

بسم الله الرحمن الرحيم

TALK 4

TUNISIA

Domestic Violence: The Reasons and Means of Protection from an Islamic Perspective

(Translated)

In the Name of Allah, The Beneficent, The Merciful, and the best of prayers and salutation to the best of Messengers,

It's natural for any Muslim to adopt the term "domestic violence" considering that the family environment must be safe for all of the members residing in such social institution, and that cohesion, understanding, reciprocate compassion are the connection between its members. However, the widespread of this phenomenon and its reasons around the world, especially in the West, led to an outbreak to the Islamic world. In the year 2013, the WHO conducted a study in collaboration with the College of London for Hygiene and Medicine in the Tropical Areas and Medical Research Council, based on the data collected from more than 80 countries. The study showed that third of the women, almost 30% of the total amount of women of the world, who have started a relationship have actually been a victim of physical or sexual abuse by their partners. In addition, the percentage of murder crimes committed against women by their partners has reached 38% worldwide.

In this framework, protocols, international agreements, laws, local regulations, initiations, conferences, workshops, training programs, sensitizing programs, and meetings held under the supervision of the Ministries, government organizations, non-government organizations, legal organizations, women organizations, and others varied in order to control the phenomenon of domestic violence. The UN has also relied on open-ended principles which it embraces in its international bills, such as the Universal Declaration of Human Rights, the Universal Pledge for the civil, political, economic, social, cultural rights, the Child's Right Agreement, and the Agreement for Eradicating all forms of Discrimination Against Women in order to enforce advertisements and decisions emanating from its various committees and to make its recommendations mandatory in the countries of the Islamic world. Cunningly, the General Assembly of the UN related domestic violence directly to the violence targeting women, so it stressed on the countries to utilize all possible means in order to eradicate this, support the researches, collect data, categorize the statistics pertaining to the widespread of difference forms of violence against women, especially those related to domestic violence, and encourage the researches about the causes of this violence and their nature, danger, repercussions, and how effective the measurements taken to stop it and protect those being inflicted with it.

This is what happened exactly in most of the Muslim countries where work is ongoing on conducting studies meant to follow up with cases of violence against women, such as domestic violence, and spreading these studies on the media in order to pave way for the laws and regulations aligned with the international requirements and standards.

For example, in Tunisia, a periodical for personal status was published in the year 1956 and it included rules pertaining to some of the family affairs, and many people considered it a win for the women which increased her status and made her shine over the other women in the Arab world. This periodical was edited in the year 1993 to replace Chapter 23 which states the obligation of the wife to obey her husband in his orders to become: "Each of the spouses must treat the other with goodness, be decent in their treatment, **and avoid**

inflicting any harm towards the other.” For the first time in the year 2006, the celebration of the International Day of Eradicating Violence against Women commenced. Then in the year 2007, a national strategy was announced for combating violent behavior within the family and the society, and its implementation was supervised by Women and Family's Affairs Ministry with the participation of several public, organizational, and media institutions. Even so, the first census conducted by the National Registry for family and human growth (a generic establishment following the Health Ministry), within a cooperative program between the registry and the Spanish Agency for the International Cooperation and Development in the year 2010 with regards to violence against women via a sample representing the Tunisian community involving 3873 women ranging in age between 18 and 64 years showed that the family environment is one of the most places where a women would be subject to abuse of all sorts, and it is her partner (husband, fiancé, or boyfriend) who is inflicting financial abuse in 47.2% of the cases, psychological abuse in 68.5% of the cases, sexual abuse in 78.2% of the cases, and economical abuse in 77.9% of the cases. Lawyers, experts, and specialists denote the reason behind this is the failure of the law in solving the phenomenon of abuse in Tunisia. Thus, a law has been worked on and passed in relation to the eradication of abuse against women which was approved on the 26th of July, 2017 and came into application since the 15th of February, 2018 after pressure from the “Civil Society” organizations and feminist organizations under the pretext that this law will guarantee the protection of the victims of abuse, especially domestic violence. Some people considered this law to be a legal revolution because they presumably think it will be able to: firstly, protect from abuse, secondly, protect the female victim, thirdly, incriminate abuse, fourthly, take care of the women who are the victims of this abuse.

In Egypt, even though there is a constitutional commitment to Article 11 from the Egyptian constitution in the government's protection for the women from all forms of abuse, researches stemming from the regional center of researches showed that domestic violence is the forefront form of abuse in the Egyptian society, whether against the mother, wife, or daughter. The results of the census for the economic cost of the abuse against human beings as revealed by the central agency for mobilization and statistics show that the percentage of the husband's abuse is unprecedented, where about 46% of the women in Egypt (ranging in age between 17 and 64 years), inclusive those who were married, witnessed some sort of abuse by the husband, whether psychological, physical, or sexual abuse.

In Turkey, according to a poll conducted by a prestigious Turkish university in the year 2009, around 42% of women above the age 15 and 47% of the women in rural areas suffer from physical and sexual abuse by their husbands or partners in some point of their lives. This is even though Turkey scores the top chart of the countries in providing civil methods to provide protection from domestic violence by introducing the law of protecting the family (number 4320) in the year 1998, edited in the year 2007. This law sets a system of protection where the victims of abuse on the hands of any of their family members, as long as they live under one roof, whether male or female, comes forth in order to sue directly or via a general deputy in order to be granted a trial in the family court. This is in addition to the law of the municipalities which are meant to support every municipality with a capita of 50,000 people with shelters for women and children in order to combat domestic violence.

These percentages are just an indication for the failure of the legal shields in various Muslim countries in solving the real causes which lead to domestic violence and in presenting the correct methods to stop this phenomenon from becoming widespread. This is due to the confusion of the definition of domestic violence which exceeded its literal meaning – being the harm inflicted on the children, the spouses, the elderly, or any of the other family members residing in the same house – and was originally related to abuse based on discrimination; thus, meaning that it was originally dealt with as lack of equality between the

two genders according to the humane approach. Therefore, the Islamic Sharia rulings pertaining to the social system were categorized- since it goes against their secular and liberal concepts especially the concept of freedoms and equality- under the category of domestic violence. This is due to the Islamic Sharia laws attesting to, according to the opinion of the legal and international institutions and organizations, the priority of the man, his authority, and his sole decision in managing the family. In the meantime, the woman has been ignored to enjoy her rights as they consider that she has the same responsibilities as well. As such, they advertise that the Islamic inheritor allows for a complete patriarchal environment which marginalizes woman, demeans her, and rebukes her financially. They justify this with the example of the man's authority over her and her financial commitment with him or preventing her from an equal share of the inheritance with him, and ethically, such as the ruling on polygamy or divorce being in the hands of the man, or sexually, such as forcing her into intimacy without her will, or early marriages, etc. These are some of the inappropriate accusations which confuse the pure understanding of these Islamic laws and delude the foundations based on them. That is why the 4th Amendment from the Declaration of Eradicating of Abuse against Women (in December 1993) was publically calling for incriminating abuse against women and not allowing countries to justify it through any custom or tradition or religious rites in order to dodge its commitment to eradicate it, and that was through publically letting go of the Islamic moral values and reference.

We should not forget about the role played by the wave of feminism and secular intellectuals who consider abuse targeted against women as the result of the policy of discrimination imposed on her and her lack of power and control within the family in addition to the cultural and religious customs which chain her freedom and limit her choices in life and her opportunities in the society. They paint an image that her obedience to her husband is weakness and defeat, and since he is the head of the family, it excludes her from the decision-making. Also, they negatively portray some of the Islamic rules such as allowing light hitting in the extreme cases (i.e. the woman's deviation): **﴿وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ ۖ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ فَإِنِ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا﴾** **“But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand.”** [An-Nisa: 34], forbidding fornication and abortion, marrying to a non-Muslim, travelling without a Mahram, insisting on the dowry to be paid, being obligated to wear the Sharia clothing, forbidding the woman from showing her beauty to foreign men, forbidding her from mixing with the men without a need as stated by the Sharia, seeking permission from the husband before going out, attesting to the husband's authority, referring the newborn's name to his father, and accepting that the man's testimony is equal to two women's testimonies. There are also other rules upon which they claim they present as an obstacle to the role of the woman in the family and the society; these rules have maltreated her, and they have placed like a hierarchy in the relation of power between the woman and the man. Therefore, they believe it is necessary to replace all these concepts with what aligns with their definition of equality, freedom, and enablement in order to close the gap between the opposite genders! However, the one who contemplates and ponders upon the Sharia texts fully knows that Islam did not view the woman and man from a preference perspective; Islam did not favor one over the other in order to make them equal and it wasn't unjust to any of them in order to make it just; it rather did not ever present any standard of discrimination between the opposite sexes or equality between them; rather, The Legislator distributed the roles and their types in a fair and just manner according to the view of what is cohesive with both of their instincts, specialties, and natures.

Hence, it became incumbent upon us as Muslims to refuse all of these allegations and refute them since all of these erroneous reasons are merely weak excuses which aim to delude us that the ever spreading domestic violence is due to the Islamic Sharia laws in

order to strip the Muslim from his Aqeedah and push him to adopt the Western thought which emanates from the Capitalist ideology.

The best thing for those who want to present solutions to the problem of domestic violence is to rethink and rebuild an enlightened view through deep thorough research in the root causes which led to this problem and solve it, and we mention some below:

- Discharge the adoption of the liberal freedom values and the non-Islamic concepts which came from minds free from the restraints which build the relationship between the woman and the man based on whims and desires and removes the concept of being judged by The Creator, and this is what glorified the individuals' disposition, encouraged selfishness, and gave birth to hostile behaviors due to the conflict of interests, thus, resulting in the division of the family, repulsion, and cracks in the relationships between its members. In addition, these freedoms advertise the achievement of the biggest share of personal fun and ecstasy even if it meant doing lowly actions, drinking alcohol, and abusing drugs. It is known that the effect of these does not only pertain to the addicted person, but it surpasses him through his fluctuating mood and inability to control his behavior in harming the people closest to him. Also, letting these freedoms go wild leads to the lack of trust between the spouses, uncontrolled jealousy, and an electrified atmosphere, thus, leading to resorting to the language of violence as a reaction.

- Demeaning the status of women and devaluing her position in the society by objectifying her and selling her off, as barely any commercial advertisement does not plaster a half-naked woman on its posters or showing a part of her body next to a product in order to advertise it or exploit her femininity in shops, clubs, or coffee places... What this greedy commercial view obligated on the woman and placed immense pressure on her under the pretext of catching up with the man and become financially independent is simply abuse and humiliation against her by depriving her humane value, burdening her beyond her capability, and encouraging her to walk upon the path of prostitution and immorality. In addition to these rotten practices and customs and wrong inherited traditions in some areas which do not relate to Islam in any form, they deprive the simplest rights for the woman just as education, divest her right in stating her opinion or marrying her off without her will, or leaving her out of the inheritance, and other behaviors which portray that the man's authority in leading his family is the standard which shows his masculinity and his right to do whatever he pleases whether it was allowed or prohibited, all whilst forcing the woman to accept that since he's the head of the family, thus, creating an environment full of abuse in his treatments.

- The absence of a clear idea of the rights and responsibilities placed for each side in the marital institution, and the absence of a system of distributing the roles denoted to each person in it, and the intertwining of the roles, creates an atmosphere full of stress and conflicts. The lack of solutions which is needed to revive the balance in the family will definitely lead to constant arguments.

It is Allah's favor upon mankind that He (swt) placed limits and basis for the familial relationships which also play as precautionary procedures for the Muslim family with a fence of immunity against domestic violence, and this is what Islam guided to in order to create a safe familial environment:

- Build Taqwa in the souls of the people, so whoever achieves that, will realize the obligation placed upon him and is aware of his Lord in private and public. The Rasool (saw) said: «مَا مِنْ عَبْدٍ يَسْتَرْعِيَهُ اللَّهُ رَعِيَّةً، يَمُوتُ يَوْمَ يَمُوتُ وَهُوَ غَاشٌّ لِرَعِيَّتِهِ، إِلَّا حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ» **“Any governor in charge of Muslim subjects who dies while acting dishonestly towards them will be excluded by Allah from Paradise.”** (Narrated by Muslim). This Hadith is an evidence to the magnitude of the responsibility placed on every regular governor and man with his family, especially that he maintains their rights, fulfills whatever he needs to for them, and treats his wife and children well. Also, the woman is responsible for her house and responsible for

those who live with her. Taqwa is the regulator for the areas of inclinations, whims, and desires which these familial relationships go through. With Taqwa, the person remembers that he is a creation of The Creator and His servant, so he will be punished for disobeying His orders, and he will be rewarded when he follows the right straight path.

- Correcting the view on woman from an Islamic perspective and establishing the special status and the prestigious ranking to those whom Allah (swt) and His Rasuul (saw) made special. Accordingly, the Rasuul (saw) made good treatment of the wife, children, family members, and relatives from the best of deeds and those which bring them closer, and their doers are the best of people as the Rasuul (saw) said: «خَيْرُكُمْ خَيْرُكُمْ لِأَهْلِي، وَأَنَا مِنْ خَيْرِكُمْ لِأَهْلِي» **“The best of you are those who are best to their family, and I am the best of you to my family.”** (Sahih by At-Trimidhi and Ibn Majah). Islam prioritized caring for the woman since her birth, so it made the good upbringing and nurturing a door for her parents to enter Jannah, as reported by Abdullah ibn Abbas, may Allah be pleased with them both, said: The Rasuul (saw) said: «مَنْ وُلِدَتْ لَهُ ابْنَةٌ فَلَمْ يَبْنِهَا وَلَمْ يَهْنُهَا، وَلَمْ يُؤْتِرْ وَلَدَهُ عَلَيْهَا -يَعْنِي الذَّكَرَ- أَدْخَلَهُ اللَّهُ بِهَا الْجَنَّةَ» **“Whoever has a daughter born to him and he has not buried her nor insulted her, and did not favor his son over her, Allah will allow him to enter Jannah due to her.”** (Narrated by Ahmad, corrected by Al-Hakim). If she grew up, she’s guarded and taken care by her guardian; he’s protective of her, and he protects her from any harm. If she gets married, she is valued and honored and her husband ought to treat her well, be good to her, and be gentle with her. Allah (swt) says: ﴿وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ﴾ **“And live with them in kindness.”** [An-Nisa: 19], and the Rasuul (saw) advised all goodness for them as he (saw) said: «اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا» **“Act kindly towards women”** (Narrated by Ibn Majah). He (saw) also called upon the husband to be offensive to the wife, and to overlook her shortcomings, and to appreciate her virtues so that life becomes better: «لَا يَفْرَكُ مُؤْمِنٌ مُؤْمِنَةً إِنْ كَرِهَ مِنْهَا خُلُقًا رَضِيَ» **“A believing man should not hate a believing woman; if he dislikes one of her characteristics, he will be pleased with another.”** (Narrated by Muslim). In addition, the Master of all of creation (saw) prohibited hitting women since it leads to a repulsion opposite to the needed good treatment in the marital life, as he (saw) said: «لَا يَجْلِدُ أَحَدُكُمْ امْرَأَتَهُ جَلْدَ الْعَبْدِ نَمَّ: يُجَامِعُهَا فِي آخِرِ الْيَوْمِ» **“None of you should flog his wife as he flogs a slave and then have sexual intercourse with her in the last part of the day.”** (Narrated by Bukhari). If she was a mother, obeying her is directly proportional to the right of Allah (swt), and lack of gratitude and obedience to her and maltreating her is described as disbelieving in Allah (swt), as Allah (swt) says: ﴿وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا إِمَّا يَبُلُغَنَّ عِنْدَكَ الْكِبَرَ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا أَفْ وَلَا تَنْهَرْهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا﴾ **“And your Lord has decreed that you not worship except Him, and to parents, good treatment. Whether one or both of them reach old age [while] with you, say not to them [so much as], "uff," and do not repel them but speak to them a noble word.”** [Al-Israa: 23]. Our honorable Messenger (saw) advised us to treat our parents kindly, and he said: **“Your mother... your mother... your mother... then your father”** in order to honor them and acknowledge their rights.

- Prohibiting the sexualization of women and combating the view on women as inferior as if she is merely a body and a commodity, and it was prohibited to consider her as a readily available sexual object; rather, she should be protected from this degradation and humiliation. Therefore, it was necessary to obligate the women to the Sharia clothing, prohibiting the wearing of make-up in front of foreign men;

- Organizing the relationship between the man and woman, prohibiting secret meetings, prohibiting women from mixing freely with foreign men, and making sure there is no special atmosphere that might lead to illegal relationships or doubtful behaviors which could lead to inciting jealousy, rousing doubts, shaking trust issues, and referring to abuse. Also, Islam obligated upon the male and female believers to lower their gaze and preserve their chastity so that these two become the strong foundation of a healthy relationship between the man

and woman based on respect and a shared life rather than viewing it as masculinity verses femininity;

- Managing the family is a way emanating from organizing the roles within the family and distributing them in a synchronized manner which guarantees lack of conflict. So, it is important to raise awareness of the rights and responsibilities of every family member, realize the greatness of the responsibility placed upon them, and prepare to carry it with room for dialogue and taking opinions into considerations. This leads limits the possibility of raging disputes and tussles which shake the security of the family;

- Establishing the marital life's triangle: repose, amity, and mercy. Allah (swt) says: ﴿وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ﴾ **“And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought.”** [Ar-Rum: 21]. The wife is the sanctuary of the husband where he finds comfort and feels safe with, and vice versa. If the husband loves her, he will treat her nicely, and if he hates her, he will treat her with mercy rather than oppressing her. It is also important to cement the correct concept of the man's authority that it is an entire blessing from Allah (swt) on the wife in particular and the family in general. Through this authority, the man is obliged to perform two very important tasks: caring for his family in what is best for it such as spending on it, managing it, maintaining it, and preserving it, and protecting by providing safety to the members of his family and stopping any harm against it, as he is obliged to stand up for them even if it calls for risking his life, and the Rasuul (saw) said: «وَمَنْ قُتِلَ دُونَ أَهْلِهِ فَهُوَ شَهِيدٌ» **“Whoever is killed protecting his family, he is a martyr.”** (Narrated by At-Tirmidhi).

- Allowing divorce to occur even though it is the worst Halal action as Islam made it Halal in order to the state of familial tension and a path for a separation between the spouses in a good manner if compatibility failed. Divorce requires the letting go of the spouse in the best way possible without any harshness or abuse after all methods for reconciliation have been exhausted, and when it becomes impossible for the spouses to continue living together.

In the end, we say that The Creator (swt) knows what He has created and He knows what's best for His creation, and whatever He brought from divine laws and rules are just a guidance an mercy to mankind, and with them the Muslim family is maintained and put on the right path. However, if we stepped away from these strong foundations, it will lead to wretchedness and misery of the family members: men, women and children alike, and the loss of the leadership compass, the widespread and severity of domestic violence, and the paralysis of all life's requirements which the person needs inside the family, such as lack of security and absence of comfort and peace of mind, and this will definitely lead to the family's disperse and breakdown. Allah (swt) says: ﴿فَإِمَّا يَأْتِيَنَّكُمْ مِنِّي هُدًى فَمَنْ اتَّبَعَ هُدَايَ فَلَا يَضِلُّ وَلَا يَشْقَى﴾ **“And if there should come to you guidance from Me - then whoever follows My guidance will neither go astray [in the world] nor suffer [in the Hereafter].”** [Taha: 123]

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