

A Comparative Review of Alimony, Employment and Travel of Wife in Relation to Her Obedience from Husband in the Iranian, Egyptian and British Laws

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ABSTRACT

In the Iranian law, obedience is the condition for payment of alimony to the wife and for keeping her in the husband's house. Common, private and mutual duties are legislated by law for the couple. Acceptance of these duties in the Iranian traditional community has caused the Iranian woman to become an obedient and adjusted woman. The importance of comparative review of obedience is that considering the developments made in the laws of the countries, the married couple accepts that obedient from husband, i.e., a common life in a house, performing housekeeping duties and keeping the children shall not mean a slave-like life and under no condition man shall force his wife to obey him and he shall not resort to force for special obedience of his wife.

Currently, it is accepted in most of the countries that both man and woman are better to work to earn a living and to have a better life. Therefore, they should assist each other in performing housekeeping duties and keeping and educating the children. Obedience means humility against God's order, selfless love and commitment to the sanctity of the family and finally, it means to consolidate marriage contract and to be committed to a divine covenant and to performance of woman's mission against the existence. In this paper, obedience in the Iranian, Egyptian and British laws and customs is reviewed so that we may achieve a correct pattern of obedience and family guardianship.

KEYWORDS: Obedience, Alimony, Wife, Family, Iranian, British and Egyptian Laws

INTRODUCTION

By correctly conclusion of marriage contract, a conjugal relationship is made between the married couple and their mutual rights and duties are established. During their conjugal life, the married couple has common mutual duties which shall be observed. Obedience and a shared habitation are among mutual and non-financial rights and duties of the married couple which are also considered as their common rights and duties and therefore, man is obliged to prepare an appropriate housing for his wife and woman is obliged to reside in the house prepared by her husband. In fact, choosing a place for shared residence is the wife's right and it is one of the evidences of alimony. Choosing a house is one of husband's authorities; however, in cases such as when the place chosen by husband may lead to any loss for the wife, he is deprived of such authority. In return, wife shall fulfill her duties against husband which is referred to as obedience from husband. Obedience has one general meaning and one specific meaning. Non-observance of these two meanings causes the woman to be considered as a woman who refuses to fulfill her marital duties and who is therefore deprived of her right to receive alimony unless her disobedience is due to a reasonable excuse.

Considering that the debate on obedience is set forth in the Islamic and non-Islamic countries and that the husband's headship in the family is accepted in most of the countries, legal condition of each of husband and wife in the issues including obedience, settlement of wife in the husband's house, employment, travel and alimony of wife are reviewed in this paper. By bringing up these issues it is aimed to provide a correct definition of obedience and its examples and to make effort in correcting the wrong perception that woman serves as a tool in the man's hands for fulfillment of his sexual instincts and slave-like exploitation of woman. The questions which may be brought up in this paper include the followings: Can a woman work outside her residence place and/or can she go to a travel and leave her residence place for some time? How is the condition of obedience in the laws of Egypt and UK?

Definition and Nature of Obedience in the Egyptian and Iranian Laws

Lexically, obedience means being able to do something. In legal words, it has two meanings, namely general and specific. In most religious books, obedience is considered as one of the duties of woman, but nothing has been written in these books about man's obedience. General obedience include wife's obedience from husband and her fulfillment of marital duties, non-exit of the house without husband's consent, good sociability and observance of her cleanliness and adornment for husband considering time, place and family situation. Specific obedience means the couple's privacy for the purpose of husband's enjoyment in such a manner that the wife does not allocate a special time and kindness for that and she is always ready for the husband's enjoyment (Helli:1403 A.H, 2:291). Therefore, wife shall provide a comfort and sincere family environment by her good behavior and temperament.

The Civil Code explains both general and specific meanings of obedience. As for general obedience, it stipulates as follows: "In case woman refuses to fulfill her marital duties without any legitimate impediment, she shall be deprived of alimony." For specific obedience, it stipulates as follows: "Wife can refuse to fulfill her duties against husband as long as her marriage portion has not been submitted to her provided that her marriage portion is mature and in such case, this refusal shall not lapse the right of alimony" (article 1108, Iran Civil Code). For the effects of obedience as agreed by the Shiite jurists, wife shall be entitled to receive alimony when she obeys from husband and performs her marital duties against him.

In Hanafi jurisprudence on which the Egyptian law is based the issue of obedience has been brought up as well mostly from the side of woman against man. Of course, they set forth this debate directly in relation to alimony and they consider that a compensation for payment of alimony by the husband which will be explained later in this paper. It has been written in some books that marriage has some advantages, e.g., wife should obey husband and should stay at home and perform family affairs and it is in this case that she is entitled for the rights such as alimony, marriage portion, housing and clothing.

Disobedience is the opposite of obedience and means non-performance of marital duties. (Jafari Langroodi:1381,5:3463) Lexically, it means height and rise (IbnManzour:1408,14) But, in marriage situation it means, dislike, hate, being reluctant and if wife refuses to perform her marital duties against husband, she will be called Disobedient and her refusal is called Disobedience.

In jurisprudence of course, the term Disobedience is also used for non-fulfillment of marital duties by husband in addition to disobedience of wife (Najafi: 1981, 70:427). So, disobedience means the refusal of husband or wife to perform an obligatory obedience which is assigned to each of them against the other one." (article 1108, Iran Civil Code)

As for the effects of disobedience, Nessachapter ,34 verses should be referred to in which husband is authorized to react proportional to the wife's disobedience. In that verse we read: "As for the wives that you fear lest they disobey you, advise them, ignore them in the beds and beat them and if they did not obey you, then find a way for them and God is the greatest (Bohrani, 1374 A.H, 24:615).

The relation between obedience and disobedience and alimony and the fact that if the necessity of alimony payment by husband is established upon marriage contract and that disobedience is an impediment for that or the necessity of alimony is subject to obedience will be discussed in the discussion on alimony. Based on article 1085 of the Civil Code, "Wife can refuse to fulfill her duties against husband as long as her marriage portion has not been submitted to her provided that her marriage portion is mature and in such case, this refusal shall not lapse the right of alimony" and this is referred to as "Wife's Refusal" or the "Right of Lien" (Mohaghegh Damad: 1368 A.H, 154).

The respective effects will be applied on disobedience once non-fulfillment of marital duties is not due to a legitimate impediment which would be tedious to go through them all here.

Definition and Nature of Obedience in British Law

In the marriage and common life, two persons join each other with the intention of sharing the rest of their lives. There is no model of such relationship. It is a sustainable and stable participation not only based on economic dependence, but also based on emotional companionship and support. The specifications and characteristics of the relation of wife and husband includes the followings: Mutual love, loyalty and honesty, general confirmation, sexual relation, common surname, children, strength and stability and mutual dependence, sincerity and devotion.

a) Sexual relation is an important part of marriage and common contractual life. The measure for this relation does not mean that two persons must have one of the two conditions, namely marriage or common life so that sexual relation is established, but this relation may be considered prohibited, unlawful or it may even be considered as a crime in case of absence of these two conditions.

It should be noted that the parties attach a special respect to this relation. Husband can have sexual relation with the wife only if the wife wills to do so and obedience from husband shall not mean having obligatory sexual relation with wife. Even if such relation is established by the husband's insistence and force, wife will be entitled to complain from him for raping for which the husband will be prosecuted. Wife can even choose a separate housing by relying on such violent behavior of husband or she can drive him out of the common house and does not let him to enter into the common house (Saunders. H:2004, 4,5,6). It should be noted that there is a fundamental difference between raping by a stranger and marital raping. In the former case, the raping person is a stranger. He has no experience or mental record for establishing such a relationship and the relationship is usually accompanied with violence. But in marital raping, the situation is quite different. It is not only a physical violent act, but also is a betrayal because the wife sees a spouse that she thought to know him completely and that she thought that he loved her and wanted the best things for her. This type of sexual raping is quite destructive. Another difference is that marital raping includes sufficient imposition and compulsion to control the victim. On the other hand, such act is repeated and the victim always accepts that under the force and pressure of her husband and this becomes a mental and physical torture for her.

The basic problem in defining this type of raping is that according to the religious and old people it is impossible that a man rapes his wife and they always prohibit the wife to refuse in such cases. For this purpose, special support

offices have been established in some countries that help the victim wives of such sexual violence. They offer legal support services to such women most of whom are immigrants. In case their psychological consultations do not have any effect on the husbands, the husbands will be complained legally and they may even be forced to leave the common house and the court may also consider special punishments for them.

b) Stability and Strength: The couple must provide the ground for stability of this contract by building a framework for protection of the rights and equality in different problems (Reforming the law Matrimonial property, needs and agreements: 2002).

c) Mutual Dependence: Mutual needs of the couple that they should try to meet them and to provide a safe and calm environment for each other and for their children will gradually establish a mutual dependence for the couple. Both wife and husband should make arrangements for their residence place, establishment of sincere relations between themselves and their children and their education to meet their mutual needs and to increase their mutual love.

d) Sincerity and Devotion: In marriage and family relationships, the couple should personally pay attention to their common life and should try to make it firm and stable. In this way, their sincere relationship and mutual understanding in different aspects require them to be committed to family principles and to make effort in strengthening and intensifying family fundamentals through piety and preservation of modesty and chastity (Marriage and relationship: 2006, 3).

Wife's Alimony in Relation to Obedience in the Iranian, Egyptian and British Laws

As it was said before, the Civil Code has referred to the wife's duties against husband. Non-fulfillment of these duties without any lawful impediment will be considered as wife's disobedience and as a result she will not be entitled to receive alimony. Non-payment of alimony will be considered as an executive guaranty for disobedience. Issuance of a permit for husband's remarriage serves as another executive guaranty for wife's disobedience (clause 3 of article 16 of the Family Support Act). In addition, in case of wife's disobedience, husband may be authorized by the court to divorce her.

According to the Egyptian jurist consults, husband is responsible for the wife's alimony in return for her presence in his house and for his interests. In this case, wife will be the owner of alimony and the rest of the costs that will remain with her, especially if husband's ownership of these properties followed by the wife's ownership is correct and she can possess them (Salim: 1362 A.H, 2: 301).

There is another viewpoint in Mabsoot book to the effect that alimony becomes obligatory upon marriage and since wife has dedicated herself to the husband's right and has obeyed him, this will be sufficient for requiring wife's right in the husband's properties. For example, when an almoner dedicates himself to gain information on the poor people, he will be competent in relation to their properties, or when a judge spends his time for the Muslim's affairs, he will be competent in relation to their rights. When the wife leaves her husband or refuses to accompany him to his house or to the city to which he wants to move, she will not be entitled to receive any alimony if her husband has submitted her marriage portion because she is a disobedient wife. God has ordered for deprivation of a disobedient wife from companionship because wife becomes entitled to receive alimony once she obeys husband and dedicates herself to the his interests, but when she refuses to do so, she will become oppressive and cruel and she will be deprived of alimony (Sarakhsi: 1414 A.H, 5: 180-181 185-186). Husband has the right to prevent his wife from leaving the house unless for a need required by pure common law such as when the wife wants to go to visit her parents. Legislator has assigned to the husband the responsibility to punish wife in case of her violation through advising, preventing or threatening which changes depending on the level of violation. He is also authorized by the legislator to punish wife by beating her a little in case of her refusal. In addition, husband shall undertake the responsibility within the limits of his preparedness to punish his wife by advising, banishing (preventing her from entering into the bed), blaming, threatening and scaring her of the result of her disagreement considering her situation and finally by beating her so that it has no pain and effect. Therefore, punishment is the right of man, one of the requirements of marriage, and man's responsibility against woman for her support and punishment in order to change and correct her morals. Moreover, man can also request for the woman's correction through an arbitrator whom is elected from among his or his wife relatives and the arbitrators can establish peace between them. Two arbitrators are called by the judge or the couple or by a person who is responsible for the couple's affairs to review their case and to put into practice their arrangements for them. As for divorce or divorcing without husband's consent and judge's agreement, after the two arbitrators fail to reconcile the couple and decided for the divorce of the couple, the court's decision for divorce will be issued and such divorce shall be irrevocable.(The

First article of law 1920 – 25 equal to law 100 of 1985)

According to article 1ofthe 1920-25 Egyptian personal law, woman is entitled to receive alimony. Alimony includes food, housing, accommodation, treatment costs and other wife's costs. From religious viewpoint, in case wife stays in the husband's house and does not leave the house, payment of her alimony shall be the liability of husband and this debit is not fulfilled unless the husband pays the alimony or authorizes the wife to leave the house. According to this law, in case the conditions of entitlement to receive alimony are prepared for the wife, she will be entitled to receive alimony which shall be paid by the husband as soon as he can pay that whether during his richness or poverty. This legal article is generally applied and it sets no difference between Muslim and non-Muslim wives. Of course, non-

Muslim wives should be of the people of the book because religious law requires wife's retention upon conclusion of a correct marriage contract and it makes no difference between the Muslim woman and the woman of the book (case of wife obedience in common house of marriage)

Although nothing has been said in article 44 of Egypt 1979 about the drop of wife's marriage portion, but it has been clarified by the preferred quotation of Imam Mohammad Hanifeh and disobedience of wife is not among the reasons of drop of marriage portion. The said law considers husband's marriage with another woman without the consent of wife as incurring loss by the wife and requesting for divorce by her.

As for hearing alimony claim from the viewpoint of Egyptian law, it should be said that according to article 7/1 of law 1920-25 of Egypt, It is better for wife to claim the alimony as of the date of settlement of the claim. she must consider that judges will accept only the alimony of year before judgment. According to clauses 1 and 16 of law 25 of 1920 that was changed to law No. 100 in 1985, husband shall be liable to pay alimony to the wife and to keep her in his house as of the time the wife submits herself to him. Especially, according to the Holy Quran, the alimony of the newborn child as well as food and cloth of the lactating woman shall be the liability of husband and father and such entitlement to receive alimony and its amount depends on the financial situation of husband. Of course, any dispute between the couple indicates non-compromise and any complaint indicates incompatibility.

The order for obedience from husband is also obligatory for non-Muslim women of the book, especially for the woman who has newly become a Muslim and has married to a Muslim man, but issuance of an order to obey a Christian husband will not be executed and this is because there is a religious impediment. When the wife becomes Muslim, the husband is required to become Muslim as well; otherwise the judge shall pronounce permanent divorce for them (Bakhiit:1333 A.H).

It should be noted that the wife's house after marriage should be specified and should be free of husband's family members. In this respect, neighbors can witness for the wife. In case from the beginning of the marriage wife enters husband's house in which his family members reside she shall have no right of objection unless she proves by certification of witnesses that she has incurred loss after marriage by the husband's family members. Wife shall obey her husband if he protects her life and property. Proof of commitment of crimes and offenses including the intention to cause loss to the wife by husband will lead to non-obligation of wife to obey her husband. So, the principle is that wife shall stay in the house and shall serve her husband and shall associate with neighbors as necessary. She shall also support her husband and shall wish her husband's happiness in all affairs. She shall not betray her husband and shall not leave the house without his consent (Ghazali: 1385 A.H, 750).

According to the Egyptian law, the couple may agree on the amount of alimony. Such agreement is as valid as the judicial order that changes the amount of alimony. As for the quarrel on the amount of alimony between the couple or between husband and nurse, the court will assign a monthly amount as nursing fee and the parties accept and agree to that. Therefore, an agreement is prepared between the parties which will be enclosed to the court minutes and makes that agreement binding for the parties.

If after marriage the wife requests from her husband the alimony on which they have agreed and the husband refuses to pay that by relying on his financial incapability, since he has undertaken to pay the alimony based on his own will, this indicates that he is financially capable and he shall therefore pay the alimony. It is not necessary that the house and its essentials are among the properties of husband, it is just enough that the husband has the right to benefit them and this may be fulfilled through lease contract, etc. (Salim:1362A.H, 2:301) unless the judge finds about poverty and poor financial capability of husband by evidences. The order issued in this case by the judge has three modes:

- 1) The judge accepts the agreed amount of alimony and orders that the alimony shall be the liability of husband.
- 2) Despite husband's ability for payment of alimony, the judge finds about his cruel behavior with the wife. In such case, the judge increases the amount of alimony in his order for requiring the husband to pay the alimony. The issued order will not break living conditions of husband.
- 3) In case the judge finds that the husband is poor, he will reduce the amount of alimony and this agreement will serve as a reason and a factor in proving the husband's commitment to pay the alimony. To verify this, the court must ensure the amount of husband's salary to see if he is able to earn an income sufficient for payment of alimony undertaken by him. Where the husband's financial ability is undertaken, he shall not be authorized to request for reducing the amount of alimony unless he proves that his salary has been reduced as of the time he has undertaken to pay the assigned alimony.

The cases in which the wife is not entitled for alimony specified in law No. 25 of the Egyptian personal law in 1929:

- 1) Woman's disobedience shall be proved by the final judicial decision. According to the said bylaw, if the wife refuses to obey her husband without having any right, she will be deprived of her alimony as of the date on which the writ of summons of obedience from husband is notified and she may object to the court decision within 30 days. After expiry of the said period, her refusal becomes certain and she shall no longer be entitled to receive alimony. In this case, the wife can object within the specified period to the notification of obedience due to the following reasons: 1) Disqualification of husband's house, e.g., nobody should reside in the house; 2) It is not socially proportional to the

wife's dignity; 3) The house is located between unrighteous neighbors; or if the house is located in a remote place, the husband should find someone who can help the wife whenever necessary. In addition, there are other reasons which are related to the man, e.g., the husband is depressed and if the wife objects due to the cruel behavior of husband with her such as beating or cursing, she is not safe, or when the husband moves the furniture of the wife's house, in such case the wife does not feel safe with respect to her property. But it is necessary that the wife objects within the specified period which is among the periods specified by the general discipline law. In case the wife objects after expiry of the specified deadline, she will no longer have any right to object and the court issues order only for the distrust to the objection notification; otherwise the wife will be considered as disobedient. The important point in the wife's objection through witnesses is that her witnesses should have observed something and not heard that. When an order of distrust to the objection reason is issued to the obedience notification, husband will be able to take an action of disobedience to drop the wife's alimony except for the alimony of the minor children. The drop of wife's alimony will be as of her refusal to obey her husband or as of the date of obedience notification. When an order is issued to trust the objection to obedience summon, man can exclude the reasons of the first summon which was rejected by the court.

1) Wife's disobedience will not forfeit her right in concubine

2. Wife's disobedience will not cease the right of custody of her children. Undoubtedly, her right of matrimonial alimony, designated earlier, shall be waived; and her right of alimony with respect to temporary marriage shall not be waived upon her divorce.

3. If the wife's disobedience is substantiated upon issuance of court decision with respect to the claim of disobedience, the wife is not entitled to alimony.

4. Termination of the wife's *Eddeh* (The period of 3 months and 10 days during which a Muslim woman must refuse to remarry) due to divorce, in case the husband is obligated to pay his wife's alimony because of keeping her at home, and the husband divorces his wife, the right of wife's alimony shall be waived as of date of divorce. It should be noted that as of date of divorce and cleanness of the wife for three months (During *Eddeh*), the husband is obligated to pay the wife's alimony and the judge shall render an order according to wife the husband must pay the wife's alimony during *Eddeh* for three months.

5. Apostasy from Islam

6. Imprisonment of wife: If the husband is not the reason for wife's imprisonment, even if she is imprisoned due to her religion, the husband is indebted for the wife's alimony and must pay it upon her demand.

Act 1920-25 of Egyptian personal law doesn't accept setting off the religion with alimony unless in such case as the alimony is set off with the religion, the remaining alimony fulfills the needs of the wife. The amount of alimony is determined according to the wife's need and its causes are legalized by law. Thus, if corresponding causes of alimony are removed, the wife's right of alimony shall be waived. The alimony includes medical costs of the wife and those of her children and in case such costs are not paid, the wife is authorized to petition a file demanding corresponding medical costs by submitting corresponding receipts issued to her children and prescriptions. If the court substantiates dates, numbers and seals of physicians and pharmacies, it shall determine the amount of alimony on the said documents. If the court doesn't confirm the same, it shall determine the amount of alimony upon its discretion considering financial conditions of the husband.

If the wife receives alimony, irreligiously or illegally, and her husband demands such alimony, the wife is obligated to refund the same. If the wife's right of alimony is substantiated, she must prove her husband's income before a court and the court may investigate the husband's workplace and inquire a bank, requesting bank statement and determine the wife's alimony and child support considering financial ability of the husband.

According to Civil Status Code of Egypt, ratified in 2000, in case someone is judged to pay wife's alimony or if someone enters into a serious claim with respect to alimony, and there is no substantiating proof at court, he must request public prosecutor to investigate the case in order for a proper decision would be made on the case. The public prosecutor must directly lead such investigations considering respective law on not disturbing presidential orders prescribed by Act 205, ratified in 1990, with respect to confidentiality of bank accounts at public and private sectors and submit a summary of corresponding results to guardianship department within 30 days before the court receives the said petition.

Furthermore, the husband is authorized to file a claim of obedience with court, proving that he has not paid the wife's alimony due to her disobedience. The wife may institute an objection to the said claim accordingly. If the claim of disobedience is substantiated by the court, the wife's objection shall be rejected. The order delivered by the court, rejecting the objection, instituted to the notice of obedience, shall not effect on the claim of temporary marriage because the contents of the said court order don't disturb the wife's obligation to continue her marital life and stay at her husband's home. Considering the claim of separation and termination of temporary marriage, the husband is obligated to satisfy the divorced woman and to grant her material rights rose from divorce. Claim of obedience interferes with claim of divorce in the view of its subject and reason. An order for obedience of the wife from her husband and her disobedience and an order of no acceptance of claim of divorce with respect to corresponding damages demanded in this regard are not finalized.

On the strengths of Act 100 ratified in 1985, wife's alimony is determined considering financial ability of her husband at the time when the wife is entitled to such alimony. In case of financial inability of the husband, the wife's alimony shall not be less than the amount compensating the wife's essential needs; and the judge must determine the wife's alimony and that of her minors within two weeks in case proper conditions are met and the said parties are entitled to such alimony. Temporary alimony is the same as that of indigence period amounting to as much as essential needs of the wife and it shall be binding and effective immediately upon issuance of court order. If the husband pays the wife's alimony more than the amount determined by the court, he may demand compensation of the same with respect to differential amount.

Moreover, the wife must not obey her husband if he commits a sin. Although obedience of the wife from her husband is obligatory, even more than that of her parents, she can disobey her husband if his order is against that of God because her husband doesn't make her free from God and she must be patient until her husband returns once again (Salim:1362A.H). The husband has the right to prevent his wife from recommended fasting. Also, if the husband recommends his wife wear unsuitable dresses, contrary to God's orders, prescribed by Noor Surah, Verse 31 stating "In my opinion, among the forbidden cases, one may point out cloths which rich women wear on their dresses when they are leaving home and they are colorful silk cloths, which attracts most attention and create problems and this is an instance of cowardly, and from among other problems, one may point out not-wearing veil by women before their brothers-in-law and inattention of their husband to this case and a wife is not obligated to obey her husband in the aforesaid cases".

Islamic religion has determined certain rights for the spouses according to conclusion of marriage. According to Islamic rules, each spouse must observe right of other party in order for the marital life reach an ideal point meeting respective ideals namely tranquility, affection and compassion between the spouses as determined by God as main goal of marriage. The aforesaid goal has been considered by both Family Act of Iran and Egypt and Islamic rules have been followed in this regard.

According to Law of UK, obedience of a wife from her husband doesn't mean she must have obligatory relation with her husband. Even if such relation is made upon insistence and force of the husband and the partner, the wife is authorized to bring a complaint stating sexual aggression in marriage and such act is subject to punishment; even the wife has the right to have a separate house or to dismiss her husband from common home because of such violating behavior as described here above (saunders. H: 2004, 4,5,6).

According to British laws, one of relations existing in a family in view of financial issues is alimony. There is a difference between British laws and statutory rules of Iran and Egypt with respect to regulations of alimony to a large extent. Such difference is much evident with respect to wife's alimony. According to British laws, there are many rules, ratified with respect to alimony and family relations and judicial procedure is less taken into consideration. Thus, one may state that nowadays the main reference of family laws is statutory regulations. Concerning the fact that economic rights and duties are propounded with respect to matrimonial relations, the said relations must clearly be determined and they can't be assigned to judicial procedure either. Legal system thoroughly assigns support of wife to her husband and in practice and for fulfillment of the said duties, certain rules have been ratified for issuance and enactment of financial orders by courts. It should be noted that the said rules are applicable until no agreement is reached by the spouses in this regard contrary to the prescribed laws. One may point out such cases as Law on Issuance of Order for Payment of Alimony and enactment of the said Law, ratified in 1920, Law on Order for Payment of Alimony, ratified in 1958 and 1972 and Matrimonial Causes Act, ratified in 1973, Act on Matrimonial Courts and Family Claims, ratified in 1978 and Law on Judgment and Civil Jurisprudence, ratified in 1982 and Law on Enactment of Order for Payment of Alimony, ratified in 1991.

If the wife files a petition with a court, stating that her husband has not paid her alimony, the court must investigate probable agreements reached with respect to continuation of financial support between spouses and matrimonial misbehaviors namely unfaithfulness and abundance of spouse and adultery. According to Law, ratified in 1978, if the petitioner proves unfaithfulness of the respondent, she will prove his negligence in payment of her alimony and in this case, the court renders one of the following decisions:

"The respondent must act upon payment of alimony to the petitioner on weekly or monthly basis; for example, the court renders a decision according to which the respondent must pay the petitioner's alimony on weekly basis for six months. Regarding a decision for periodical payment of alimony, the court has great authority; however, magistrate courts, contrary to the courts that render divorce decree, are not able to issue an order for guaranteed periodical payment of alimony. In this case, the court prescribes that prior to issuance of an order for periodical payment of alimony for fulfillment of the party who is entitled to such alimony (the wife), the court may render an order according to which the total amount of alimony would be paid by the respondent to the petitioner.

According to Law, ratified in 1978, magistrate courts are authorized to render orders on the basis of mutual agreement of the spouses with respect to payment of alimony and amount of the same accordingly. If the petitioner brings a claim stating an agreement on payment of alimony, reached by the respondent and the petitioner in this regard,

the court may render an order for enactment of the financial agreement if the petitioner is able to prove such agreement and the said agreement is not illogical or unfair.

The Effect of Common Matrimonial Life, Divorce and Remarriage on Orders for Payment of Alimony

In case the parties to the order for payment of alimony resume common matrimonial life once again for at least six consecutive months, enactment of order for payment of alimony halts. Divorce shall not automatically halt the order for payment of alimony and in most cases the court renders an order because of which enactment of the aforesaid order is continued. The order for periodical payment will be re-determined and evaluated once again upon remarriage or cancellation of the same.

Modification and Nullification of Orders for Payment of Alimony

Law has authorized magistrate courts to change the amount of alimony and manner of its payment as well as nullification of orders for periodical payments, issued by the law. However, corresponding law can't change respective orders for payment of the entire amount of alimony to the petitioner. Corresponding changes in periodical payments may decrease or increase the amount of alimony. In such cases as unemployment the court may suspend enactment of order for payment of alimony (Law Reform (Husband and Wife) Act:1978).

On the strengths of Matrimonial Causes Act ratified in 1973, provision of common alimony must be submitted to supreme and provincial courts. Authority of the aforesaid courts is more than that of magistrate courts because there is no limitation for determination of total amount of alimony, payable to the petitioner (Matrimonial Causes Act: 1973).

Family Act, ratified in 1996 authorized the court to issue an order for separation or judicial separation together with corresponding financial regulations including financial support and division of matrimonial properties of spouses. If the court substantiates that the matrimonial relations have strained, usually before divorce, judicial separation occurs. Regarding legalization of financial relations between the spouses during judicial separation, private agreement is more powerful than law and judicial order. If the spouses settle corresponding issues associated with alimony upon mutual agreement, the court shall not interfere with the case; however, the spouses are not able to disqualify the court upon mutual agreement. Although private agreements reached with respect to alimony are binding and effective, if life conditions are changed in such a way as the said private agreements made prior to such changes are unfair, the said agreements shall not be enacted (Masson and Crentney: 1997,46)

Investigation of corresponding rules with respect to alimony in UK makes it clear that no payment of the wife's alimony in the said country has no penal justification; and in order to make orders for payment of alimony binding and effective, only one may rely on guaranty for legal enactment including confiscation of income. According to respective law on enactment of orders for payment of alimony, ratified in 1991, supreme and provincial courts are legally authorized to determine manner of payment of the said alimony. By virtue of Chapter 1 of the said Law, the said courts are able to determine manner of payment and enactment of the same (for example, through confiscation of income) upon issuance of an order for payment of alimony. Also, the courts are authorized to reform orders for payment of alimony and enactment of the same. Contrary to magistrate courts, with no authority for issuance of order of guaranteed periodical payment, and they are only able to issue an order for periodical payment, the case of indigence and financial inability of the husband to pay the wife's alimony are taken into consideration in legal system. In such cases as the husband is not able to pay the wife's alimony due to such reasons as unemployment, the court is authorized to suspend the order for periodical payment of alimony so that after the said case is removed, the order must be enacted once again.

However, according to family law of 1996, the alimony right was changed and both spouses would be liable for their marriage financials, in this way, in case of financial inability of the husband, wife will be responsible for payments if she has work and financial ability.

Wife's Employment in Relation to Obedience in the Iranian, Egyptian and British Laws

One of the issues set forth in relation to general obedience is the husband's right to prohibit the wife from employment. In article 1117 of the Civil Code, husband is authorized to prohibit his wife from the occupation or industry which is contrary to the family interests or his or his wife's prestige. For such prohibition however, the court should be requested to issue an order. The prohibition of wife's employment has been spread to the period before marriage as well. By issuance of the court order, the obligations assigned to the wife due to her occupation will be nullified and the damages caused to the third parties may be claimed. Of course, on the strength of article 18 of Family Support Act, wife can too prohibit the husband from the occupations which are contrary to the family interests or to the prestige of wife and/or her husband. In case of lack of any disturbance in the family livelihood, the court will prohibit the husband to continue that occupation (Katouzian: 1378 A.P, 2: 129).

According to the Egyptian jurist consults, when wife employs outside the house without the consent and agreement of her husband, even though the job is necessary for the community, wife's right will be lost and her alimony will be dropped. This issue is not rejected for the right of wife in a legal job because such legitimacy is not contrary to the prohibition of right (Jadhalgh: 1389 A.H, 2: 64). It has been stipulated in one of the exceptions as follows: Suppose

a man marries officially with a woman with the notion that she does not work and she is under his support, but after a while he suddenly finds that she has engaged in directorship in TV before their marriage. Since his wife does not need that job, the husband asks her to drop the job and stays at the husband's house, but the wife refuses to do so. In such case, is the wife's insistence in working and her disobedience for staying in the husband's house considered as disobedience and is her alimony dropped? The answer of an Egyptian Mufti: Husband becomes liable for his wife's alimony upon occurrence of a correct marriage contract which is concluded based on some conditions set forth by the wife who then dedicates herself to her husband and obeys him. Of course, when wife surrenders herself during the days disregard of the nights or vice versa, she will not be entitled to alimony because such surrender and obedience is incomplete. It has been said that husband can prohibit his wife from spinning and even from all necessary works because husband does not need that due to his financial capability Hassafi: 1415 A.H, 2: 299).

A wife who leaves her husband's house without any right shall be entitled of no alimony and she will be considered as a disobedient wife unless she returns. So, it has been contained in article 169 of civil status Act (Ghadri pasha: 1323 A.H,1:237) that if a woman who works outside the husband's house and is beside her husband at nights is prohibited by her husband to leave the house but she disobeys her husband, she will be deprived of alimony as long as she is outside the house (AbouZahre:1369A.H, 292) because staying in the husband's house in this case is incomplete and the husband's request should be met completely. Therefore, if the wife refuses to do so, she is a disobedient. Therefore, leaving the house by wife for the sake of a legal work will not be considered as disobedience as long as she does not abuse such right or her job is not contrary to the interests of the family and provided that the husband does not request her to stop working.

Nowadays, in Egyptian law, leaving the house by wife for a legal work will not cease her alimony right.

It should be noted that work conditions and the relation between worker and employer in England for all British citizens and residents are equal and law does not discriminate between different religions or minorities. Although in that country husband cannot prohibit his wife or spouse from working outside the house, there are some facilities for employed women in keeping children or old people of the family. One of these facilities includes flexible working. Flexible working may include part time jobs, school working hours, working at home, shared working and intense and alternating work hours. By virtue of this Act, husband or wife can rely on having child/children and can ask his/her employer to provide part time working conditions for him/her and in case the employer does not consider his/her conditions he/she can complain to the court (Basic Rights at Work, This information applies to England, Wales, Scotland and Northern Ireland: Act 34).

Therefore in England, husband cannot prohibit his wife from working. Even in several cases in England it has been observed that wife has complained her husband because he has forced her to work at his own restaurant or to do similar jobs and the court has therefore issued an order for compensation of wife's losses and even their separation (Masson and Crentney: 1997, 46).

Wife's Travel in Relation to Her Obedience in the Iranian, Egyptian and British Laws

In the Civil Code, there is no certain rule for the wife's travel by obtaining permission from her wife, but according to article 1114, wife must settle in the house specified by her husband and on this basis, she must take her husband's permission for travel. For traveling abroad and obtaining a passport of course, she must certainly obtain his permission in a notary public office. In cases where the wife has a religious excuse, such as obligatory fasting and in the event that the residence of the couple in a house includes physical, financial or honor fears, wife may refuse to settle and stay in that house. In case husband does not permit his wife to leave the house for performing religious obligatory duties, wife can leave the house without his permission, like when the pilgrimage to Mecca becomes obligatory for the wife.

In Egypt, legal scholars have generalized the wife's disobedience order to her exit from the house for working or otherwise and by such exit, she will be considered as disobedient. This also applies to the cases where wife refuses to obey her husband without any right and leaves the house or goes to travel without his permission (Kashani: 1406 A.H,4: 122). And wife's obedience should be fulfilled completely by leaving the house with her husband, but if she obeys her husband only at nights or in a specified house, she will be entitled to no alimony.

As for the wife's travel in the Egyptian jurisprudence texts, some of the scholars have said, "When wife goes to travel by gaining her husband's permission or goes to travel because of her needs, no interest or alimony will be accrued to her because interest is for establishment of intimacy and affection between the couple and alimony is for obedience. Sometimes the wife herself disobeys due to a reason; in this case, alimony will be waived from her. When wife goes to travel without the permission of her husband, waiver of alimony and interest is a punishment for wife. Nonpayment of alimony due to disobedience for issues other than non-compliance is not correct and husband is better to drop his wife's right upon her disobedience and commitment of sin. Of course, nonpayment of wife's alimony due to legitimate works (going to travel with the husband's permission) is not rejected (Bokrisadafi: 1331 A.H)

If the wife is a mature and wise woman and has a safe financial situation and decides to go to travel, husband can prohibit her and can deprive her of alimony because legitimacy has no difference with prohibition. It is stipulated in the religious law that husband can prohibit his wife from prayers or fasting or other legitimate worships. Hanafi scholars

have stated that if the wife is confined or disfavored or if she goes to a pilgrimage to Mecca without the permission of her husband, even though she is accompanied with her family, no alimony will be accrued to her. Although Haj (pilgrimage to Mecca) is worship and confinement means woman's disinclination, when she leaves the house for a purpose based on her own will, she will not be entitled to alimony.

As for the wife's travel to abroad, one of the Egyptian Muftis believe that "Wife should not travel abroad without the permission of her husband. he has stated that Islam religion has established rights for man and woman, for example, wife should settle at home along with her husband so that marriage goals including relaxation and kindness are fulfilled. She shall provide welfare tools for anyone at home. Moreover, it is the husband's right that his wife does not leave home without his permission and he can prohibit her from leaving the house unless otherwise specified by religion or common law.

As for the wife's refusal to accompany her husband, it has been quoted from Mohammad Abdoh that "Since husband pays his wife's marriage portion and is her trustee and he does not intend to cause loss to her by transferring her, so he can take his wife with him to his residence place. In such case, if wife refuses to go with him, she will be considered as disobedient and will receive no alimony and no clothing." (Abdoh: 1322 A.H)

A judgment has been made by the Egyptian Mufti concerning the wife's travel: "A person marries an Egyptian woman in Egypt. Can the man force his wife to go to Yemen? There are different judgments in this regard. In some of them it has been stipulated that due to bad conditions of the world, wife may not and shall not travel unless by obtaining husband's permission and consent, but some of the other scholars state that if husband pays his wife's marriage portion immediately, he can takes her to travel.

As for the husband's right to punish wife, it has been quoted that the requirement of marriage contract is that each of the couple has rights against each other and they are responsible to preserve and protect each other's rights (Jadhalgh:1389 A.H). One of the rights of the husband is that he can prohibit his wife to leave the house except for a need which commonly requires leaving the house. Husband can prohibit wife to leave the house for unnecessary affairs.

Therefore, till the year of 2000, it was necessary for wife to have husband permission and acceptance for leaving the house for any purposes, but after 2000, the law permits wife to leave husband's house without his acceptances. The necessity for having husband's acceptance was ceased.

In British family laws, no limitation has been considered for the wife's travel or her leaving of the house. Of course, the couple should enjoy each other's mutual consultation and cooperation in their common life and this cooperation should be observed for working outside the house and/or traveling. (Masson and Crentney: 1997, 46)

Research Findings

It is found from all stated issues that due to hanafiyeh jurist consults, husband is responsible for paying his wife's alimony against her presence in his house and dedicating herself for meeting his needs. If woman engages in working outside of the house without the permission and consent of her husband, even though her job is necessary for the community, such as midwifery and practicing medicine, she will be no longer entitled to receive alimony because the rights related to marriage contract are mutual. However, it should be noted that wife's obedience shall not mean slavery and exploitation. Man must respect his wife and must observe his rights. Moreover, considering the developments made in different countries and active presence and participation of women in the community and outside the family and especially her assistance in family livelihood, some modifications with respect to woman's employment and her non-exit from the house in the Islamic countries, Have been made. It is evident that going to extremes in any issue is harmful and the families of west countries have suffered from irreparable damages and losses due to going to extremes in women's employment and travel.

REFERENCES

1. Abdoh, Mohammad, the book of sentences of the Egyptian house of sentence, 1322 A. H, <http://www.damasusbar.org/almuntada/index.php>
2. IbnManzour, Mohammad, *Lesan Alarab*, vol 14, first edition, Beirut, Arabic Darahyaaltras Institute , 1408 A.H
3. Abu Zohreh, Mohammad, *AhkamAlshriah Fi Alahval Alshakhsiah*, Dar al-kotob al-ilmiyah - Beirut – London, cairo, 1369 A.H
4. Bakhit, Mohammad, The book of sentences of the Egyptian house of sentence, 1333 A.H, www.damasusbar.Org/almuntada/index.php
5. Bohrani, Yousef, Hadaegh Al Nazerah, vol. 24, Qom, Eslami publications, affiliated to jameahAlmodaresin, 1374 A.H

6. Bokrisadafi, The book of sentences of the Egyptian house of sentence, 1331 A.H, [www.damascusbar.Org/almuntada/ index.php](http://www.damascusbar.Org/almuntada/index.php)
7. Case of wife obedience in common house of marriage, [http:syrianbar. Org/vb/archive/index.Php/t-230.html](http://syrianbar. Org/vb/archive/index.Php/t-230.html)
8. Ghadri Pasha, Mohammad, Al AhkamAlshriah fi AlahvalAlshakhsiah, cairo, Taghadompress , 1323 A.H
9. Gazali, mohammad Bin Mohammad , EhyaouloumAlDin, translated by MoayyedAldingmohammadkharazmi, Tehran, scientific cultural publications, forth edition, 1385 A.H
10. Hasafi, Alaeddin, Aldar Almokhtar Fi sharh Tanvir Al Absar, vol. 2, Beirut, Daralfkr press, 1415 A.H
11. Helli, Jafar Bin Hasan, Islam Laws in matters of lawful and unlawful, vol. 2, Second edition,Beirut, House of Lights (Daralazva) press, 1403A.H(L.Y)
12. JafariLangroodi, Mohamad Jafar, Mabsout (Extended) in the Rights Terminology, vol. 5,Second edition, GanjDaneshpress,1381S.
13. Jadalhagh, Ali Jadalhage, Almosouah, The book of sentences of the Egyptian house of sentence, vol. 2,ministry of endowment, 1389 A.H, www. Islamic-concil.com
14. Kashani, Aboubakr Bin Masoud, BadaeAlsanae Fi TartibAlsharae, vol.4, Granular(Alhabibiyeh)Library ‘Pakistan, 1406 A.H(LY)
15. Katozian, Nasser, Fmily civil Rights, vol. 2, Tehran Entesharcorporation, second edition, 1378 A.P
16. Law Reform (Husband and wife) Act, 1978
17. Marriage and Relationship: uk Regulations, Immigration and marriage, civil partnership in a durable relationship: European Economic Area (Immigration) Regulations 2006, part3
18. Masson and S.Mcrentney, principles of family law, section 46, 1997
19. Matrimonial causes Act, 1973
20. MohaghegDamad, mostafa, civil Rights of family, third edition Publication of Islamic Sciences, 1368 A.H
21. Reforming the law “matrimonial property, needs, agreements”, <http://law commission.justice. gov.uk,2002>
22. salim, Abdolmadjid, Almosouahshamelah,The book of sentences of the Egyptian house of sentence, vol. 2, ministry of endowment,1362 A .H, www Islamic – council. Com
23. sarakhsi, mohammad Bin Ahmad, Almabsoot, vol.5 ,House of Gauged(Darolmarefat) press, Beirut, 1414 A.H
24. Saunders. H, law made simple, Hidden Hurt, Domestic Abuse, www. Hidden hurt.Co.uk,domesticviolence.html.2004
25. Najafi, mohammad Hassan, JavaherAlkalam Fi sharhsharaye Al Islam, vol. 70, Tehran, Dar Al kotob Al Eslamiah, first edition, 1981