Take only what is necessary for you and your child.

وَقَالَ تَعَالَى: {وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ}.<sup>11</sup>

The jurists agree that the father is responsible for the child's upkeep because the child is a part of the father, and just as a person spends on his existence, he must also spend on his part (the child).<sup>12</sup>

According to Imam Kasani (may Allah have mercy on him):

وَلَأَنَّ الْإِنْفَاقَ عِنْدَ الْحَاجَةِ مِنْ بَابِ إِحْيَاءِ الْمُنْفَقِ عَلَيْهِ وَالْوَلَدُ جُزْءُ الْوَالِدِ وَإِحْيَاءُ نَفْسِهِ وَاجِبٌ كَذَا إِحْيَاءُ جُزْئِهِ<sup>13</sup>

"And because spending at the time of need is to keep that person alive, and since the son is a part of the father, it is obligatory to keep the son alive in the same way as to keep one's own being alive."

The father will be solely responsible for the upkeep of the minor children, and no one will share with him, just as the woman will not share in the maintenance. If the youngster has their property, it might be consumed. In the event of the father's bankruptcy, the mother assumes responsibility for the child's maintenance, even if the child does not possess any assets. Similarly, if the mother becomes bankrupt, she remains liable for the child's upkeep. The grandfather is entrusted with it and will fulfill his responsibilities whenever the father's financial situation improves to the point where he can afford the expenses of raising and educating the children.

An essential aspect of providing for one's children is ensuring that the father fulfills his responsibility of providing them with lawful sustenance and using his lawful earnings to support them. This is crucial because it has been observed that children who are nourished



with unlawful food tend to display disobedience, lack of prayerfulness, and irreligious behaviour. This is because lawful sustenance nourishes the body and positively impacts one's spiritual well-being, whereas unlawful nourishment has the opposite effect. As the saying goes, a Muslim consumes lawful food, while unlawful sustenance consumes the Muslim. Individuals who acquire income for the benefit of their offspring but obtain it through illicit means and subsequently impart this forbidden knowledge to their children will find their children utterly worthless to them, both in the present life and the afterlife. Instead, these children will serve as a means of examination and trial for the parent. This is a significant contemporary difficulty that several individuals are encountering. Suppose we earnestly prioritize earning income permissible according to Islamic law and are content with modest means. In that case, we will receive countless blessings and be able to steer clear of these predicaments. Hence, it is imperative to abstain from engaging in prohibited activities such as usury, gambling, bribery, and other vices that have been explicitly outlined in the Holy Qur'an and Sirat Tayyaba.

### Terms of Alimony:

The conditions for the father's commitment to support the children are as follows:

- If the child is bankrupt, the father must support the child. If the father has wealth, he will spend it on the child.
- When the youngster reaches the age of self-sufficiency, when the child reaches adulthood and can support himself, the father's responsibility ends. If there is a daughter, the father will be responsible for her upkeep until the girl marries.
- The ability to pay alimony implies having assets above his necessities.

Within this particular situation, there is a recorded narration from Hazrat Abu Huraira, may Allah be pleased with him, in which it is stated:

«إِذَا كَانَ أَحَدُكُمْ فَقِيرًا فَلْيَبْدَأْ بِنَفْسِهِ، فَإِنْ كَانَ فَضْلًا فَعَلَى عِيَالِهِ، فَإِنْ كَانَ فَضْلًا فَعَلَى قَرَابَتِهِ، أَوْ عَلَى ذِي رَحْمِهِ، فَإِنْ كَانَ فَضْلًا فَهِيَ هُنَا وَهِيَ هُنَا»<sup>14</sup>

When faced with poverty, prioritize self-care by allocating resources to oneself first. If the surplus remains, direct it towards supporting one's immediate family. If a further rest exists, extend the assistance to relatives. In the event of an even greater surplus, continue to provide resources to extended family members. Then, allocate funds sporadically for various expenses (i.e., spend on other necessities).

Suppose the child's father is absent or the current household provider is impoverished, so they can barely cover their bills. In that case, the responsibility for the child's financial support will fall onto their other relatives.

### Sequence of Family Members:

If the father is dead or has no property and is sick or unable to earn due to old age, he will be declared dead, and the upkeep of the kid will be the grandfather's responsibility if the grandfather is capable.

If the grandfather is deceased or if he is also insolvent and unable to generate income, then the financial support for this child will fall under the obligation of other family members. If there are many relatives, each possessing a distinct social standing, their connection with the child will be considered. Consequently, they shall bear the responsibility for this matter. If a child has a mother and a grandfather, the woman will take one-third of the commitment, while the grandfather will bear two-thirds.

If there are both heirs and non-heirs among the relatives, proximity will be considered instead of inheritance.

Suppose both the child's grandmother's mother and the child's maternal grandpa are present. In that case, the maternal grandfather will be legally required to provide financial support, even though he is not the rightful inheritor. However, no financial obligations will be imposed on the grandmother's mother despite her being the rightful inheritor. This is because the grandma and her mother have a significant emotional distance. The maintenance burden will fall upon the heir if two relatives are equally close. Thus, in the scenario where a needy person has both a paternal grandfather and a maternal grandfather, the paternal grandfather is responsible for providing maintenance as he is the rightful heir. Conversely, the maternal grandfather bears no responsibility in this case, as the priority in inheritance takes precedence once the status of the relatives is equal.<sup>15</sup>

#### **Components encompassed by child support payments:**

As per Islamic jurisprudence, the specific components encompassed by alimony expenses are outlined as follows:

- Expenses related to foster care
- Expenses related to custody
- Expenses for daily necessities
- Costs associated with housing (in cases where the child lives with the mother)
- Payments for a domestic worker, if necessary, for the child's care.

#### **Elucidation of foster care expenditures:**

The expenses associated with foster care encompass the following:

Issue: If the child is breastfed by the mother, in this case expenditures required for fosterage vary according to various Jurists.

The distinction is in the perspective of Hanafi, Shafi'i, and Hanbali jurists, who assert that the mother does not possess the right to receive financial support for sustenance when in the state of marriage or divorce. The husband is responsible for maintaining the wife during these periods. Maliki jurists concur with their counterparts, stipulating that if the mother is from a family that does not practice riza'at (رضاعت), the obligation of riza'at does not apply in this scenario. Consequently, the father will be compelled to employ an individual.<sup>16</sup>

The matter of foster care wages: The parents can determine the quantity of foster care pay through mutual agreement. According to the Hanafi and Shafi'i jurists, if a mother requests a

salary and another woman is ready to work for a low or no compensation, the second woman will be given preference. However, according to the Hanbali and Maliki jurists, the mother will be offered a salary. Before ascertaining the quantum of remuneration, the court will conduct a comparative analysis of the earnings provided to other female household members. Nursing pay might be awarded for a maximum duration of two years.<sup>17</sup>

If a mother or foster mother engages in breastfeeding after the age of two years, she will not be eligible to receive remuneration for that activity. In the event of the father's demise, the outstanding debt shall be considered and deducted from the assets comprising the father's estate before fulfilling the obligation of reimbursing the nursing wages.<sup>18</sup>

#### **Elucidation of Custodial Expenditures:**

The father is additionally obligated to cover the expenses associated with the care and upbringing of the child. As per the perspective of Hanafi jurists, it is not permissible for the mother to request custody expenses while the marriage is ongoing, as she is already entitled to receive financial support from her husband.<sup>19</sup>

Similarly, this situation applies to a woman in the state of Iddah following a reversionary divorce. The combination of alimony and custody wages is not permissible. However, when a woman is not eligible to receive maintenance, such as during the Iddah period following divorce or widowhood after the completion of the Iddah, this restriction does not apply. The mother has the option to request wages. However, if an agreement is established between the parties to provide compensation, notwithstanding the mother's lack of entitlement, she may seek recourse through legal channels to request remuneration.<sup>20</sup>

Per the consensus of jurists, if a woman other than the nurturing mother assumes the caregiving role, she would be deemed eligible to receive remuneration unless she explicitly declines such compensation. The retroactive collection of custody pay is not permissible.<sup>21</sup>

Based on the prevailing consensus among jurists, except the Hanafi school of thought, it is generally understood that the mother does not possess the right to request financial compensation for her upkeep. However, if the mother requires assistance in the form of a maid, it is incumbent upon the father to assume the responsibility of reimbursing the maid. The individual will also have the responsibility for coordinating and organizing.

According to Hanafi jurists, in the scenario when the mother is seeking compensation for her services and another woman is offering to fulfill the same duties without any expectation of remuneration, the latter can be given precedence over the mother, but only under the following two conditions:

- That the woman is the child's Mahram related.<sup>22</sup>
- Furthermore, it should be noted that the remuneration of the mother will be sourced from the financial assets of the kid in cases where the father is incapable of fulfilling this obligation.

A volunteer may be granted precedence over the mother if the criteria are met. If no volunteer assumes custody and the father lacks the financial means to remunerate for



caregiving services, it may be necessary to compel the mother to take control. In this scenario, the responsibility for the pay lies with the father. The individual will repay the loan once there is an improvement in the economic circumstances. The compensation in question was disbursed from the father's estate in the event of the father's demise.<sup>23</sup>

### **Elucidating fundamental distinctions between foster care and a woman volunteering for foster care:**

In the context of fostering, it is possible to prioritize a female volunteer over the biological mother, irrespective of whether she is a mahram relative of the kid. This is because fostering establishes a mahram bond between the child and the foster mother.

In contrast, the matter of custody presents a contrasting perspective. The volunteer woman in captivity cannot be afforded preferential treatment over the mother unless she is a Mahram relative of the child. The emotional support and care a mother provides cannot be readily anticipated by an unfamiliar individual. Custodial rights are typically granted to a female who demonstrates genuine affection and empathy for the child.<sup>24</sup>

- As per the perspective of Maliki jurists, it is asserted that the guardian, regardless of whether she is the mother or any other individual, does not possess the right to receive remuneration. If the mother needs financial support, she can access the child's assets for maintenance. However, she is not permitted to access the child's earnings.
- In cases of custody, the financial responsibility for maintenance and custody wages will be borne by the child's assets. However, if the child lacks sufficient support, the father will assume the obligation to make such payments.
- If the father cannot fulfill this financial obligation, it will be considered a debt owed by him.
- In situations where the father is absent, the individual responsible for the child's upkeep will also assume the responsibility of providing for the child's maintenance and custody wages.
- In the unfortunate event of the breadwinner's demise, the heirs of the deceased have the right to claim custody wages.

### **A Comparative Study of a Few Western Alimony Laws and Islamic Laws:**

According to Irish legislation, the legal obligation for a child's care and financial support is with the designated guardian, regardless of whether the guardian is a biological parent or another familial relation. This definition is articulated as follows:

If you are a child's guardian in Ireland, you must maintain and properly care for the child. You have a right to decide about the child's religious and secular education, health requirements and general welfare. Only guardians of a child have the right to custody and access to that child.<sup>25</sup>

### **UN Convention on the Rights of the Child clarification of maintenance:**

The agreement placed significant emphasis on the guardians' responsibilities for the care of children. This article elucidates the topic by providing a comprehensive analysis.

States parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the state party and from abroad. In particular, where the person having financial responsibility for the child lives in a state different from that of the child.<sup>26</sup>

### **Explanation of Child Support Liability in the United Kingdom:**

In the United Kingdom, the provision of child support is under the purview of local authorities, as exemplified by the following quotation:

A general duty is placed on local authorities to safeguard and promote the welfare of children in their area who are in need and (so far as is consistent with that duty) to promote the upbringing of such children by their families.<sup>27</sup>

Per British legislation, the government is obligated to collaborate with parents in matters about child support.

The UK ratified the Convention on the Rights of the Child in 1991. It gives all babies and children comprehensive economic, social, cultural, civil, and political rights.

So, for example...children separated from their parents have the right to special protection and assistance (article 20), and the state is responsible for supporting parents in raising children (article 18).<sup>28</sup>

### **Conclusion:**

Islam has delineated distinct rights for many groups, including men, women, older adults, children, and parents. Notably, the United Nations Convention on the Rights of the Child comprehensively addresses children's requests. Nevertheless, it is worth noting that Islam has long recognized and granted comprehensive rights to children, encompassing several aspects such as individual rights, fundamental rights, social rights, legal rights, and economic rights. Islam has bestowed upon children certain economic and financial entitlements, including the right to inherit, the right to non-maintenance, and the right to accept a will.

In the context of child custody, it was customary for the father to bear the duty of providing for the kid's maintenance, thereby ensuring that the child was not left vulnerable to the discretion of any other party. In the event of the father's demise, it becomes incumbent upon other relatives to assume responsibility for the financial support and well-being of the kid. The fulfillment of alimony obligations is regarded as a moral imperative and carries legal consequences. When the responsible party fails to meet their alimony obligations, the court has the authority to enforce payment through coercive measures. Upon examining Western legal frameworks, it becomes evident that relatives are not legally compelled to provide alimony.

## References:

<sup>1</sup> Al-Baqarah:233.

<sup>2</sup> Ibn Manzoor, Lisan al-Arab, 10: 358

<sup>3</sup> Al-Nisa: 127.

<sup>4</sup> Dr. Wahbah Zuhayli, Al-Fiqh al-Islami wa-Adillatuh, Dar Al-Fikr Al-Mouaser, 1989, Vol:4, P:21.

<sup>5</sup> Nasab refers to the formalised legal bond between a man and a woman, established by a Sharia marriage (nikah), which afterwards results in the recognition of parental lineage between the child and their biological parents. In this context, Nasab denotes the kinship ties between the kid and its parents. Subsequently, she is eligible to receive alimony.

<sup>6</sup> Muhammad Husaini Al-Shirazi, Al-Fiqh, Dar-ul-Uloom Beirut, 1988, Vol:68, P:312.

<sup>7</sup> Mansour bin Younes bin Idris Al-Bahouti, Kashaf al-Qanaa an matan Al-Iqnaa, Dar Al-Kutub Al-Ilmia: Beirut, 1997, 1565.

<sup>8</sup> Al-Baqarah:233.

<sup>9</sup> Al-Talaq:7.

<sup>10</sup> Bukhari, Muhammad bin Ismail Abu Abdullah, Sahih Bukhari, research: Muhammad Zuhair bin Nasir al-Nasir, Dar Tuq al-Najat, 1422 AH, vol.3, p.79.

<sup>11</sup> Al-Nisa:6

<sup>12</sup> Dr. Wahbah Zuhayli, Al-Fiqh al-Islami wa-Adillatuh, Dar Al-Fikr Al-Mouaser, P:21.

<sup>13</sup> Al-Kasani, Ala-ud-Din, Abu Bakr bin Masoud bin Ahmad al-Hanafi (died: 587 AH), Bada'i al-Sana'i in the order of the Qur'an, Dar al-Kutub al-Il-Imiya, 1406 AH - 1986 AD, vol.4, p.31.

<sup>14</sup> Nasa'i, Abu Abd al-Rahman Ahmad bin Shu'aib bin Ali Al-Khurasani, Al-Nasa'i (died: 303 AH), Sunan Nasa'i, Maktab al-Maqbatat al-Islamiyya - Aleppo, 1406 - 1986, Hadith No. 4653, Vol. 7, p. 304.

<sup>15</sup> Badran Abu al-Ainin Badran, The rights of children in Islamic law and law, p. 131.

<sup>16</sup> Dr. Wahbah Zuhayli, Al-Fiqh al-Islami wa-Adillatuh, Dar Al-Fikr Al-Mouaser, Vol:10, P:7274-7276.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibn Abidin, Hashiya Rad al-Mukhtar, Ali al-Dar al-Mukhtar, Dar Al-Thaqafah and Heritage: Damascus, 2000, vol.10, p.443.

<sup>21</sup> Ibid

<sup>22</sup> Muhammad Mustafa Shibli, Ahkam al-Asra fi al-Islam, Dar al-Nahzat al-Arabiya: Beirut, 1973, p.835.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> United nations convention on the rights of the child 1989.

<sup>26</sup> Ibid.

<sup>27</sup> An overview of the children ACT 1989.

<sup>28</sup> Children's Rights Alliance for England, State of children's Rights in England, Annual review of UK Government action on 2002 concluding Observations of United Nations Committee on the Rights of the Child, November 2005.