

System of Al-Nafaqaat and its Economic Significance

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ABSTRACT

Islam stresses on cooperation among the human beings. This cooperation is based on piety and goodness. Another aspect of this cooperation is emphasis on the respect of the institution of family and its maintenance. The system of Nafaqaat provides the safety and social security to the family members including wife, children, parents, relatives and servants. Provision of the basic necessities of life including food, clothing, residence, domestic goods, medicare and upkeep of the children is the responsibility of the maintainer. The institution of family in Islamic scheme of life provides social and economic security to the dependants specially the poor members of the society. The maintainer has to fulfill their basic needs. This institution of Nafaqaat (maintenance) cannot be substituted with any other institution. This is the unique feature of Islam.

The Holy Qur'an and Sunnah of Prophet (ﷺ) have given much importance to the establishment of this institution. If this institution is established in its true spirit, it will work as a safety net for the poor family members and the other poor and deprived of in the society. This will help in the alleviation of poverty and can foster economic development through as well. This will lead to establish the prosperous and peaceful society and will help in eradication of beggary. The system will provide many other socioeconomic benefits to the society. It includes strong relationships among the people through the sentiments of love and affection. In the present situation, the problems like "Internally Displaced Persons (IDPs)" can be solved through this institution.

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Introduction:-

Allâh Almighty has created the universe and has filled it with infinite treasures of provisions. Inexhaustible resources to fulfill human needs lie hidden in the layers of the earth, vast expanse of the sky and in the depths of the sea. These infinite economic means created in this universe by Allâh Almighty are meant for man's use and the satisfaction of his needs.¹

Islam being the complete code of life provides equal and just opportunities to everyone to use these resources and do not like to deprive anyone of the use of these resources. It is incumbent upon man to utilize the resources of the universe in accordance with the will of their Creator and Owner. In this way doors to new sources of provisions will open wide before him.

Human being is in need of mutual cooperation to acquire and utilize these resources from the time of his birth till death. Islam has given a comprehensive and extensive system of maintenance. Different institutions of the society are working together to establish this system of Nafaqaat (maintenance). Islam has announced some principles in this context to ensure social security and maintenance of the people living in Islamic society. These institutions include *Zakat*, *Sadaqaat*, *Kaffaraat*, Bequeath (*Wasiat*), *inheritance*, *Hiba* (gift), *Aariyah* (lending), *Qardul Hasan* (Debt without interest), *Qurbani* (Sacrificing of animals) and *Fitrana* (*Sadaqatul Fitr*). Besides these institutions Islam also emphasizes on rights and obligations (*Haqooq wa Fraid*). Islam has provided legal and moral umbrella for implementation of these rights and obligations and ensure *Nafaqaat*.

The spiritual and material spheres of life are closely interdependent in Islam and if one of the two is neglected, the whole object of life is doomed. Islam visualizes life as a whole and do not break it into fragments. Islam has a multidimensional economic system, which covers all economic aspects of life, which makes sure the provision of livelihood to every Muslim. Islamic social security system is very comprehensive. If it is implemented in its real spirit there will be no individual in Islamic society who has to sleep hungry in the night.

Islamic social security system includes the institutions of *Zakah* (including *Ushr*) and law of inheritance. Besides these social security nets Islam has a very important socio economic institute of family. This institution of family is based on the concept of Nafaqaat

(maintenance). The family in Islamic perspectives includes man, woman, children, parents, relatives and slaves.² Islam makes it obligatory on a person to maintain his entire family member. This institution is established by the Quran, the sannah, the consensus and wisdom.

In the present study the authors have collected the references from the Holy Qur'an and Ahadith of the Prophet (ﷺ) and views of jurists (*Fuqaha*) of different schools of thought (مسالك) and scholars of the present day regarding this institution. We have also tried to describe the economic importance of the maintenance of family including wife, children, parents, relatives (agnate and cognate), and servants.

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SECTION ONE:

(a). DEFINITION OF NAFAQAAT (MAINTENANCE):

The term Nafaqa is used in the Holy Qur'an in the meaning of spending out of one's wealth for the welfare of others with the objective to seek the pleasure of Allâh Almighty. Allâh says in Surah Al Baqara:

وَمَا أَنْفَقْتُمْ مِنْ نَفَقَةٍ أَوْ نَذَرْتُمْ مِنْ نَذْرٍ فَإِنَّ اللَّهَ يَعْلَمُهُ ۗ وَمَا لِلظَّالِمِينَ مِنْ

أَنْصَارٍ ﴿٢٧٤﴾

“and whatever ye spend In charity or devotion, be sure Allâh knows it all. but the wrong-doers have no helpers.”³

In Surah Al Tauba Allâh Says:

وَلَا يُنْفِقُونَ نَفَقَةً صَغِيرَةً وَلَا كَبِيرَةً وَلَا يَقْطَعُونَ وَادِيًا إِلَّا كُتِبَ لَهُمْ

لِيَجْزِيَهُمُ اللَّهُ أَحْسَنَ مَا كَانُوا يَعْمَلُونَ ﴿١١٦﴾

“ *nor could They spend anything (for the Cause) - small or great- nor cut across a valley, but the deed is inscribed to their credit: that Allâh may requite their deed with the best (possible reward).*”⁴

Nafaqaat is plural of “*Nafaqa*” and is noun from “*Infaq*” which means “what a person spends out of his wealth (*Draahim*)”.⁵ This term is derived from the word “*nafaq*”. The plural of *nafaq* is “*nifaq*” means spending out of one’s wealth. Lewis Ma’alooof defines “*Infaq-ul-Mal*” as Expenditures out of one’s wealth.⁶ Ibn-e-Manzoor describes *Nafaqa* as what a person spends on himself and his family.⁷ Imam Al raghib Isfahani writes, Al Nafaqa is noun from ‘*Unfiq*’⁸ Ahmad Ibrahim Ibrahim defines Al-Nafaqaat (maintenance) as: “*Nafaqa* means, what a person spends on others to fulfill their needs, which includes the food, the residence and clothing and other related things which are necessary for life and its maintenance.”⁹

Dr. Rawwas says: “it is noun from *Al-Nafaq* and is defined as “to spend on oneself. Basically Nafaqa of a person is on its assets if he has the wealth and assets. If he has no wealth then his *nafaqa* is on his nears.”¹⁰ Nafaqa is also defined as the money and other things which are compulsory to spend on wife by her husband; it includes food, clothing, residence, upkeep and other things.”¹¹

In Al-Fiqh Ala Madhahib Al Arba’ Nafaqa is defined as, “What a person spends on the persons to be maintained and consists of food, clothing, residence, and all the related things as water (or its payments), light, and other things.”¹² In “*Durr-e- Mukhtar*” Nafaqa is defined as, ‘Literally, Nafaqa is what a person spends on his family. In Shariah, it includes food, clothing and residence (which are obligatory for maintainer to provide).’¹³

Ruhe Ozcan defines Nafaqa as “*Al-Nafaqa* or maintenance in Islamic law means, the money a man spends on his wife and relatives.” The term includes all what a person spends on food, clothing, residence, nursing, upkeep, service, and burial, and in our opinion (reshes), against most of the jurists, the expense on medical treatment and marriage”.¹⁴

(b). Types of Nafaqaat and their Beneficiaries:

Family is a basic unit in as Islamic economy and it comprises of man, woman (wife), their children, parents and relatives. This three folded structure of family is basic constituent of the Islamic society.

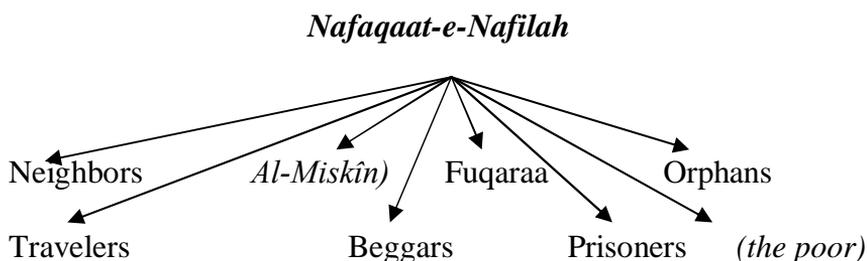
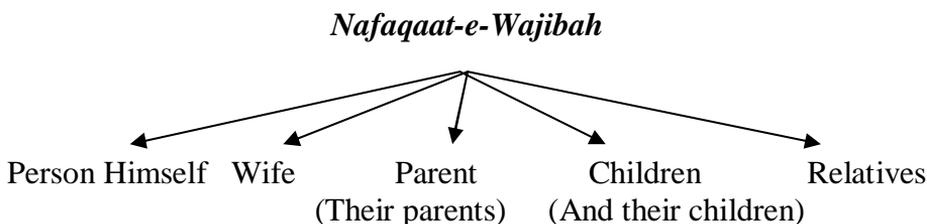
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Parents are of basic importance in this structure, while the children are also of greater important because they will constitute the future society.

Nafaqaat are of two types:

1. *Nafaqaat-e-Wajibah* (Compulsory Maintenance),
2. *Nafaqaat-e-Naafila* (Optional Maintenance).

Following figure depicts the hierarchy of the *Nafaqaat*.



The above figure shows the hierarchy of the people who are entitled to be maintained. The first category includes those whose maintenance is compulsory.¹⁵ These people include wife, parents and children and relatives¹⁶. Parents also include grandfather and grandmother while children include grandson and granddaughter. The second category is that of *Nafaqaat-e-Naafila* (Optional Maintenance). *Nafaqaat-e-Naafila* is the maintenance of the neighbors, the poor people of the society (including *fuqaraa*, *masakeen*, *saaileen*), orphans and prisoners.

Maintenance of wife is obligatory¹⁷ and after that the other relatives will come. This maintenance is established by the Quran, the Sunnah, the consensus (Ijma') and wisdom. Dr. Nejatullah Siddiqui writes: "That is it is one's legal duty to support one's wife and children

is too well known a fact to require authority. The same is true in case of parents if they are in need of such a support. In special circumstances other near relatives also become entitled to support. These duties being legal, the concerned parties, minors and other dependants can obtain their due through a law suit. Besides these there are many directives from the Prophet enjoining consideration of such dependants.¹⁸

According to Malkites, maintenance is obligatory in respect of children and parents only, whereas, according to Shafi and Jafri schools, all agnate and cognate relatives deserve maintenance. The Hanfi School adds, to them, such cognate from female side who cannot be married to. Jurists of Hanbli and Zaidi schools have a consensus that maintenance is imperative for those who are entitled to inheritance. While Zahri School adds a condition to the Hanfi School, that is: such relatives from female side as are entitled to inheritance.

Poor relatives of a man can be divided into three categories. Ruhi says “we have categorized some dependents as ascendants and some other as descendant relatives”. Those who cannot be taken in marriage either for foster relationship emanating from wedlock do not come under the categories carried by the law of maintenance. Similar is the case with those whose paternity is not ascertained. The responsibility of maintenance of descendant relations over the ascendants one is conditional with poverty. Some jurists add the condition of his capability also.

It is conditional that male maintainer should be able to earn and female maintainer should be wealthy and neither of two is *Harbi* (حربی). For obligation of descendants, it is necessary that they should be poor. Besides this, freedom is basic condition. Evaluation of maintenance shall be done by court or through mutual agreement and can be paid in cash or kind

(c). Nafaqaat in the Holy Qura'n and Sunnah:

This institution is so important that Allâh (S.W.T) has mentioned it at seventy (70) places in the Holy Qur'an.¹⁹ Besides the Holy Qur'an, the Sunnah of the Apostle of Allâh, consensus of the jurists and wisdom has established its importance. As Allâh (S.W.T) says:

ءَامِنُوا بِاللّٰهِ وَرَسُوْلِهِ ۚ وَاَنْفِقُوْا مِمَّا جَعَلَكُمْ مُّسْتَحْلِفِيْنَ فِيْهِ ۗ فَاَلَّذِيْنَ ءَامَنُوْا مِنْكُمْ
وَاَنْفَقُوْا لَهُمْ اَجْرٌ كَبِيْرٌ ﴿٧٠﴾

“Believe in God and his Apostles and spend (in charity) out of the (substance) where of he made you heirs. For these of you who believe and spend (in charity), for them is a great reward.”²⁰

The Holy Qura’n says:

﴿٧١﴾ وَقَضٰى رَبُّكَ اَلَّا تَعْبُدُوْا اِلَّا اِيَّاهُ وَبِالْوَالِدَيْنِ اِحْسٰنًا

“and Your Lord has decreed that You Worship none but Him. and that You be dutiful to Your parents.....”²¹

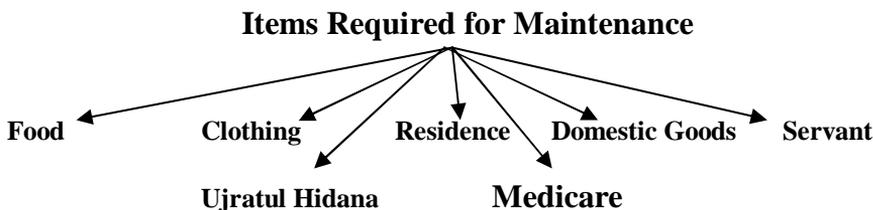
﴿٧٢﴾ وَاَوْصَيْنَا الْاِنْسَانَ اِذْ نَسِنَ اِلٰى وَاٰلِدَيْهِ ا-.....

“ and we have enjoined on man (to be dutiful and good) to his parents.....”²²

From these verses of the Holy Qura’n the jurists (fuqaha) have derived that maintenance of family members (including father, grandfather, mother, grand mother, children and relatives) is obligatory upon a person. A large number of Ahadith and consensus of the jurists show the significance of this institution. Wisdom tells us that a child should be maintained, because if he is not maintained he can not be alive. Obviously this child will maintain his parents, brothers and sisters and other relatives when he will be an earning hand.

(d). Scope of the concept of Al Nafaqaat:

The figure below shows the items which are required to be provided for maintenance:



Following items are included in Nafaqaat.²³

1. **Food** (or edibles):-**(الطعام)**

There is consensus of Fuqha (Jurists) that provision of food or edibles is the basic and important constituent of Nafaqa (maintenance). According to Jurists this food should be cooked, otherwise, the price of cooking should be paid.

2. **Clothing**: - **(الكسوة)**

The maintainer has to provide such clothing which has the following two characteristics.

- (i). Clothes which protect the body from external effects and,
- (ii) which covers the ones shame. **(ستر العورة)**

3. **Residence**: -**(المسكن)**

The maintainer has to provide such a residence, which have the following qualities:

- a. A person can fulfill his worldly as well as religious needs in it.
- b. The neighbor should be of good nature.
- c. They should be protected from internal things.
- d. The basic needs of a person are fulfilled in it.
- e. Water and other such items could be used in it with ease.

4. **Domestic Goods and Related Things**.**(امتعة البيت و ما يتعلق بها)**

This includes the things of daily use.

5. **Servant**: **(نفقة الخادم)**

If the person to be maintained is in need of a servant due to illness or any other reason, his maintenance is also the duty of the maintainer.

6. **Ujratul Hidana**:**-(اجرة الحضانة)**

The child needs training [of eating drinking, talking, walking etc.] after his birth until he becomes able to eat and drink by itself.

This period of training is termed as Muddat-al-Hidana**(مدة الحضانة)** .

According to jurists this period continues until the child becomes adult **(بالغ)**. The price should be provided for this upkeep.

7. **Provision of Medicare**:**-**

Shafites, Zadia and Sadiq Hassan Khan say that provision of Medicaid and its price is compulsory, while other say it is not compulsory.

In addition to above, according to some jurists, the person to be maintained should be married by the maintainer **(نفقات تزويج من له)**

(and النفقة) and it is also the duty of maintainer to provide the burial and

kafan (كفن) at the time of death to the person to be maintained
(نقذات تجميرا الميت).

SECTION- 2

Different Categories of relatives and their maintenance (Nafaqa):

Following are the persons who are entitled for Nafaqa:

a. Maintenance of oneself:

According to traditions of the Prophet (S.A.W) it is the right to every body to maintain him. So the first right of Nafaqa is on a person to maintain him and then the others.²⁴ The Prophet (S.A.W) said: “*Begin (charity) from your own person. Pass over the surplus to your family and if there is any more after providing to your family give to your kins-men.....*”²⁵ Prophet (S.A.W) also said: “*verily your body has right upon you, and your eyes too and your wife has her right, and your visitors have rights*”²⁶. Prophet (S.A.W) also said: “*Begin (charity) from your dependants.*”²⁷

b. Maintenance of Wife:

It is compulsory for husband to provide the basic needs whether he is rich or poor. The provision of food, residence, clothing and other basic requirements are included in it.²⁸ Allâh says in the Holy Quran:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا
مِنْ أَمْوَالِهِمْ

“Men are the protectors and maintainers of women, because Allâh has made one of them to excel the other, and because they spend (to support them) from their means.”²⁹

لَا جُنَاحَ عَلَيْكُمْ... وَمَتَّعُوهُنَّ عَلَى الْمَوْسِعِ قَدْرَهُ وَعَلَى الْمَقْتِرِ قَدْرَهُ مَتَّعًا بِالْمَعْرُوفِ
حَقًّا عَلَى الْمُحْسِنِينَ

“ there is no sin on you----- but bestow on them (a suitable gift), the rich according to his means, and the poor according to his means, a gift of reasonable amount is a duty on the doers of good.”³⁰

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ ^ط وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَاءً آتَلَهَا ^ع سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا ﴿٧﴾

“let the rich man spend according to his means, and the man whose resources are restricted, let Him spend according to what Allâh has given Him. Allâh puts no burden on any person beyond what He has given Him. Allâh will grant after hardship, ease.”³¹

﴿ وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَن أَرَادَ أَن يُنمَّ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ بَوْلِدِهَا وَلَا مَوْلُودٌ لَهُ بَوْلِدِهِ ^ع وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ ^ط

“The mother shall give such to their offspring for the whole two years, if the father desires, to complete the term. But he should bear the cost of their food and clothing on equitable terms. No soul should have a burden laid on it creator than it can bear. No mother should be treated unfairly on account of her child, no father on account of his child. And heir shall be chargeable in the same way.”³²

These above verse made the Nafaqa (maintenance) of women obligatory.

AHADITH:

The following Ahadith give the significance of Nafaqa (maintenance) of women.

عن عائشة هذا بنت عتبة قالت يا رسول الله ﷺ ان اباسفیان رجل شحیح، وليس یعطین ما ینعین وولدی الا ما اخذت وهو لا یعلم فقال خدی ما یکفیک وولدک بالمعروف (بخاری)

1. Narrated Aisha (R. A.), Hinda bint Utba Said, “O Allâh’s Apostle, Abu Sufyan is a miser and he does not give me what is sufficient for me and my children. Can I take of his property without his knowledge? The Prophet

(ﷺ) said, “take what is sufficient for you and your children, and the amount should be just and reasonable.”³³

2. Jabir bin Sufyan reported God’s messenger as saying, “when God prosper any of you he should open fist on himself and his family”.³⁴

3. There is a chapter in Sahih Al Bukhari titled “providing one’s wife with cloths reasonably.”³⁵

4. “The Prophet (ﷺ) used to sell the dates of Gardens of Bani Al-Nadir and store for his family so much food as would cover their need for a whole year.”³⁶

The following Ahadith also tell us about obligation of Nafaqa (maintenance) of women:

كَلِمَاتُ رَاعٍ وَكَلِمَاتُ مَسْئُولٍ عَنْ رَاعِيَةٍ (مسلم، بخاری)

“All of you are guardians and you will be answerable about your dependants.”

--- فان لزوجك عليك حقا.

“Verily your wife has right upon you.”

عن أبي مسعود الأنصاري نقلت عن النبي ﷺ قال قال إذا انفق المسلم نفقة على أهله وهو يحتسبها كانت له الصدقة.

Abi Masood Al Ansari narrated from The Prophet (ﷺ) saying: “when a Muslim spends on the needs of his family that is sadaqa.”

This last Hadith is narrated under chapter providing one’s wife with clothes reasonably. According to which: Narrated Ali: The Prophet (ﷺ) gave me a silk suit and I wore it, but when I noticed anger on his face, I cut it and distributed among my woman-folk.³⁷

Al-Fiqh:

According to *Fiqh*, the reason for obligation of maintenance of wife is marriage (الزوجية). There are three types of things which should be provided to wife that are.³⁸

1. Food and edibles and things related to it,
2. Her clothing (كسوة الزوجية) ,
3. Her residence.

About these three categories, the views of Jurists are following:³⁹

- a) Hanafities: Provision of food according to his status is obligatory. Besides this, water should also be provided to her according to her needs and she will have to be provided with clothes, two times in a year. Residence should be provided according to her status. They say medical is not obligatory.
- b) Malikities: They add to above things, medical care.
- c) Shafities: They say maintenance should be provided according to status of husband, not status of wife.
- d) Hanbilities: Say that beside above mentioned things, clothing should be provided according to status of woman.

While Hanafities say that maintenance will be provided according to her status, if they both are in relief (معسرین) and should be accordingly if they are in difficulty (معسرین).

Malakities say that in deciding amount of Nafaqa, the condition of both should be seen.

According to Shafities, clothing should be provided according to condition of husband and residence according to status of wife.

For the provision of Nafaqa, following conditions should be fulfilled.

1. According to Shafities, commodities (in kind) should be provided not price.
2. The same is according to Hambalities.
3. While Hanafi say that conditions are:
 - Marriage should be valid, (ان يكون العقد صحيحا)
 - She should have to be able for intercourse,
 - She should give herself to her husband,
 - She should not be banned from Islam.
 - She is not indulging in wrong doing.
 - She should not be completing Iddat.

b. Maintenance of Children:

Children are the basic constituents of a society. They will be parents in future so children should be trained and maintained in such a way that they become good members of society in future. Because of their importance, the Quran, Sunnah and wisdom have made it obligatory on parents to provide them maintenance.

Allâh says in Holy Qura'n: (17: 31)

وَلَا تَقْتُلُوا أَوْلَادَكُمْ حَشِيَّةَ إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِن قَتَلْتُمْ كَان خِطَاءً

كَبِيرًا

“And kill not your children for fear of want. We shall provide sustenance for them as well as for you”⁴⁰.

The verse tells us that parents have to spend on their children and if they provide them, it will be from Allâh.

The Quran and Sunnah made it compulsory on parents that they should provide food and clothing according to needs of their children and both give special attention to Rada'at (رضاعت) and care of children. It is duty of father to spend on Rada'at (رضاعت) of his child. Quran says:

﴿ وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۗ ﴾

“the mothers shall give suck to their offspring for two whole years, if the father desires to complete the term. But He shall bear the cost of their food and clothing on equitable terms.”⁴¹

“But he shall bear cost of their food and clothing on equitable term”.(65: 6-7)

﴿ وَإِنْ تَعَاَسَرْتُمْ فَسْتَضِعْ لَهُ أُخْرَى ۗ لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ ۗ ﴾

“But if you make difficulties for one another, then some other woman may give such for him (the child’s father). Let the rich men spend according to his means”.⁴² (46: 15)

﴿ وَحَمْلُهُ وَفِصَالُهُ ثَلَاثُونَ شَهْرًا ... ﴾

“And the bearing of him (child) and weaning of him in a period of 30 months”.

AHADITH:

- Jabir b. Samuna reported God’s messenger (S.A.W) as saying, “when God prospers any of you, he should spend first on himself and his family”. (Muslim reported)⁴³
- Narrated Saad, the Prophet (ﷺ) visited me at Mecca while I was ill. I said to him, “I have property, may I donate all my property in Allâh’s Cause? He said “No”. I said, “Half of it?” He said “No”. I said, “one third of it?” He said, “one third is alright but yet it is still too much, for you’d better leave your inheritors wealthy than leave them poor, begging from others. Whatever you spend will be considered a Sadaqah for you put in mouth of your wife.”⁴⁴
- Narrated Abu Huraira, Allâh’s Apostle (ﷺ) said, “The best alm is that which you give when you are rich and you should start first to support your dependents”.⁴⁵

Marriage of son and daughter is responsibility of father.

من ولد له ولد فلحقه من اسمه وادبه فاذا بلغ فليزوجه فان بلغ ولم يزوجه فان بلغ ولم يزوجه فاصاب اثماً فانما اثمه على ابيه (رواه الشيخان في شعب الایمان)

*erson who has a child should name him a good name and good training and marry him. Otherwise, if he does a sin, that sin will be on account of his father”.*⁴⁶

Al-Fiqh:

According to Ibn Qayyam, father will be forced to maintain his children until he grows up and is adult. Like this he will be forced to maintain his daughter until her marriage, but he cannot be forced to maintain his grandson and granddaughter. While mother cannot be compelled to give Nafaqa (maintenance) to her children, even at the time of need.⁴⁷

Views of four schools of Fiqh on maintenance of Children are as follows:⁴⁸

1- **Hanafities:** They say that if child is son, his maintenance will be compulsory on father with three conditions:

1. Son is poor
2. He is not adult, because Adult (بالغ) has to spend on himself.
3. He should not be a slave but free.

In case of daughter, maintenance is compulsory on her father with conditions:

1. She is poor
2. She is not a slave but free.

2- **Malkities:** If the following conditions are fulfilled, maintenance of children becomes compulsory on his father:

1. They are poor
2. Son is not adult and able to earn
3. He is not a slave
4. The father is able to give and in relief(موسر)

The daughter shall be maintained till her marriage and after marriage she is in duty of her husband.

3- **Shafities:** If one of three conditions are fulfilled, father has to maintain his children:

1. The child is small, not adult.
2. The child is poor, otherwise no Nafaqa (maintenance).
3. He is free.

The daughter shall be maintained till her marriage and after marriage husband will maintain her.

c. Maintenance of Parents:

In an Islamic society, the family is basic unit and parents are basic constituents of the family. Islam gives greater emphasis on maintenance of parents.

Allâh says in Holy Qura'n:

وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ حَمَلَتْهُ أُمُّهُ وَهَنَا عَلَىٰ وَهْنًا عَلَىٰ وَهْنٍ وَفِصْلَهُ فِي عَامَيْنِ أَنِ

“And we have enjoined on man (to be  أَشْكُرَ لِي وَلِوَالِدَيْكَ إِلَىٰ الْمَصِيرِ  good) to his parents with Him and be good to his parents ... in travail upon trail did his mother bear him, and in years twain was his weaning (hear to command), show gratitude to me and to thy parents. To me is (thy final) good”⁴⁹

وَبِالْوَالِدَيْنِ إِحْسَانًا

“The Lord hath decreased.... That ye be kind to parents”⁵⁰.
(2: 215)

يَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلْ مَا أَنْفَقْتُمْ مِنْ خَيْرٍ فَلِلْوَالِدَيْنِ وَالْأَقْرَبِينَ وَالْيَتَامَىٰ

وَالْمَسْكِينِ وَابْنِ السَّبِيلِ وَمَا تَفَعَّلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ بِهِ عَالِمٌ 

“They ask thee what they should spend (in charity), say, whatever ye spend that is good is for parents... (the first right is of parents)

There are many other references in this context which show the significance of nafaqa of the parents.⁵¹

AHADITH:

Now few references from the traditions of the Holy Prophet (S.A.W) cited which show the importance of the nafaqa of the parents:

قَالَ النَّبِيُّ ﷺ ((أنت وما لك لا يك))

1) According to this Hadith, in the property of children, there is share of his father, because according to above hadith, the property of son is property of father.⁵²

2) Holy Prophet (S.A.W) said:

ان اطيب ما كلتم من كسبكم وان اولادكم من كسبكم فكلوه هنيئا مريئا

“Among good thing which you eat are those which you earn by yourself and your children are your earning, so eat as you want.”⁵³

3) Holy Prophet (S.A.W) said:

ابداء عن تقول اكل وابتك واماك ثم اذناك او ناك

“Start from your dependents, your mother, your father, your sister, your brother and then your near relatives and then far relatives.”⁵⁴

4)

عن ابى هريره قال قال رسول الله ﷺ من احب بحسن صغتي؟ قال امك قال ثم من قال امك قال ثم من قال ابوك

“Abu-Hurairah told that a man said, “O Messenger of God, who is most deserving of friendly care from me? He replied “your mother”. He asked who come next and he replied “your mother”. He asked who comes next and he replied, “Your mother”. He asked who comes next and he replied “your father”. In a version he replied, your mother, your mother, your mother, then your father and then your nearest relatives.”⁵⁵

According to another tradition , Asma’, daughter of Abu Bakar (R.A) said, “My mother who was idolatress came to me at the time of treaty with Quraish, and I said, Messenger of God, my mother who is ill-disposed to Islam has come to me, Shall I show her affection? He replied “yes”, do so.”⁵⁶

Al-Fiqh:

Ibn-Qayyam says that maintenance of parents is obligatory in all times, whether parents are Muslims or non-Muslims. (This fact is also clear from above hadith of Asma bint-e-Abi Bakar).⁵⁷

Viewpoint of the four schools of thoughts is as under:⁵⁸

Hanbalites say that maintenance of parents becomes obligatory on son if following conditions are fulfilled:

- If parents are poor,
- If son has more than his need and needs of his children,
- The parents are free not slaves.

And when father is in difficulty and son is in relief, it is his duty to maintain him and his younger brothers and wife of father.

Hanafities say that maintenance of parents is obligatory on his son; also maintenance of grandfather is obligatory. So it is his duty to maintain his father, grandfather (from father and mother side) and if they are in difficulty and he is not forced to work.

Shafities say that maintenance of parents on their son is obligatory if following conditions are fulfilled:

- If parents are in difficulty.
- The son is in relief.
- If son is in ease and can provide after maintaining his wife and children, otherwise it is not condition that parents are not able to earn, is it to be a Muslim or not.

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Hanbalities say that maintenance of parents and grandparents is obligatory on their son as it is obligatory on parents to maintain their children if three conditions are fulfilled:

- The parents are poor.
- The son is in relief (موسر) .
- The children heirs to them to be maintained.

d. Maintenance of Relatives:

Relatives are of two types:

- Agnate-having same ancestor, and
- Cognate-relatives in anyway.

Agnate relatives include brothers, sisters, uncles, aunts, parents etc.

The Quran and Sunnah give a greater importance to maintenance of these relatives. Quran and Hadith have given more importance to maintenance of relatives⁵⁹ because obligation of maintenance of wife, children and parents is understood, but that of these relatives is not, so Quran and Sunnah emphasize on it.

Allâh says in Holy Qur'an:

وَبِالْوَالِدَيْنِ إِحْسَانًا وَذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَقُولُوا لِلنَّاسِ حُسْنًا
وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ ...

“Treat with kindness your parents and (kindred) and orphans and those in need, speak fair...”⁶⁰

وَالْجَارِ الْقُرْبَىٰ ذِي وَالْجَارِ وَالْمَسْكِينِ وَالْيَتَامَىٰ الْقُرْبَىٰ وَبِذِي إِحْسَانًا وَبِالْوَالِدَيْنِ
أَيَّمْنُكُمْ مَلَكَتْ وَمَا السَّبِيلِ وَأَبْنِ بِالْجَنبِ وَالصَّاحِبِ الْجَنبِ

“And do good –to parents, kinsfolk, orphans, those in need, neighbors who are strangers, the companion by your side, the way farer (ye meet) and what your right hand possess”.⁶²

A large number of references can be cited in this respect.⁶³

AHADITH:

Many traditions from the Apostle of Allâh (S.A.W) are cited below which show the importance of maintenance of the relatives. A few are as under:

*“Give first to them, who are near to you, (in the order that is) your mother, your father, your sister, your brother, than (your relative) below it and then below it”.*⁶⁴

This hadith tells us about order in which Nafaqa (maintenance) should be provided. The order of preference is that Agnate relatives will be preferred which include parents, brothers, sisters and other agnate relatives, grandfathers and grandmothers etc. and then Cognate relatives will be given their Nafaqa (maintenance).

عن سعيد بن العاص قال قال رسول الله ﷺ حق كبير الاخوة لي صغير ثم حق الولد على والده

*“Saeed bin Al Aas reported God’s messenger as saying: What is due to oldest brother from youngest brother is same what is due to a father from a son.”*⁶⁵

*“Anas reported God’s messenger saying “He who wishes to have his provisions enlarged and his terms of life prolonged should treat his relatives well”.*⁶⁶

*“Abu Hurairah reported God’s messenger as saying “Learn enough of your genealogies to show what ties of relationship is a means of producing love in family, increasing wealth and producing life”.*⁶⁷

“Ibn Umar told that a man came to Prophet and said, “Messenger of God”, I have committed a serious sin, and can I do any act of patience?” He asked him if he had, mother, and when he replied he had not, he asked if he had a maternal aunt, on his replying he had, he said, then do kindness to her”.

*“Abu Hurairah told that a man said, “Messenger of God, I have relatives with whom I want to unite ties of relationship but who sever relations with me badly, with whom I am gentle but who are rough to me”. He replied, if you are as you say it is as if you are applying hot ashes to them, and you will no be without a supporter against them from God as long as you do so.”*⁶⁸

Al-Fiqh:

Ibn Qayyam writes in Zaad-ul-Muad:⁶⁹ Hasan reported from Zaid bin Sabit (زيد بن ثابت) that if there are mother and uncle, then mother should be paid according to her Merath (ميراث) and uncle according to his Merath. No one among Sahabah disagreed this and Hasan says that maintenance of heirs is obligatory and they should be provided so much that they become Ghani, same is view point of Jamhoor Salaf (جمهور سلف) and they concluded from following verse:

فَعَاتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ ذَٰلِكَ خَيْرٌ لِلَّذِينَ يُرِيدُونَ وَجْهَ

اللَّهِ وَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ

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“so give to the kindred his due, and to Al-Miskîn (the poor) and to the wayfarer. that is best for those who seek Allah’s Countenance, and it is they who will be successful.”⁷⁰

Now we shall discuss order of preference of relatives as given by Prophet ﷺ.

Prophet (ﷺ) has made obligatory to pay *attiah* (عطيہ) to relatives and its order of preference is sister, brother, then near relatives and then far relatives.

Prophet (ﷺ) has announced the right of brother and sister as that of father and mother. And said that your father, your mother, your brother, your sister, and your relatives. we shall not see towards inheritance in case of maintenance of relatives. We shall see the relation of person to family, whether he is son or father (or grandfather), then he will be maintained in time of difficulty (معسر) and will be maintained, when he is in relief.

In summary, the near relative, then other near among family members and heirs will be preferred.

As maintenance of main family members and near family members is obligatory, in same way maintenance of Davi-ul-Arham (ذوی الارحام) is obligatory with two conditions:

- Maintainer is in relief, and
- Person to be maintained is in difficulty.

Ibn Qayyam says that maintenance of relatives is Benevolence (احسان) and no one will be forced to maintain his relatives.⁷¹

The second view is that a person will be forced to maintain his parents. If he does not maintain, then parents can get with force. The third view is that agnate relatives (in vertical Nasab (نسب)) will be obligatory, if both are in same religion (Islam) and maintainer is able to do so and person to be maintained is young and unable to earn. The fourth view is that agnate relatives are in obligation to maintain their other agnate relatives whether they are son, or father; whether they are followers of one religion or not.

But maintenance of Cognate is obligatory if they are followers of one religion and it will be obligatory if maintenance is able to provide and the maintained person is in need of it. This is view of Hanafites. The fifth view is those relatives who are Amood-Al-Nasb (عمود النسب) are obligatory to be maintained if they are heirs of each other. This is Madahab (مذهب) of Imam Ahmad.⁷²

e. Maintenance of Servants:

The maintenance of slaves and servants is also made obligatory⁷³ in the Holy Qura'n and Sunnah of the Prophet (ﷺ). Allâh (S.W.T) says in Holy Qura'n:

وَبِالْوَالِدَيْنِ إِحْسَانًا ... وَمَا مَلَكَتْ أَيْمَانُكُمْ ۗ

*“And do good-to parents...and what your right hand possesses.”*⁷⁴

Here the word “what your right hand possess” means slaves and servants.

Prophet (ﷺ) says about servants:

- 1) Abu Bakar Al Sadiq (R.A) reported Prophet (PBUH) as saying “*one who treats badly those under his authority will not enter paradise*”⁷⁵.
- 2) Rafi b. Makith reported Prophet (PBUH) as saying “*treating those under one’s authority will produce prosperity, but an evil native produces evil fortune*”⁷⁶.

A detailed discussion can be found in Fiqh about the maintenance of servants and slaves but we skip it. In the same way the discussion regarding the maintenance of animals is also skipped because this is not of importance as for as this paper is concerned. However different writers has described it under the heading of (*فانفقوا الحيو ان ووجوب الرفق به*)⁷⁷.

SECTION- 3

A Brief Summary of Laws of Maintenance:

1. Islamic emphasizes on self-sufficiency in personal and collective life. It requires from the individual to work hard and earn ones livelihood. If it is not possible, then it is the responsibility of the rich to help the poor relatives and fulfill their needs.
2. The scope of maintenance does not exceed fulfillment of actual and basic needs of man. It can not be fortified and it can not be compensated with any other financial obligation, except with willful consent of one who has right of maintenance.
3. The responsibility of maintenance of descendant relatives over ascendant one is conditional with poverty. Some jurists add conditions of incapability also.
4. It is conditional that male maintainer should be able to earn and female maintainer should be wealthy. Moreover, neither of two, the

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maintainer and dependant, should be *harbi* (belonging to a nation at war). According Oscan, maintenance is obligatory on renegade as long as *tauba* (repentance) is expected.

5. Freedom is basic condition for maintenance of relatives.
6. The maintenance of a married woman is responsibility of her husband and not of her relatives.
7. Such poor and disabled as have no relatives should be responsibility of bait ul maal (public exchequer). If bait ul maal is not able for any reason, then their maintenance shall be responsibility of town.
8. Evaluation of maintenance shall be done by court or through mutual agreement.
9. Similarly maintenance may be settled to be paid in cash or kind. Anyhow, for its determination by court, it is conditional that one who is entitled to maintenance should demand it and is actually in need of maintenance.
10. One who is entitled to maintenance may bring a case against maintainer, in his absence, according to general opinion of jurists. But Hanafi School allows it only in case of *asool* (اصول) (ascendant) and *faroe* (فروع)(descendent).
11. For maintenance of dependant, property of absent maintainer may be sold. In case he has no property. The Qazi (Judge) may hold that claimant should borrow money on account of maintainer with fulfillment of certain conditions.⁷⁸

SECTION- 4

Islam and other Economic Systems:

We do not find such a system of maintenance in Socialism. Lenin say, “It is important duty of Soviet Republic to eradicate all types of bans from rights of woman. Government has finished divorce...after some time we shall make a law according to which there will remain no difference between legal and illegal children.”⁷⁹

According to Karl Marx and Angels, “we want to finish institution of family ... because present family system is based on capitalism and self interest.

According to Asad Gilani, life in a socialist society is like life of an animal. This system finishes religion, because of which social relations are vanished. Cooperation among society members and affection is also vanishes. Its basic philosophy is that a man is developed social animal and there was no Adam from which we are descendants. These things make a man selfish and greedy to his own needs.⁸⁰

In Socialism there is no such institution of family as in Islam, so there is no question of Nafaqaat (maintenance) in this system. As for Capitalism is concerned, this system is based on “Laissez Faire” which makes a person selfish. In capitalist societies the family system has been destructed. Old people have to live in old houses and children live in hostels and nurseries. This is because of selfishness which is end product of the capitalism. So like Socialism there is no such system of maintenance as it is present in Islam.

SECTION- 5

Economic Significance of the Concept of Nafaqaat:

The institution of family in Islamic scheme of life provides social and economic security to every one specially the poor members of the society. This institution of Nafaqaat (maintenance) makes it obligatory on a person to maintain his family, relatives, poor, beggars, orphans, widows, slaves, servants and even animals. Islam puts a responsibility on the rich relatives to maintain their poor relatives. They have to fulfill their basic needs. This institution of Nafaqaat (maintenance) cannot be fortified and it cannot be compensated with any other financial obligation, except with the willful consent of one who has right to maintenance. In contrast to Islam, we find no such system of maintenance in other economic systems such as socialism, communism, and capitalism.

This system of maintenance provides a social security system not only for wife, children, parents and relatives but also for servants, slaves and even for animals.

The Holy Qur'an and Sunnah of Prophet (ﷺ) have given a much importance for establishment of this institution. Prophet (ﷺ) maintained that this thing is counted as sadaqah for a person. A person who grows up his daughters and marriages them, he will be with Prophet (ﷺ) on day of Judgment and said that to maintain one's servant will increase *Rizq* of person., Helping the ones' family members and the relatives will result into the increase in his wealth and he will get its reward in hereafter. If this institution is established in its true spirit, it works as a safety net for the poor family members and the other poor and deprived off people in the society. This will help in the alleviation of poverty from the society, the economy develops and makes progress due to the peaceful society, and production increases, because to maintain one's relatives, maintainer will produce more

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by doing hard work. Allâh showers His bounty on such economy and aggregate production will increase. If institution works in its full spirit, there will remain no beggar in Islamic society or any society which has such system.

Other Socioeconomic benefits of the concept of Al Nafaqaat are as under:

1. Pleasure of Allah and Reward in Hereafter:

Allah Almighty has ordered to spend on others. *Infaq fi sabilillah* (spending in the way Allah) is a great and noble deed. It leads toward the pleasure of Allah Almighty and will result into a great reward in hereafter.

2. System of Maintenance:

Today economies of the third world are facing the problem of poverty. The western economies are facing the problem of dying family system due to the increasing economic liabilities. The system of Al Nafaqaat provides the solution to both types of problems.

3. Strong Family System:

Maintenance of the wife, children, parents and relatives gives rise to a strong family system. The institution of Nafaqaat provides the 'cement', which makes the relationships among the family members stronger. This is a blessing for the society.

4. Social Security System:

Ultimate responsibility of provision of a good social security system is the ultimate responsibility of the state. Primarily it the responsibility of the person to provide a social security to his family members. The system of Al Nafaqaat provides that safety net which helps the state to fulfill its responsibilities in this context.

5. Love, Affection and Solidarity in the society:

The system of Al Nafaqaat makes good relationships and ties among the members of the society. The sentiments of love and affection are generated. This leads towards a peaceful and united society which will enjoy solidarity among themselves.

6. Sharing in Economic Responsibilities:

The system of Al Nafaqaat gives the sense of sharing the difficulties and economic responsibilities of the others. This decreases the burden of the Islamic state to provide the basic necessities of life to every one.

7. Welfare of the Masses in the Society:

A peaceful and economically satisfied society is a welfare society. Such a society is a welfare society in its true sense. This is the target and objective of Islamic system to establish a welfare state. The system of Al Nafaqaat provides the grounds for establishment of such a society.

Conclusion:

In countries like Pakistan, the family system is going towards destruction. This destruction of the family system is resulting into increase in economic problems in our society. In past, most of the problems faced by the poor people were resolved at the family level. Now the situation is going to be worsened. Particularly in the present situation, the problems like “Internally Displaced Persons (IDPs)” can be solved and IDPs can be rehabilitated through this institution. Now it is the responsibility of our electronic and print media besides the scholars (Ulama) and to propagate the importance and need of this system. The establishment and implementation of this institution will lead towards resolution of the problems of the poor and on the other side will result into the pleasure of Allâh Almighty in this world and hereafter.

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⁶¹ Al Qur'an 2: 83
⁶² Al Qura'n: 4: 36
⁶³ Al Qura'n: 30: 38, 16: 40, 2: 215, 2: 177, 33: 6, 4: 1, 42: 23, 17: 26, 90. 14-15, 24: 22, 4: 8
⁶⁴ Mishkaat ul Masabih vol.1 Bab ul Birr wa Silla
⁶⁵ Baihqi
⁶⁶ Bukhari and Muslim
⁶⁷ Tirmidhi
⁶⁸ Mishkaat ul Masabih vol.1 pp1025
⁶⁹ Qayyem, Ibnul Zaad ul Maa'd pp240
⁷⁰ Al Qura'n 30:38
⁷¹ Qayyem, Ibnul Zaad ul Maa'd pp340
⁷² Al Jazeeri, Al Fiqh Ala Madahib Al Arba' vol4 588

⁷³ Rawwas, Dr. Muhammad, Fiqh Hadarat Umar (R.A), Idara Muarif e Islami, Lahore. (1990) pp 642

⁷⁴ Al Qura'n 4: 36

⁷⁵ Tirmadhi and Ibn-e-Maajah

⁷⁶ Sunnan-e- Abu Dawood

⁷⁷ Ibrahim, Ahmad Ibrahim, Nizamun Nafaqaat fi Ashariah Al Islamia, Matbaa' Alsalfia, (1349)

⁷⁸ Nizam ul Nafaqatul Aqarib fi Al Fiqh ul Islami

⁷⁹ Lenin on Religion cited in Islam ka Muasharty Nizam pp81

⁸⁰ Islam, Socialism awr Islami Socialism pp37-38