



Fiqh of Marriage: Class Thirty

الحمد لله و الصلاة و السلام على رسول الله و بعد:

The Hadith:

وَعَنْ أَبِي هُرَيْرَةَ (عَنِ النَّبِيِّ) قَالَ : { مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ
فَلَا يُؤْذِي جَارَهُ , وَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا , فَإِنَّهُنَّ خُلِقْنَ مِنْ ضِلَعٍ , وَإِنَّ
أَعْوَجَ شَيْءٍ فِي الضِّلَعِ أَعْلَاهُ , فَإِنْ ذَهَبَتْ تُقِيمُهُ كَسَرْتَهُ , وَإِنْ تَرَكَتَهُ لَمْ
يَزَلْ أَعْوَجَ , فَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا } مُتَّفَقٌ عَلَيْهِ , وَاللَّفْظُ لِلْبُخَارِيِّ
(1324) .

وَلِمُسْلِمٍ : { فَإِنْ اسْتَمْتَعَتْ بِهَا اسْتَمْتَعَتْ وَبِهَا عَوْجٌ , وَإِنْ ذَهَبَتْ تُقِيمُهَا
كَسَرْتَهَا , وَكَسَرُهَا طَلَاقُهَا }

Narrated Abu Huraira: The Prophet alayhi as salam said: “He who believes in Allah and the Last Day should not harm his neighbor; and take my advice regarding good treatment of women, for they were created from a rib. And the most curved part of the rib is the

upper part. If you attempt to straighten it, you will break it, and if you leave it alone, it will remain bent. So take my advice regarding good treatment of women. [Agreed upon]

Muslim adds: “So if you enjoy her, you will do so while the curve remains in her; but if you attempt to straighten her you will break her, and breaking her is divorcing her.”

The Explanation:

We spoke last time about the verse in Surah al-Nisaa’ that teaches us the rights of others in society upon us. We spoke of orphans, and following them, which are similar to orphans, but they are orphans even when they grow old, are the poor.

The Poor are mentioned alongside the orphans since they both share in need and poverty. Just as the orphan is in need of one to care for him, feed him and provide him clothing, and shelter, likewise the poor, and even if he grows up and becomes old. This is because of the lack of what he has in his hands and shelter, thus he needs society to take him in and take care of him

And we spoke in the Chapter of Zakat, that the Miskeen is the one who earns less than he spends, his income is less than his spending.

As for the Faqir, he has nothing. He has no income. Do to inability, to handicap, and Allah spoke of the people of the Safeenah in Surah al-Kahf:

“As for the Ship, it belong to Masakeen working on the sea...”

The had a source of income and a means to support themselves, but the Faqir: nothing.

It is said, Miskeen in Arabic can come from “Sukoon” or stillness, while Faqir comes from Faqaah, or skeleton, i.e bones.

As if the poor person has nothing left, and is unable to move.

And if the Masakeen are mentioned alone, then the Fuqrah are included under their wing.

And if the Fuqarah are mentioned alone, then in their company of the Masakeen.

For this reason, the Ulema say they are two names, if the are mentioned together, then they have separate meanings, and if they are mentioned independently, they have the same meaning.

If only one is mentioned, it is followed and included by the other.

The Ibn as Sabeel, the one who has been cut off from support, the wayfarer, is also in a similar state.

He is far from his family, from those who would take him in for the night, his place of residence, and he was named Ibn as Sabeel (Son of the Road), because we do not know anything about him.

Which society is he from? Which standard of living does he live?

We do not know. The street gave birth to him, and threw him to us.

Ok, street, where is he from, what is his nationality, what is his state, it is not your business.

Take him, and fulfill his need, that all.

And from here, the Ibn as Sabeel: has a share of the Zakah, and he has the right to take from the Zakah of the Muslims what will suffice him, and what will enable him to reach his home.

Even if he is the richest of people in his home town. He can take what is needed to reach home.

The Fuqaha even say that if he received some portion of money to reach home, and then he restrained himself and minimized the amount he spent until he reached home and still had something left over, he does not have to return it to the Bayt al Maal.

This is because he restrained himself and prevented himself from a right that he deserved.

So the Ibn as Sabeel: is a Wayfarer, and person who lost his way, and the people do not know anything about him, except that he came from this road.

So the order: “With parents goodness, and with relatives, and the orphans, and the poor.”

As if they are all part of a family.

Then Allah says, “Wal Jaari dhil Qurabah” The neighbors that you know.

The neighbor “Jar” comes from the Arabic word “Mujawara” which means to be nearby.

And ‘Dhil Qurbah’, as mentioned by al-Qurtubi and others, there is a difference of opinion amongst the ulema, what does it mean exactly.

Does it mean nearby in lineage, like his cousins? Or does it mean physically nearby.

Or both, for it is narrated that neighbors are in a number of categories:

Those neighbors that have 3 major rights:

Neighbors that have 2 major rights:

Neighbors that have one major right:

Those neighbors that have 3 rights are those who are nearby in terms of lineage.

So they have the rights of being a relatives, the rights of being a neighbor, and the rights of...al-Islam.

As for the neighbors that have two rights: They are the neighbors other than those who are relatives. So they do not have the right of relatives, but they have the right of neighbors, and the rights of Islam.

The neighbors that have 1 right: they are the neighbors that are non-Muslim.

Even if he is a Jew or Chistian.

And Bukhari and others narrate, that Abdullah bin Umar, slaughtered a sheep, so he said to his boy: The first thing you begin with when you distribute it, is to give it to our Jewish neighbor.

So some of those who were there said: A Jewish person, O Ibn Umar!?

He said, Yes, for I have heard the Messenger of Allah saying: “Jibreel continued advising me of the rights of the neighbor until I thought that he would give them rights of inheritance.”

And the fact that he is a Jew does not prevent being good to him.

And we mentioned previously that the Messenger of Allah, alayhi as salam, had a Jewish boy who used to serve him.

Once, he was absent, so the Prophet alayhi as salam asked for his whereabouts. They said, “He is sick.”

The Prophet alayhi as salam said, “Get up let us go visit him.”

Ya Subhanallah! Visit a boy, Jewish, and a servant?

What quality in him deserves that the Prophet alayhi as salam take steps to visit him, and his Sahabah along with him.

They got up to visit him, and entered upon him, and they found him at the verge of death.

So the Prophet, alayhi as salam said to him: “O young boy: Say Laa illaha illa Allah, Muhammadur Rasoolullah.”

The boy leaned his head towards his father, seeking his counsel.

He said, “O my son, Obey Abu al-Qassim (The Prophet).”

Okay, why not you then, why do you not obey as you have grown old?

“O my son, obey Abu al Qassim.”

So the boy said it, and then his soul left him.

The Prophet alayhi as salam said to those with him from his Sahabah: Take care of the affair of your Brother. The boy had become a brother to the Muslims.

Thus, the Neighbor, who is nearby. He has three rights, or two, or one.

And it is said, though I have not found it in his biographical accounts, that Imam Abu Hanifa had a Jewish neighbor who used to hurt him on a daily basis.

He used to place harmful things in his path, on his doorstep, when he would go out for Fajr to the Masjid.

So he would try to avoid it, and remove the harmful things from the path, then go the Masjid, and then return home.

He used to ask, who does this? They would say, your Jewish neighbor. So he would remain quiet.

When some days went by and nothing harmful was placed on his path, he asked: “Where is my neighbor, he used to have his habit of harming me?”

They said, “He has been sent to jail, due to an outstanding debt, the details are as follows...”

Abu Hanifa went to the prison, and paid off the debt for which he was sent to prison, and requested that he be released.

When the man was released, he asked, “Who paid of the debt for me?”

They said, “Imam Abu Hanifa, he came himself, and paid off your debt, and said: “this is my neighbor” and request your release, and out of honor of him we have released you.

He returned to his home, and he was shocked. “Is this the reward for what I used to do with him?”

Is this what Islam teaches them, is this...is this... until he went to see Imam Abu Hanifa.

He entered, ashamed and embarrassed, and announced his Islam in front of him, may Allah be pleased with him.

Here, the hadith says: “Whoever believes in Allah and the Last day, then let him not harm his neighbor.”

And in some narrations, it says, “Let him honor his guest, his neighbor,” and so on, but the text here: It is prohibition on Harming.

It did not advice to do good, as is mentioned in the Quran, do good to parents, relatives, and neighbors...

But this hadith here, it says: “Do not harm...”

And the scholars of Usul (Principles of Law) say: “Prohibition of a thing is a commandment of its opposite.”

Here, there is a prohibition of harming, so it is at the same time, a commandment to do what...to be good and kind.

Here the command is to restrain your harm, not bother or annoy, and to be patient with his harm towards you.

And Imam Ghazali mentioned in al-Ihya, certain rights:

He mentioned:

If he is sick you visit him.

And if he seeks a loan you lend to him.

And if he harms you, you keep patient with him.

And.....and so many rights upon the neighbor.

And something good happens to him, you congratulate him.

And if he fell into some harm, you offer your condolences.

And so on, all the means of goodness, and means of good relations, have been mentioned by al-Ghazali in the rights of a neighbor upon his neighbor.

And they say, “Restraining your harm and annoyance is not sufficient, no”

The Arabs used to have great concern for the neighbor, and made sure to do good to them, before the coming of Islam.

‘Amr bin Atnaba, was one of the kings of Madina. He says, in a verse of poetry:

“We are from those who if we sit down at a gathering place, we begin by addressing the rights of Allah, then by addressing those who harm the rights of their neighbors.”

And Ibn Abdul Barr, in his book Adaab: has a number of verses of poetry regarding the rights of neighbors: He says:

*My female neighbor if she comes out from her home
I become blind (I do not look upon her)*

So restrain the harm and annoyance from the neighbor, and protecting their women, is greater than for those who live further away.

And the Prophet alayhi as salam said, “What do you think about Zina?”

The Sahaba said, “It is haram, Allah and His Messenger forbid it.”

He said, “That a man commits Zina with ten women is lighter in the sight of Allah than committing a single act of Zina with the wife of one’s neighbor.”

Then he said, “What do you think about stealing?”

They said, “Haram, and Allah and His Messenger forbid it.”

He said, “If a person steals from the wealth of someone else is lighter in the sight of Allah, then stealing from his neighbor.”

What concerns us is the emphasis on the rights of neighbors.

Since we, today, have found a great difference in the relations between neighbors then our early generations, or even just a few years ago.

This especially the case around holiday times.

Today, you enter a building, perhaps just four or five floors, and maybe 10 apartments. If you ask about those who live on the same floor only, they will say, “I do not know who they are.”

“Is this from not visiting, or cutting off?”

From cutting off.