



The Ways Out of the Moral Damage Women Suffer in Divorce based on Quranic Teachings

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ABSTRACT

Expanding Quranic principles in human relations is considered among the fundamental necessities in an Islamic society. The importance of explaining these principles seems of much more significance in cases moral damage is likely to occur. Being formed in stressful relationships, *Divorce* is one of the most challenging events in family life which affects women morally more as the sensitive party of this relation. This study, through a descriptive-analytical method, tries to analyze the Quranic approach toward moral damage suffered by a woman in divorce. It shows that the Holy Quran as a source of jurisprudence, in order to vindicate the rights of women injured in divorce, instructs strategies as legal and moral propositions to compensate moral losses and in addition to meeting their financial needs (including the right to housing, securing women's financial rights, giving gifts, the right to immunity from abuse), pays attention to meeting the spiritual needs (including the right to security in returning to the common life, waived right to shared housing with man, not having the right to return to the divorcee during iddah and etc.). Although the amount of moral damage imposed on a woman is irreparable, observing each of these propositions and removal of some duties man is responsible for, followed by legal sanctions and protection can to some extent repair the moral damage suffered by the woman and can cause a decrease in the number of divorces in the society.

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1. Introduction

What can be seen today in the society is incompatibility and inconsistency of the existing rules in the divorce legal process with the divine laws and sharia. The Holy Qur'an has repeatedly emphasized that women are protected against any kind of violence and oppression, they have all the right to a decent life, are socially protected against any libel or slander, and has rebuked inappropriate actions against women in the course of the divorce process and afterward and has laid down strict laws. It holds the man obliged to comply with these rules in line with the legal rights of the woman. In order to reinstatement and restore the woman's dignity in the marital relationship, The Quran emphasizes not harming the woman and that failure in implementing the rules is violating God's limits and self-blessedness. Hence, in order to prevent material and spiritual damages to women in divorce or to remedy the existing damages, the Holy Quran proposes an ethical approach and, in some cases, lifts legal duties.

It seems that God's emphasis through the warnings given about divorce is proof that a man shouldn't abuse the right of divorce and apply it as a means to harm a woman and violate her rights. For this, the damages suffered by the woman due to the legal removal of the man's duties are sometimes determined and, in some cases, the man will be fined. In the end, the legal support of these propositions and rules by the legislator and the protection of this type of support in the society will reduce the moral damage to the woman and her desecration in the society and will decrease the divorce rate to some extent.

2. Divorce as a Problem

Divorce as a social problem has incommoded Muslim societies as well. It can be claimed that the Muslim society's separation from the Holy Quran, the undying divine source for Muslims, and the consequent distancing from Islamic rules, has doubled the damage of this problem. The damages caused to couples due to divorce seem irrecoverable, but it hurts women more due to their emotions. This practice contrasts the fair and just Quranic approach towards divorce that necessitates preserving women's dignity and honor and holds the men responsible for compensating the damages. Unfortunately, nowadays the process of divorce happens in such a way that the man's failure to comply with the moral rules can be considered as crossing the Divine limits ordained by the Quran. Hence, the lack of legal obligation, support, and supervision has made the moral damage caused to women in divorce irreparable.

The question this study tries to answer is whether the moral damage suffered by a woman during divorce can be compensated or not, and how the Holy Quran considers it recoverable.

Regarding the topic of this study, the book *Moral Damage in Islamic Law, Iran, and Contemporary Legal Systems* was authored by Dr. Sayyid Abolqasim Naqibi, in which through a comparative approach, he addresses the intellectual property and damages caused to it by comparing the Islamic legal system with other contemporary legal systems. The article *Methods of Compensation for moral damages in married life* by Hasan Moradzadeh and Fahima Sadat Razavi addressed the weak judgment and judicial procedure with respect to moral damages caused by the lack of legal explicitly. Homa Davudi has raised financial issues in compensating moral damages in her article *Financial remedies for moral damages in the divorce caused by misbehavior*. In the works accomplished, only the legal aspects of moral damage are investigated. Despite this, there are works such as the article *Illegitimacy of moral harm in the Quran and Hadith* by Mahdi Aberoumand, which doesn't address the institution of *divorce*; or the article *Ethical orientations of divorce verses in the Quran* by Fahima Gorji and Majid Ma'aref, in which the moral status of verses on divorce is addressed. The relationship between ethics and jurisprudence and the impact that ethics has on jurisprudential issues, especially the social problem of divorce, can also be found in *The Relationship between Ethics and Jurisprudence in Divorce Verses* by Moslem Mohammadi and Hamideh Shourgashiti, though it misses the point about moral damage which is the keyword of present the study.

As a result, no independent study on *moral damage* was found that simultaneously deals with both jurisprudential and legal aspects of the issue based on the Quranic foundations. Therefore, the present study addresses the Quranic approach towards *divorce* and the ways out of causing moral harm to women by abusing the right of divorce by a man. The rules laid down by the Holy Quran contribute to the reduction of moral damage to women in *divorce*; an issue that has been emphasized by God many

times and compliance with that can help in decreasing the divorce rate in human societies to some extent.

2.1 Moral damage

Lexicographers believe the term «*khosran*»¹ (literally damage) belongs to work and action as well. Raghīb Isfahani defined *khosran* as the reduction of life capital that is attributed to human beings. Sometimes this word is used for the achievements of life such as wealth and status; and likewise in the loss of achievements that result from moral and spiritual states, such as loss of health, sanity, reason, faith, and reward, which are psychological loss (Raghīb Isfahani, 1990, vol. 1: 600). Dehkhoda considers *khosran* as any kind of damage including loss, shortcoming, and deficiency which opposes benefit and profit in an absolute manner (Dehkhoda, 1998, vol. 22: 522-523). In other words, *khosran* includes harming a person's psyche, body, dignity, feelings, emotions, thoughts, and art, or endamaging him and violating his right to moral freedom, honor and dignity (Naqibi, 2007: 43). According to the literal meanings of *khosran* (damage) and *ḍarar* (harm), there is not much difference and they are synonyms.

Technically speaking, wherever there is a defect in the property or a certain benefit is lost or a person's health and dignity are harmed, damage has been caused (Katouzian, 2008: 38). or harming some values with moral aspect, psychological harms caused by trumping up individuals, insulting national and religious sanctities, is called spiritual harm (Imami, 2005: 332). Iran's Criminal Procedure Law states that, «Moral damage, which consists of mental injuries, aspersion and defaming personal, family or social reputation...» (Article 9, Clause 9) Furthermore, adding the general phrase, «Any other right created for individuals by law...», Iran's Trot Law Ar.1 completes this definition. Therefore, *moral damage* may be caused by one of these two factors:

1. Damage to the rights related to personality, individual freedoms, dignity and honor, which in total can be called «moral capital».

2. As a result of mental injuries. It is noteworthy that, according to jurists, unfortunate effects of moral damage are far more than material damages (Katouzian, 1387: 43). Generally, any damage caused to a human's immaterial belongings can be considered as moral damage.

2.2 Divorce

Terminologically, *ṭlāq* (divorce) means leaving, letting go, separation and freedom (Ibn Maḍūr, 1993, vol. 10: 225-226; Ibn Faris, 1983, vol. 3: 420). It makes a right for couples from the perspective of Sharia and law, exclusively for men. There is this famous hadith Nabawi² which states, «Al-ṭlāq bi yad e man aḥaḍa bis Sāq»³, a well-known jurisprudential maxim denoting the man's right to divorce (Najafi, n.d, vol. 27: 391; Muhaqqiq Damad, 2005:136-137). This maxim seems unanimous and consensual among Shia scholars (c.f. Najafi, n.d, vol. 3: 33). In the present study, divorce is considered as its general meaning, which is the end of the marriage contract.

It is worth noting that the existence of the right to divorce for men may cause spiritual damage to women and damage their dignity and reputation. In Islamic jurisprudence, «*Doing harm and reciprocating harm is not allowed*»⁴ is the basis for preventing any moral damage (Hindi, 1900, vol. 4: 59). Also, according to the secondary rule Intolerable hardship and difficulty which lies in line with the customs and developments in the society, any acts of violation by the husband and abuse of his full authority so that the result is harm and embarrassment to the woman, is banned. In these cases, Islam requires the man to repay damages in general, and moral damages in particular.

In other words, in Islam, the right to divorce belongs to men, and they have relatively unlimited powers in this regard over women. Therefore, there exists many rules and criteria for them. «**The wives have rights similar to the obligations upon them, in accordance with honourable norms; and men have a degree above them**» (Qur'ān 2:228). The Holy Qur'ān as the source of religion gives elaboration on these rules.

2. A hadith narrated from the holy Prophet.

3. Literally «Divorce is in the hands of the one who takes hold of the leg».

4. primum non nocere: لا ضرر و لا ضرار فى الإسلام

3. Methods the Quran instructs to compensate moral damage to women

If the man is the plaintiff in the divorce process, the Holy Quran obligates him to comply with the limits set to be implemented during the iddah period and afterward in order to prevent material and spiritual damage to the woman in the society. So, observing woman's rights during the iddah period is incumbent on the man (Javadi Amoli, 2006: 237). Observance of these rules can help prevent damage to women in divorce proceedings in the social sphere. These rules are as follow:

3.1 Restraint in the divorce process

Following granting right to divorce to man, the Holy Quran codifies rules to stop the man abusing this right; thereupon, in the verses of divorce, any kind of oppression against women including kicking her out, humiliation and insults, defaming and vilolating her reputation and rights, which cause mental and emotional harm to a woman, is declared highly prohibited and haram.

The approaches taken by the Quran in compensating the moral damage to women in the divorce verses seem different from other topical verses because in the verses of divorce, what looks necessary is full adherence to God's commandments in difficult times, when the devil overcomes the man's will. That's why it repeatedly calls people to piety and warns that God knows the condition of His servants (Modarresi, 1419, Vol. 1: 372). Hence, Therefore, respecting women's rights in the verses of divorce shows compliance with Divine limits; because if the man fails to do that, he has wronged not only the woman but himself, **"and whoever transgresses the bounds of Allah certainly wrongs himself"** (Quran, 65:1; Javadi Amoli, 1385:346; Mughniyah, 1378, vol.1: 615; Tabarsi, n.d. vol.3:22). It either causes his disbelief, apostasy or debauchery, and in general he deserves punishment due to destroying the sanctity of God's commandments (Tayyeb, 1369, vol. 13: 52; Modarresi, 1419, vol. 16: 59). These Divine limits are set for the benefit of the individual, family and society, and it is not permissible for the one to opt for other limits for himself (Modarresi, 1419, vol. 16: 59). While reminding people of piety, **"and be wary of Allah, your Lord"** (Quran, 65:1), Allah tells the man not to violate Sharia instructions in divorce, unlike what is done today (Tayyeb, 1369, vol.3: 51). In addition, since sometimes issues related to livelihood and future or other family troubles cause couples to deviate from the path of truth and justice during divorce or returning in revocable divorce, observing piety and, accordingly, the man's observance entails kind of easeness as is described by Allah, **"And whoever is wary of Allah, He shall grant him ease in his affairs."** (Quran, 65:4); and makes it as a way out of the impasse the couple are caught in, **"Whoever is wary of Allah, He shall make for him a way out"** (Quran, 65:1). He also gives them sustenance from where they do not suspect, **"and provide for him from whence he does not count upon"** (Quran, 65:1). (Makaram Shirazi, 1371, Vol. 24: 235). As a result, maintaining the piety **"Be wary of Allah"** (Quran, 2: 230) and observing it can be helpful in the impasses and crises caused by divorce and mental and psychological damages. The fact that God warns the people with this statement demonstrates the high position of women and the evilness of repeating divorce and reconciliation to prevent such misbehaviors (Amili, 1360, Vol. 1: 453). The strategies the Holy Quran takes on how to respect the women's rights in divorce and the utmost morals and preservation of women's honor in many cases are considered to be due to the implementation of women's rights, in such a way that the man is urged that not respecting the woman's dignity and oppressing her will end in crossing Divine limits, **"unless the couple fear that they may not maintain Allah's bounds; so if you fear they would not maintain Allah's bounds, there is no sin upon them"** (Quran; 2:229; Taleghani, 1362, vol.2:146).

Self-restraint by man mentioned in the Quran is instructed to preserve the family privacy, to continue family life, to get out of the impasse of divorce and to keep the man immune from the difficulties and crises it caused. Therefore, maintaining piety and caring for the woman as a moral duty on men, in addition to reducing the psychological damage to her in divorce, constitutes a guarantee for man's commitment to preserving the Divine limits.

3.2 Securing women

3.2.1 Right to temporary housing

One of the ways to protect women in divorce is to provide separate and independent housing for women. Not in the least, as long as the woman does not fear any physical or mental harm in the shared dwelling, it is recommended to continue living with the man in the same place, which is also on man

to provide it during the marriage period, «**House them where you live, in accordance with your means**» (Qur'ān 65:6). And divorced women must live in the same house where the man lives (Tabatabaei, 1374, vol. 19: 532) and the man must not evict the woman «**Do not turn them out from their homes**» (Qur'ān 65:1). From some commentators' perspective, the philosophy of not evicting a woman by the man is to preserve her respect and dignity, which often leads to the return of the divorced husband and the consolidation of the marriage bond. Disobeying this vital Islamic rule, though the Holy Qur'ān instructs it, has caused many divorces to lead to permanent separation, while in cases this rule was applied, it often led to reconciliation and return. (Makarim Shirazi, 1998, vol. 24: 222). The relevant verse makes the man understand that he has no right to direct any harm to the woman, «**and do not harass them to put them in straits**» (Qur'ān 65:6). Accommodation provided for her should not be accompanied by suffering, oppression and harm (Mughniyah, 1988, vol. 7: 588; Modarresi, 1998, vol. 16: 76) in a way that makes it difficult for her to stay there. A man cannot put a woman in a predicament in terms of clothing and alimony and evict her from the house during the marriage (Tayyib, 1990, vol. 13: 51). Imposing harm on others especially against wife sits among the greatest sins (Mughniyah, 1988, vol. 7: 588-589). Therefore, if she fears that her presense in the same house with her husband ends in physical, financial or dignity harasmant, she can opt for a separate residence and if this suspicion proves to be true, the court will not rule for her to return to his house, and as long as she is excused, the alimony will be on him. According to this law, the right to joint residence will be revoked from the man. Separate residence for the female sits within the stratadies can be taken to prevent material damage to her, which indirectly leads to the prevention of moral damage as well. The jurisprudential basis here is «**primum non nocere**» (known as *la dharar*) according to which the primary rulings and generalities will be lifted (Muhaqqiq Damad, 2005: 312). Losing the right to cohabit with a man in case of fear of physical and mental harm to the woman sits among the other rights noticed by the Shari' (the holy leislator) and stated it as prevention of psychological damage to her, in such a way that she can leave the joint residence and ask the man for an independent housing according to her social status.

3.2.2 Right to immunity from misbehavior and bad separation

3.2.2.1 Consorting honorably

Being socialized in an honorable manner in accordance with the legal standards and Islamic ethics based on the verse, «**Consort with them in an honorable manner**» (Qur'ān 4:19) is necessary in entire mutual life even during the iddah period (Javadi Amoli, 2006: 342; Mughniyah, 1988, vol. 1: 604). In case the man intends to take care of the woman, «**then either retain them honorably**» (Qur'ān 2:231), her social status should be taken into consideration for alimony (Mughniyah, 1988, vol. 1: 623). In paying alimony, moralities and etc., he should behave in *ma'ruf* (honorable and customary) way as Allah in the Qur'ān Has set (Tabrisi, n.d., vol. 3: 22; Mughniyah, 1988, vol. 1: 277). Hence, in case the man returns in his divorce (*ruju'*), it shouldn't be with the intention of harming and bothering the wife; rather, the intention should be to reform, reunite and reconcile with one another. Otherwise, *ruju'* is haram, even though he had all the right to return (Tayyib, 1990, vol. 2: 460). In other words, *retaining her honorably* relates to the quality of *ruju'*; because of this its main purpose is to protect the woman's right (Javadi Amoli, 2006: 345). In the meantime, some commentators believe in a broad meaning for *ma'ruf* which constitutes a method preferred and recognized by reason and narration (*ibid*: 303) and the public opinion considers it a well-known practice and is familiar with it. It should also be compatible with the taste that the people of each community acquire from their social life (Tabatabai, 2011 vol. 2: 234). Therefore, the necessity of maintaining a woman in an honorable manner (*ma'ruf*) sits among the other rights Islam recognizes in meeting the spiritual needs of women, and urges the man, in case that he wants to keep her, not to intend a returning accompanied by harming and bothering her.

3.2.2.2 Seperating honorably

On the other hand, the Holy Qur'ān permits separation from a woman provided being in *ma'ruf* (honorable) manner, «**or release them honorably**» (Qur'ān 2:231). Separating honorably means: respecting woman's sharia rights (Tabatabai, 1995, vol. 19: 526). The Qur'ān instructs that both

consortion and separation should be honorable and holds that in both cases, the man should behave in *ma'ruf* way. It mentions that in case he decides to leave her, being in an honorable way shouldn't be satisfied with alone; rather, in the related verses applies description *ihsān* as well, «**or a kindly release**» (Qur'ān 2:229). Therefore, it holds that not only should the separation be in an honorable (ma'ruf) manner, but it also should be an *ihsān* which means paying her financial rights and not harming and bothering her after separation. He should not even backbite her with inappropriate words which makes people pessimistic about her and denies her the possibility of remarriage (Makarim Shirazi, 1992, vol. 2: 168; Tayyib, 1990, vol. 2: 460). He should part with her with a silver tongue and an apology (Tayyib, 1990, vol. 13: 53). In other words, *imsak* (keeping) requires a right that should be recognized and observed, but *tasriḥ*, which is to leave and remove of the marriage right, should be done with goodness and respecting the rights as before. (Taliqani, 1983, vol. 2: 145)

In some cases, God refers to a more subtle word, «**and release them in a graceful manner**» (Qur'ān 33:49). Linguistically speaking, bringing cognate object, *sarāḥan* (سراحاً), followed by adjective *jamilan* (جميلاً) illustrates Allah's will about divorced woman's rights and protecting her from undue damages following a divorce (Sayyid Qotb, 1995, vol. 1: 251) that has occurred without any conflict and violence (Tabatabai, 2011, vol. 16: 335) in a pleasant and friendly manner (Tayyib, 1990, vol. 2: 465; Hossaini Hamdani, 1983, vol. 13: 145) with special beauty and in an artistic way (Javadi Amoli, 2006: 303). In other words, in divorce, all wife's rights must be fulfilled (Mughniyah, 1988, vol. 2: 450) and it should include all female divorcees (in both definite and non-definite dowry) (Tabatabai, 1995, vol. 16: 502). This accuracy of God's opinion in stating the limits of divorce in the man's behavior towards the woman shows His attention to the issue of separation and not harming the woman (Ibid, vol. 2: 350). In most of the cases that a woman has suffered mental and psychological damage, bad association in the rest of her life or bad disagreements in the way of separation were the cause. This hasn't been ignored by the holy shari' in a way that in all above-mentioned verses He stresses moral principles that men should apply and ultimately forbids any harm done by men to women.

3.2.2.3 Right to mental and psychological security in behavior

In order to secure women, the Holy Qur'ān states the adverb, «**if they desire reconciliation**» (Qur'ān 2:228) about the right of men to appeal during the `iddah period which means this right shouldn't be in the form of harassing women and wandering them, «**and do not retain them maliciously**» (Qur'ān 2:231) (Mughniyah, 1988, vol. 1: 615; Javadi Amoli, 2006: 338). Therefore, returning in divorce is allowed as long as as there is no harm to woman (Javadi Amoli, 2006: 261; Tabrisi, n.d, vol. 3: 7; Tabatabai, 2011, vol. 2: 231). Otherwise, *ruju'* for man is haram although if happens it will be sound (haram taklifi and sahih wad'i) (Javadi Amoli, 2006: 261). In other words, the verse only expresses *ḥukm taklifi* (defining law) that *ruju'* is not permissible; not *ḥukm waḍ'ī* (situational law) that enstates, «The divorce is void». Therefore, the husband's returning motivated by a chance to harm his former wife is forbidden, and he must live with his wife according to the standards of reason, justice, beneficence, and custom (ibid). Other commentators believe that *ruju'* in this case is not only haram, but also void. This right will be abrogated from man. In their point of view, if a man wants to keep a woman in the straits of deprivation or divorce her again in a way that her *iddah* period lasts more, or the woman does not intend to fulfill the conditions of peace or to be obedient, the right to return will be revoked, or in this case, the ruler should intervene and prevent the man's *ruju'* until the woman's *iddah* is done. The plural pronoun “و” in “*aradu*” includes the ruler and implies his involvement (Taliqani, 1983, vol. 2: 144). Anyway, it shouldn't cause any harm and abuse of the right (Ibid: 148), since the man's right to return (*ruju'*) is legislated to ensure the good of life and shouldn't be used as an instrument to harm the woman (Javadi Amoli, 2006: 348). Thereupon, if it becomes evident that the man is harmful to his ex-wife, the verse prohibits *ruju'* and finds that the man is not entitled to this right. (Fazlullah, 1998, vol. 4: 282)

According to the meaning of the verse itself and the commentaries proposed by the commentators, revoking the right to return (*ruju'*) during the *iddah* period when he has intended to harass and bother the woman, and the removal of the condition of him being worthy of having that right, lies among the

other rules that the holy Shari' has expressed. The jurists' involvement in this issue and issuing fatwa respectively seems to be necessary.

3.2.2.4 Right to mental and psychological security in speech

How the man speaks during the iddah period matters from the Quranic perspective and it should be pleasant and acceptable, «**unless you say honourable words**» (Qur'ān 2:235). During Iddah, one shouldn't say anything to a woman that is not true (Mughniyah, 1988, vol. 1: 632). Perhaps the biggest harm that a man inflicts on his divorced wife is tongue lashig and scolding (Modarresi, 1998, vol. 16: 77). Therefore, separation should take place without quarreling or slandering - from one to the other in order to justify the separation (Modarresi, 1998, vol. 10: 292). The Holy Legislator's emphasis on protecting the woman and protecting her rights over the man leads to obliging him to implement it. So, in addition to meeting woman's economic needs, a man should also pay special attention to meeting her spiritual needs. There are some scholars like Ayatollah Modarresi, who believe that the verse doesn't exclusively concern with material affairs such as alimony and housing; rather, it tries to prevent emotional and psychological issues arisen from divorce and suffered by woman. So, a man should support his divorced wife in all aspects and stages of her life during iddah period. It shouldn't be so that after divorce, the man abdicate his responsibility towards the woman (Modarresi, 1988, vol. 16: 77).

Benefiting from mental security in behavior and speech from a man constitutes a necessity and is one of the rights that God has assigned to men. Respecting the other party's rights mutually, especially women's rights, in divorce has not been neglected by the Holy Quran, to the point that it explicitly talks about it and urges women's moral needs. A man's support and complying with these instructions can help in preventing moral damages to women. It also can be effective in making woman's consent to restore her life and abrogation of divorce.

3.3 Securing women's financial rights

Alimony consists of all the conventional needs that are appropriate to the woman's status, such as housing, clothes, food, household furniture, medical and health expenses, and servants in case of habit or need due to deficiency or illness that is conventionally appropriate to the woman's condition. (Emami, 1384: 502). It is on man even during the iddah period, «**Let the affluent man spend out of his affluence**» (Quran, 65: 7). Letter «ل» (lam) in the term «لِيُنْفِقَ» (spend out/ pay alimony) demonstrates obligation (wujub) and means «must». So, it shows necessity of paying alimony to all who are his *wajib al-naafaqa* (those whose expenses are on us), even though the one is his ex-wife in the iddah period (Tayyib, 1990. vol.13: 59; Modarresi, 1419, vol.16: 81). According to the phrase, «**The wives have rights similar to the obligations upon them**» (2: 228), the right to alimony during the iddah period should be fulfilled exactly the same as the pre-divorce period (Modarresi, 1419, vol. 1: 375). This Quranic solution, which states that the man is obliged to give alimony to the wife during the divorce process, demonstrates God's attention to woman's economic needs, and furthermore meeting these needs, can help in restoring joint life and making it more accessible, especially by financing that has taken place by the man.

3.4 Right to enjoy the *matā'* of divorce

The Holy Legislator in the verse, «**For the divorced women there shall be a provision, in accordance with honorable norms—an obligation on the Godwary**». (Qur'ān 2:241), addresses the men who have divorced their wives, telling them to provide them with an honorable (conventional) *matā'*. *matā'* (literally possessions and provisions) lexically means long-term benefit and it is something given to the divorced women in a pleasant and conventional manner and not by reluctance and quarrel (Raghib Isfahani, 1991: 758). Technically, *matā'* is the things that people benefit from, and often refers to things other than money or cash, because money cannot be used directly; Rather, it should be transformed into *matā'* and capital. That's why the Holy Qur'an interprets that gift as a *matā'* (Makarim Shirazi, 1992, vol. 2:199-201). In terms of its size and amount, on the one hand, Allah observes fairness and considers the man's ability and financial capacity, «**Yet provide for them—the well-off according to his capacity, and the poorly-off according to his capacity—with**

a sustenance that is Honorable» (Qur'ān 2:236). On the other hand, it should be proportionate to the woman's social status (Tabrisi, n.d., vol. 3: 446; Tabatabai, 2010, vol. 16: 335). In some cases, it is even beyond her status. (Fazlullah, 1998, vol. 18: 331)

According to commentators, the purpose of the Holy Legislator in giving this *matā'* to women is its special effect on their soul and spirit, and that it can be effective in preventing damages caused by divorce and quenching women's sense of revenge (Makarim Shirazi, 1992, vol. 2: 201-215; Javadi Amoli, 2006: 440). Fazlullah believes that this *matā'* is not a simple bargain; rather, it is a spiritual contract. (Fazlullah, 1998, vol. 4: 348)

In practice, some commentators consider this ruling recommended (*mustahabb*) and some consider it obligatory (*wajib*) (Tabatabai, 1995, vol. 2: 371). Both groups cite the Holy Quran. The latter believes that the term “حَقًّا” (**an obligation**) in the verse, «**an obligation on the virtuous**» (Qur'ān 2:236) demonstrates that giving *matā'* is *wajib*; not its recommendation that using a woman entitles her to that. This ruling in question includes all divorced women (engaged in sexual intercourse or not, with a determined dowry or not) (Javadi Amoli, 2006: 440; Tabatabai, 1995, vol. 2: 371). Therefore, the ruling is directed at men. So, in addition to paying the obligatory financial rights to the woman, the man must also provide her with an honorable *matā'*; in such a way that the dignity of the woman is preserved and the moral damage caused by divorce is repaired.

4. Conclusion

Although the right to divorce exclusively belongs to men, the Holy Quran directs more duties and responsibilities to them. Studying the verses on divorce demonstrates that the damages caused to women due to divorce are irreparable, and the Holy Legislator's view by giving instructions is not merely to prevent the occurrence of divorce; rather, and in case of moral damage, by explaining and determining the statements, it tries to repair damages resulting from divorce. Revoking a man's legal and real duties, holding to piety and his self-restraint, is effective in making women psychologically immune, and complying with it prevents irreparable damages to some extent. The raised solutions are not merely the man's moral duties. Rather, it is a legal obligation that he is responsible for. Furthermore, in addition to judicial protection and sanctions, there should be protection and dynamics on these rules. The necessity of implementing these propositions in the divorce process can largely prevent the occurrence of divorce at the community level, and if it occurs, it can reduce moral damages and post-divorce disorders. It is hoped that the jurists intervene and provide solutions and strategies to repair the damages caused to women in divorce, and that women's dignity and identity be strengthened from a Divine perspective.

References

The noble Qur'an

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