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## Introduction

I am glad that the magazine *Zan-e-ruz* has accepted my request to discuss the forty-point proposal for amendments to sections of the Civil Law of Iran pertaining to, and connected with, family matters. The magazine has recorded its willingness in its next issue to publish this series of articles on the strength of my message.

I very much value this opportunity which will give me an occasion to reveal to young people one aspect of the social philosophy of Islam. I hope to enlighten their minds so that they may comprehend the Islamic concept regarding the problems connected with family life.

As I mentioned in my letter, I did not intend to take a stand in defense of the existing Civil Law, holding it to be perfectly, thoroughly and a hundred per cent in accordance with the Islamic Law and with true social standards. I myself perhaps entertain certain misgivings about them, and I do not either want to claim that the custom in this particular domain prevalent amongst the majority or our people, are proper or justified. On the contrary, I even point out irregularities and confusions in family relations, and believe that basic reforms are necessary in this connection.

I would not, however, put all the blame on the Civil Law of Iran, like the writers of the book *Criticism of the Constitution and Civil of Iran*<sup>1</sup> and another book, *The Sacrament or the pact of marriage*<sup>2</sup> I do not see any reason to exonerate the people entirely. I also do not accept the idea that the defects and flaws in the Civil Law are due to its being in conformity with the Islamic jurisprudence and similarly do not think that the only way to reform is to bring about changes in the Civil Law. That part of the Islamic law about the rights of husband and wife, their treatment of each other and of their offspring and outsiders, has also been attacked, and a proposal for its change has also been put forward. I shall deal with these one by one in this series of articles and shall prove that these laws are in complete conformity with subtle psychological, natural and social objectives. In these laws the status and dignity of both man and woman has been fully safeguarded. If the laws are followed and scrupulously executed, they are sure to establish the best of family relations.

With the permission of my esteemed readers, I wish to lay before them a few points before I start

discussing the main subject:

## **1. Family relation, A world problem**

The problem of family relations in our age is not so simple and trivial as may be resolved by filling up questionnaires by boys and girls by holding seminars — like the seminars I saw and heard of, and the level and standard of intellect that was displayed in them, which is not peculiar to our country. Other nations have also not been able to find a solution to the problem, nor do they claim to have found one.

The philosopher Will Durant, the well-known writer of *The Story of Civilization*, writes: “If in imagination we place ourselves at the year 2,000, and ask what was the outstanding feature of human events in the first quarter of the twentieth century, we shall perceive that it was not the Great War, nor the Russian Revolution, but the change in the status of woman. History has seldom seen so startling a transformation in so short a time.

The ‘sacred home’ that was the basis of our social order, the marriage system that was our barrier against human passion and instability, the complex moral code that lifted us from brutality to civilization and courtesy, are visibly caught in that turbulent transition which has come upon all our institutions, all our nodes of life and thought.” (*The Pleasures of Philosophy* New York, 1953, p.129)

Today, similarly, when we are living in the last quarter of the twentieth century, the lamentations of western thinkers are all the more articulate when they witness around them the break up of family ties, the weakening of the foundations of marriage the evasion of young people in accepting the responsibilities of marriage, the dislike of being a mother, the dwindling of paternal and maternal affections, indulgence in the satisfaction of temporary passions instead of love, the ever-increasing incidence of divorce, the galloping increase in the number of illegitimate child with unity and sincerity being very rare thing in married couples.

### **Should we be independent or follow the west?**

It is regrettable that quite a number of uninformed people have the impression that the problems connected with family relations are like the technicalities of taxi-driving plumbing, electricity etc. European experts solved these technical matters years ago; we are the people who do not have that efficiency and capability and so, they think, we should follow and imitate them as early as possible. This is a totally wrong idea. As far as the problems under discussion are concerned, westerners are more preoccupied than we are ourselves, and the wailings and cries of their intellectual are louder. Leaving aside the question of the education and instruction of women, western thinkers are in all matters concerning women more perturbed than we are ourselves and have less satisfaction in the contentments of family life.

## **Historical determinism**

Another section of our people think that the lack of warmth and attachment in family ties and the creeping in of destructive influences is the effect of the liberation and undue freedom of women; that freedom, according to them, is the unavoidable result of industrial life and advancement in learning and civilization. It is the force of history, and there is no alternative, they say, except to tolerate and endure this confusion and disorder. The excellence and dignity of family life that was current in former days, they add, should be forgotten for ever.

If we hold such a view, we have a very superficial and erroneous view. We agree that in the west, industrial life did affect and still does affect family ties, but what primarily interrupted the balance of orderliness in family life are two other things apart from, that.

Firstly, there were primitive, oppressive and unjust laws for women in Europe. These laws were in force till the present century. The helplessness of women can be gauged from the fact that it was in the nineteenth and at the beginning of the twentieth century that woman was legally acknowledged for the first time to be capable of owning property.

Secondly, those persons, who undertook to ameliorate the condition of women and raise their status, happened to use the same method that is being adopted at present by some of our so called intellectuals. The outlook put forward in this forty-point proposal is one of such examples. These people have, so to say, while desiring to improve her eyebrows, actually deprived the helpless woman of her eyesight.

The obsolete laws of yesterday's European together with the new amendments to them are thus more responsible for the chaos and disorder than industrial life. In such circumstances, it is not in the least necessary for us, Muslims of the east, to follow strictly in their footsteps and go the way they go, and tread the nasty path they tread. We should remain always cautious towards western life-styles. While making use of, and acquiring. Those of their sciences, arts and technical subjects, and also those parts, of their social behavior which are excellent and commendable, one should also refrain from aping and imitating them in all their customs, habits and especially laws. These laws have been a source of innumerable miseries for themselves; and reforms in the Civil Law of Iran and their being brought into line with European laws means, in practice, sharing those miseries with them.

## **2. The constitution and ourselves**

Apart from the fact that the said proposals are at once devastating and against psychological, natural and social exigencies, as will be explained later on, there remains the question: what about their conformity with the Constitutional Law of Iran? The Constitution of Iran clearly mentions that any law or proposed law which stands in contradiction with the Islamic Law is void and cannot be passed in either of the two Houses of the Iranian Parliament. The matter incorporated in these proposals is, on the face

of it, in contradiction with the Islamic law. Can those westerners whom our worshippers of the west blindly follow ever imagine turning their own Constitution into play–thing like this?

Besides religious considerations, the constitution of every country has a special sanctity for the people of that country. The Constitution of Iran also has a special sanctity for the Iranian nation as a whole. Can the Constitution of Iran be trampled under– foot by seminars, by the printing of questionnaires, and by the bobbing up and down of members of Parliament?

### **3. The attachment of the Iranian nation to religion**

If, for the time being, we leave the discordance of the proposal with the Constitution alone, and forget everything else, one thing can never be forgotten that nowadays too, the strongest sympathy which governs the mentality of Iranians is their Islamic sentiments. With the exception of a very limited number, who have traversed all limits and readily supports any disorder and confusion, the great majority of the people follow the stipulations of religion.

Against the prognostications of some people, even modern education and training has not caused any estrangement between this nation and the religion of Islam. In spite of the fact that religion in its true sense is not being propagated, and capitalism which is contrary to Islam, is more often presented, the people who have had a modern education, and students, are becoming more and more inclined towards Islam.

Now, I ask, how will the proposed laws suit this mental background, when that background is necessarily there whether you like it or not? To be more explicit, when the Civil Law of the country is not in conformity with the aspirations of the people and with the clear commandments of the shari'ah of Islam, what can be the result? Suppose that due to certain differences and anger, woman files a suit in a Court of Law, and, against the will of her husband, is granted a degree of divorce, and after wards marries another person. These persons, the new husband and wife, although they consider themselves legal husband and wife under the civil law of the country, will in the depth of their religious conscience, consider each other as strangers. They are bound to feel pangs of conscience, however occasionally and stealthily, and consider their association sinful, their children illegitimate, and themselves deserving the punishment of death.

Now, imagine in what a miserable psychological situation they will be placed; what will be their position and the position of their children in the eyes of their religious minded friends and relatives. We cannot possibly change the religious conscience of the people by legislation and amendments to the law, fortunately or unfortunately, the convictions of the majority of these people are so strong that they cannot be quit of their religious sympathies.

If you were to invite an expert in law and psychology from a foreign country and discuss with him and tell him what you want to legislate and what the background and the convictions of your people are, do you

imagine that he would agree with you? Would he not say that such steps are bound to create innumerable mental and social miseries?

It is a great mistake to compare this kind of law with penal laws as regards how bad the effects resulting from them are. They are as different as the earth is from the sky. The impact which results from changes in and abrogation of the penal laws is quite clear to society and only deviated people will be encouraged. But laws connected with married couples and children are related to people's individual lives, and can be directly in conflict with each individual's personal religious sentiments. This kind of law will either remain without practical effect due to the influence, of religion and the triumph of the conscience, and inevitably the unhappiness which, this kind of law causes will result in its being officially abolished, or else, after a soul-destroying spiritual struggle, it will weaken the power of religion.

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1. Zindah bidar is the translation by Badi u'z- Zaman Furuzanfar of the book Hayy ibn Yaqzan by Ibn Tufayl.
  2. Zanjani, Ibrahim Mahdavi – Payman-e Muqaddas ya mithaq-e izdivaj.

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