

WOMEN'S EXPERIENCE IN THE ŠARĪ'A COURT OF GAZA CITY:

The Wife's Right to Maintenance

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This article is part of an ongoing research that examines the difference between the way Islamic law is implemented daily in the Šarī'a or religious courts and its political conceptualisation in the public sphere. In the course of my study, I explore various issues concerning the way the Šarī'a courts work, how the daily life of the court is conducted, which groups of people (in terms of gender, class, locality, status, etc) find the court useful and how, in their attempts to solve familial problems, litigants meet and defend their claims. During my fieldwork in 2002, I paid daily visits to the Šarī'a court of Gaza City in Palestine, where I observed and took notes of what was going on, and initiated discussions with the litigants (especially women) and court clerks (including the judges). To grasp how the family law was conceptualised at the political level, I relied on my involvement in the campaign for family law reform during 1997–1999, in addition to interviewing the main actors involved.¹

This essay focuses on only one specific aspect of my study, which is related to how women practise their rights to maintenance (*nafaqa*). In Islamic family law, husbands have the duty to financially maintain their wives, and in response, wives are obliged to be obedient to them. My discussion does not focus on the legal side of this provision as much as on the way it is practised and transformed in the course of its implementation.

I will argue that this provision, which is meant to define gender relations between husbands and wives on the basis of maintenance versus

1 I explore various problems concerning the politics of family law in the forthcoming issue of the University of Miami International and Comparative Law Review. The article is derived from my MA thesis, which was published as a working paper by the Institute of Social Studies: SHEHADA, N. (1999).

obedience, has been transformed over the course of its implementation as law by the action of women as social agents. I will demonstrate that women use this provision to serve different objectives than those intended initially by the law. This demonstrates that women can transform what is meant to be an instrument of oppression into a tool for their empowerment.

My aim is to argue that women who are implicated in familial disputes act as active social agents, in the sense that they use their ‘knowledgability and capability’ (LONG 2001: 16) to choose and act even under the most constraining circumstances. They constantly try to find a space to materialise their interests. Therefore, they effectively use their available power resources and adopt various strategies; such as enrolling others in their projects (LONG 2001) or manipulating the law to serve objectives that are far beyond its intentions.

The maintenance provision in Islamic family law

The power structure in the marriage institution is established on the fundamental balance of rights and duties, which is based on the responsibility of the husband to maintain his wife and she – in exchange – is obliged to be obedient to him. This requires the husband to provide clothing, food, and dwelling, which vary according to time, place, and local customs (WELCHMAN 1999). This structuration of gender relations is derived from the Islamic family law in Gaza and the West Bank, which is applied by the *Šarī‘a* (religious) courts. This law is primarily based on the Ḥanafī doctrine, one of the four major Sunnī schools of Islamic law. It also incorporates rules from other Sunnī schools. The family law (also referred to as the ‘Personal Status Law’) in Palestine originates from Jordanian and Egyptian laws, which in turn are of Ottoman origin and rely on the Islamic *Šarī‘a*.² The Jordanian law is implemented in the West Bank, while the Egyptian one is implemented in the Gaza Strip.³

2 There is no clear idea about what constitutes the ‘*Šarī‘a*’. It has never been defined or collected in a systematic manner or in a single written body of work. The *Šarī‘a* is best understood as shared ideas of Islamic society, based on a literature that is broad but not necessarily consistent or approved by any single authority. As VIKOR (1998) observes, this situation contrasts with the legal systems in the contemporary world, where the law is defined as a systematic set of sections written into a code and authorized by a specific elected body. However, the *Šarī‘a* does not have such a specific form; therefore it is known as an uncodified set of laws.

3 For the West Bank, the Jordanian Law of Personal Status, gazetted in 1976. For the Gaza Strip, the Gaza Law of Family Rights, issued by the Egyptian governor-general in 1954.

Ideological claims

The right of women to be maintained financially (or to be given *nafaqa*) by their husbands is higher than that of their children, in the sense that when the *qāḍī* (religious judge) is sure that the children are not poor, he will not order the father to pay them *nafaqa*, while in case of wives, their economic wealth does not cancel the right to *nafaqa*.

When a *nafaqa* case is brought before the *qāḍī*, he does not question the absolute right of women to get it because it is an inviolable right. However, the mechanisms, tools, amount of *nafaqa* and time limits are all subject to negotiation. *Nafaqa* is the main pillar of marriage. 'Whether the man works or not, whether he is absent or present, the wife's right to *nafaqa* is preserved. She does not need to claim to be poor. *Nafaqa* is her right, whether she is poor or rich.'⁴ Women's obedience to their husbands is contingent upon the man's providing for their financial needs. Thus, when a husband ceases to do so, the wife is no longer obliged to obey him and is free to sue him for *nafaqa* in the court.

The above interpretation of the *nafaqa* right is only one ideological reading, in the sense that it defends the gender relation between husbands and wives as it is textually 'fixed' by Islamic family law. The second ideological interpretation is the one that was adopted by some feminist activists in Palestine.⁵ During 1997–1999, the women's movement adopted various visions and strategies for family law reform. With regard to the provision of *nafaqa*, a group of feminist activists argued that seeking equality means putting forward proposals that protect women's strategic interests; feminists should seek to completely terminate the existing power structure of marriage (based on maintenance versus obedience) and establish, instead, the marital relationship on the basis of equality. This line of argumentation was founded on the understanding that maintenance symbolizes and materializes a commodification of women's bodies; the man maintains his wife financially and she in return is obliged to be obedient to him. It is a material and symbolic tool for oppressing women by portraying them as economically less competent and thus eternally dependent on their

4 *Qāḍī* Ḥasan al-Ġūḡū, in an interview with me in 2002; al-Ġūḡū is a practising *qāḍī* in the Gaza City *Šarī'a* court.

5 The following arguments are derived from my involvement in the campaign for family law reform. Between 1997 and 1999, I participated in the campaign first as a trainer and then as chairperson of the Palestinian Model Parliament for Women and Legislation in Gaza. The Model Parliament was established in 1997 with the aim of proposing Palestinian laws and legislation based on equality and human rights.

husbands for their livelihood. From this perspective, *nafaqa* is established on a given notion of women's natural inferiority, which signifies the fundamental gendered view of Islamic family law.

Another group of women's activists read the process of family law reform differently. They argue that any reform should preserve the Islamic identity of Palestinian laws. Laws and legislations are fundamental foundations of the nation's identity; Islam and Islamic identity are essential components of future Palestine. In addition, this group of activists argue that within the structural imbalance between women and men, it is unrealistic to propose the elimination of the maintenance provision while the majority of wives are economically dependent on their husbands.

The two camps in the women's movement could not reach a consensus of how to approach the question of family law reform and the *nafaqa* provision for the simple reason that the basis of the debate was political rather than being focused on how the provision of *nafaqa* is actually practised, how it is used by women, and what benefits/losses they might experience if reform took place. The difference was mainly ideological, in the sense that it revolved around major issues concerning identity politics such as the question of the frame of reference of family law reform, i.e. whether the reform should be founded on the Islamic *Šarī'a* or the *principles* of Islamic *Šarī'a*, or on international human rights conventions.

In these discussions, the feminist activists expressed reluctance to play a political game. They demonstrated their fear of relinquishing the principles of equality as a price for alliance building with other political groups, which in the context of the existing power imbalance between the women's movement and other powerful political actors, would ultimately (according to them) lead to the negation of women's strategic interests; a strategy that has historically proved a failure. On the other hand, the identity politics group were concerned about ignoring the *Šarī'a* as being the basis of reform. This, in their opinion, would endanger the identity of Palestine as fundamentally an Islamic country. More importantly, they expressed fear that overlooking the cultural, political and social connotation of Palestine's Islamic identity would have a tragic impact on the women's movement's relations with the wider society, in the sense that it would give an additional weapon to the women's movement's opponents to strengthen their claim that the movement comprises just a small middle-class, westernised and alienated group of women.

Additional arguments regarding the politics of family law and further political actors became such a widespread public discussion that the debate around family law and family law reform was portrayed as the first major

social debate in the history of Palestine. I shall not explore the debate further despite its remarkable importance, because the focus of this article is on the provision of *nafaqa* and the divergence between its political conceptualisation and the concrete experience of women in the court. An extended analysis of this debate will be presented in my PhD thesis.

In contrast to the above ideological and political argumentation, women in the court continue their struggle to find a space in the existing provision of *nafaqa* to materialise their interests. They use their legal knowledge (although limited) to serve their interests even under the most difficult circumstances. The following cases will demonstrate that not only women who need financial support used this provision, but also women who experience conflicts that do not involve financial demands. Maintenance thus becomes a tool to achieve diverse objectives that are far beyond the intentions of the law and far beyond the ideological claims of the concerned political actors.

Methodology

A quantitative analysis of *nafaqa* cases submitted to the *Šarī'a* courts would seem to support the contention that women are economically dependent on their husbands, since *nafaqa* cases comprise the biggest number of cases in the courts. This methodology might strengthen the ideological claims of some parties involved in the political discussion of the provision of *nafaqa* in the sense that the same quantitative analysis may be read differently by different parties. Feminists may take it as proof that the structure of family law is responsible for wives' economic reliance on their husbands, and that reform should include the elimination of this dependency relation and should instead establish equal partnership. The other ideological camp may also find this quantitative analysis supportive, in the sense that it proves that women are actually dependent on men and thus that the provision of *nafaqa* affords legal protection for women's economic welfare.

Adopting an ethnographic approach, which involves listening to the women who apply for *nafaqa* and understanding how and why they use the court and what it means for them to apply for *nafaqa*, reveals a different reality. Ethnographic approach, which seeks to understand how and why individuals act and choose at certain junctures of their lives, signifies not only its academic worth, but also, its impact on the strategies of political actors. In the sense that understanding the significance of *nafaqa* in the lives of women may bring about new insights, strategies, visions that

provide a base for the political actors' argumentation on grounds that are related to the actual needs and interests of people rather than being based on mere ideology. In other words, women's movement activists from whichever camp may benefit from the revealed experience of ordinary women to propose new provisions that would widen the opportunities available to women to use the law for their benefit.

Instead of only studying the provision of *nafaqa* as written in the legal text of family law and ideologically interpreted by different political actors, I looked at how, why and under which circumstances the provision of *nafaqa* is used, and how women succeed in turning the law on its head. On the basis of my ethnographic work in the *Šarī'a* court, I argue that the concept of equality, as expressed by the feminist group, ignores the actual experience of those disadvantaged women whose socio-economic situation places them at the bottom of the social ladder. As I will show later, *nafaqa* not only provided women with minimal economic security but more importantly, it provided them with legal room in which to manoeuvre. In their innovative use of the *nafaqa* provision, ordinary women have turned *nafaqa* from an instrument of oppression and obedience into a tool for empowerment. And thus the outcome of the *nafaqa* provision has been positive in their lives; a result neither intended by the law nor recognised by the feminist groups. I agree, however, with the identity politics group that the equality approach, as expressed by the feminist group, would affect the very basic economic security of those women due to the obvious fact that around 90% of Palestinian women rely on their male kin for their livelihood. In consequence, I would also express reluctance to center the whole debate of family law reform on the question of identity politics. Women in the court are far less concerned by the abstract debate on family law reform. Their demands are concretised on finding more space and room for manoeuvre. Whether that space is found in *Šarī'a*, *Šarī'a* principles or human rights conventions is irrelevant to them.

In the next section I shall summarise a number of cases that demonstrate the diverse use of the *nafaqa* provision by women. The cases are a rich trove for analysis; for example, on the dynamics of the wife and mother-in-law relations; the daughter's networking with her natal family and other powerful persons in the community; the effect of the wife's higher education on the masculine image of the husband; the social restrictions and limited choices of the divorced women. Each one of them demonstrates diverse social practices and dynamics. However, they will not be analysed in this article due to space restrictions. As I stated at the beginning, I want to restrict my analysis to the question of how and why women use the

provision of *nafaqa*; how they use it to reach objectives that are far beyond the intention of the law.

Nafaqa for the sake of divorce

Family law makes it difficult for a woman to get a divorce on her own, while the husband has the full right to do so by pronouncing *ṭalaq* (divorce). When the woman realizes that life with the husband is impossible, for whatever reason, and when settling the dispute through inter-family negotiation (her family and his), does not work, the strategy is often the same. She goes to her family's house and then files a *nafaqa* case. In such situations, the man often neither wants to pay nor wants her to return. The woman, on her part, makes reconciliation difficult. She neither requests a mediator nor supports her family's proposals for a compromise solution. She just wants to get rid of her husband. As one woman told me, 'We file a case of *nafaqa*; after a while, we supplement the *nafaqa* case with another one, that of *tafrīq* (divorce) for not paying the *nafaqa*.' In such cases, the *qāḍī* plays a considerable role in settling the dispute. The couple would be divorced in exchange for *ibrā'* (freeing the man from any financial burden) on the woman's part. The consequence is that she surrenders all her financial rights in exchange for her 'freedom'.

The failure to pay maintenance can be used by women as a ground for divorce; this is important because the Islamic family law makes it difficult to provide the proof needed for divorce on grounds related to conflict (*nizā' wa-šiqāq*). I witnessed a case of a woman from a wealthy and prominent Gaza family, who sued her husband for maintenance. Clearly, she did not need the money. Her real objective was to get a divorce on the grounds that her husband was not paying her the maintenance. The husband in response proposed to pay an amount that was equivalent to the monthly wage of his domestic servant. The humiliation of being offered maintenance equivalent to a housemaid's wage deepened the woman's anger and strengthened her feeling that her husband considered her to be no more than a servant. To support her case in court, she and her family produced witnesses who testified that she needed higher *nafaqa* and that the husband was capable of paying a higher amount. After a long process of negotiation and manipulation, which involved networking on the socio-economic level as well as on the political one, the man had no choice but to divorce her.

Nafaqa to live in a separate house

The prevailing family structure in Gaza is still one of an extended family living together until the newly married son is able to build a house of his own. For poor families, whether they are living in the camps or in the old city of Gaza, the practice for married women is to live in the house of the husband's family. In the last few decades, another arrangement came into existence: the main residence is on the ground floor and the sons' apartments are built on the upper floors. Married daughters are not entitled to such 'rights' due to the social attitude that they are not the holders of their family name; their husbands have the obligation to provide the apartments. The economic situation of the family plays an important role in defining the conditions of the new apartment. Pressure from brides' families to have their daughters live in a separate apartment has led to the majority of Gaza families pretending that they are providing a separate apartment while in reality it is nothing more than a separate bedroom on an upper floor, which is used by the couple only at night. Everyday activities continue to be carried out in the main house of the extended family. Such an arrangement (with the couple neither fully separated from the family nor fully a part of it) implies a transitional period in the couple's life.

The majority of familial conflicts arise from young couples having to live in the extended family house and having to come to terms with the rules and regulations set by the mother-in-law. This has a far-reaching social effect on the dynamics of the new couple's relations with the members of the extended family: it is hard for the newly married son to satisfy all the parties in the household. His mother is usually the dominant person in the household. The father – especially under the current economic hardships, and after the second Intifāḏa – does not work and thus depends on other members of the household for his daily expenses. The person who takes care of the household budgeting is the mother. She divides household tasks among her daughters-in-law and decides on a budget according to her priorities. Thus, she is even more powerful than her husband in the household.

When a conflict arises in the family, and when the wife's attempts to solve the problems fail, the common practice for her is to leave and go to her parents' house. The logic behind this practice is that she uses her family (and the action of leaving the husband's family house) as an additional power resource to renegotiate the terms of her marriage. When she leaves her husband's house in anger (*ḥardāna*), the husband is expected to attempt to console her within a short time and establish a new rule for conducting

their life. If the man does not (or does not want to) understand the message, the second resort of the wife (and her family) is to invite a mediator to intervene between the two. This mostly serves the interest of the wife, as she (and her family) are the ones who invite the mediator to intervene. If such mediation does not work, the last resort for the wife is to use the law.

The problems of this complex relationship are demonstrated in the case of Sumayya, a 20-year-old woman who had been married six months when I met her. She came to court for a *nafaqa* case. She told me,

My husband and his mother want to sell my gold in order to build me a house. This is what they claim, but I do not believe them. They want to use this excuse to take my gold, which is worth around JD 1700.⁶ My case involves two issues: I want to get my gold and clothes back and to live in a “real” separate house.

My husband and his family want me to serve as a slave in their house. They want me to do everything in the house, cook, clean, bake bread, do the laundry and wash dishes, everything for the whole family. I have one separate room on the second floor. I have to leave it at 6 a.m. to start my work in their house and I am not allowed to go upstairs until midnight when my husband comes back from his work. He is a karate trainer and also works as a taxi driver.

I lived happily with him for the first two months, but after that the problems began. His mother started telling him that I did not work well in the house, which made him angry with me. He started beating me. The last straw was when his brother tried to abuse me sexually. I did not tell my husband about it and tried to solve the problem by myself, but my brother-in-law continued his attempts. After several failed attempts from my side to convince my brother-in-law that it was an unacceptable behaviour, I told my husband and his mother. They did not believe me. They said that I was a bad woman and that I was making all this up. My husband beat me that night and took me to my family's house without my gold and clothes.

Sumayya had left the house twenty days previously. Now she was in court for the first time with her father to sue her husband for *nafaqa*. She did not know her rights and duties under the law, but she did know one thing: that she was entitled to a separate house. When I asked her what she wanted, she said, ‘I have many needs. Most urgently, I want my gold and my clothes back. But I will also fight for a ‘real’ separate house.’

6 1 JD (Jordanian Dinar) equals US \$1.6.

Sumayya's family are refugees and her husband's family are citizens of Gaza. She said citizens are stricter than the refugees are. They do not allow their daughters-in-law to leave their house for any reason. 'I used to go to see my family only two hours a week. And in these two hours, I did not want to cause them a headache, that is why I did not want to tell my family about his beating me.'

She said, 'I want to extend the case of *nafaqa* to become a claim for a separate house. I will make every effort to get a separate house, even if it is the house of obedience.' Her plan is to continue staying in her natal family house until her husband provides her with a 'real' separate house.

Another case of claiming a separate house involved a 19-year-old woman who had been married for 18 months when I talked with her. Her in-laws, especially her mother-in-law, treated her badly. She left their house and went to her parents' house when she was pregnant and immediately filed a case asking for costs of delivery and infant clothes (which are her rights according to the law). She won her case. Then she sued for *nafaqa* and won that, too. When I met her, her son was four months old (which means that she had lived for five months in her parents' house) and her husband had come to her family to negotiate. She told me,

My father told him that we were filing another case for *tawābi'* – for JD 3000.⁷ We are using this strategy because we want to make him realize that getting out of this marriage will cost him a lot. Today, his lawyer proposed that my husband would build two rooms above his family's house instead of paying me *tawābi'*. For me, this is quite a good deal, in fact this was my goal right from the beginning.

She explained her power resources to me. First, 'my husband is the only son in his family and they desperately want male children. I brought them the first one and I will continue providing them with offspring if they treat me well'. The second power resource is her family of origin:

My family is quite strong; we are the ones who found him a government job, and he knows that if he plays with us, my uncle, who works in the intelligence service, may put him in jail. He now recognizes the

7 *tawābi'* is the furniture of the bride, which is written into the marriage contract in the form of cash. When a conflict arises between husband and wife, the wife can claim this amount in addition to *nafaqa*. The filing of a case for *tawābi'* can be used successfully to create legal pressure to reach other objectives.

strength of my family. He will leave his family house and build me a separate apartment.

Nafaqa for sexual reasons

Women's utilisation of the law, and especially of the provision of *nafaqa*, for attaining sexual rights is rare; or perhaps such cases are rarely noticed, because on the one hand the wife does not overtly manifest her wants and needs in front of the court. On the other hand, the social taboo surrounding sexual issues does not allow women to make such demands. It is also rare for women to tell their families about the sexual shortcomings of their husbands, and thus to use the family as a power resource to get their rights.

In this regard, I identified three types of claims. First, a woman may claim her sexual rights under the banner of reproductive rights, i.e. the husband does not have the capability to father children, or he does not want to go to the doctor to cure a reproductive problem. The second type of case is when a woman does not love her husband; if, for any reason, a dispute erupts between them, the woman goes to court. This trend is seen among young couples. Young women in such cases do not allow their husband to sleep with them. They may also become violent towards their mothers-in-law. In some cases, women use the violence of their husbands to provide a space where their natal family can intervene. The third type of case is where the man's 'injustice' is clear; for example, when he has more than one wife and does not treat them equally in sexual terms. A woman whom I met in court told me she and her husband had led a tranquil and tender life until he married a second wife. He became more accustomed to staying with the second wife, eating with her, and sleeping in her room, leaving the first wife miserable. She left for her natal family home and sued for *nafaqa*. She asked the *qāḍī* to conduct the session in camera, after which she told him that she had just wanted to bring her husband to court and make him listen to the *qāḍī*, who spoke in the name of Islam. She said she did not want tangible *nafaqa*; rather, she wanted her husband to pay attention to her femininity and to treat her fairly. After listening to her, the *qāḍī* reminded the husband that Islam makes the right to more than one wife conditional on all the wives being treated justly and equally. A man who does not do so is violating Islamic principles. He advised the husband to sleep an equal number of nights with each wife. Then he turned to the wife: 'You, too, have to take care of yourself; dress well, and be clean when you go to bed with him, put the children to bed early and be alone with him.' The advice seemed to do good because the couple left the court relaxed with each other.

Nafaqa as a tool for revenge

Nafaqa can also be used by a wife for revenge against a husband who has not lived up to his promises. The following case illustrates this. At the age of 18 years, a woman now a female lawyer with a university degree married a farmer with high school education. She was a refugee from a peasant background while he was a Bedouin. Normally, marriage to a Bedouin would not be acceptable to a peasant, but when he asked for her hand he promised to accept all her family's conditions. One of these conditions was that he would allow her continue her legal studies and to work as a lawyer. The couple had no children over time and he accused her of being barren. Medical tests proved that there was nothing wrong with her and the doctor advised a test for her husband. However, the husband refused.

After a while, he married another woman, apparently to prove that he had the ability to procreate. However, the wife believes that he just wanted to protect his masculine image since he could not cope with the fact that she was more educated than he was.

I told him several times that we should not leave each other because of my higher education. But he continued to feel insecure. When he married the second one, he took all my house furniture and left me without anything. He wanted to take my gold, but I was clever and hid it with my mother. Now I am suing for *nafaqa*, not because I need it but because I want to take revenge on him.

Nafaqa to persuade a husband to take his wife back

The following case illustrates the use of *nafaqa* as a strategy to achieve yet another underlying agenda. The woman was divorced two years ago. She has two children. She and her mother blamed the divorce on the continual interference of the mother-in-law, who wanted her son to marry one of her sister's daughters. After the divorce, he did so. The ex-wife and her mother went to court to ask for an increase of the *nafaqa* of the children. However, the real reason for the case was that they hoped, while in court, to persuade him to re-marry his ex-wife. The mother said,

I used his visits to his children to soften his heart in order to persuade him to marry my daughter again. Even if he has another wife, what does that mean? Co-wives do not eat each other. It is better for my daughter to go back to her ex-husband than to live the miserable life of a divorced woman. Her brothers do not allow her to leave the house,

she does not visit her friends, and people stopped interacting with her as before. Also, who would marry her? It is likely to be a man with another wife, very old, or a widowed man with many children. So it is better for her to go back to her ex-husband and serve him and her children than to go to a worse marriage. Yes, I am deeply sad because when they kicked out my daughter, they took her clothes and gold and used it for their son's second marriage. But all that can be repaired if he marries her again.

Nafaqa to change a husband's behaviour

Some women use the *nafaqa* as a way of applying pressure to get a husband to change his behaviour towards them. This is illustrated in the case of a Palestinian woman who returned to Gaza at the age of 27 after having lived in Cairo for a number of years during which she got married, had two children, and then divorced. She brought her children with her to Gaza. After she returned from Cairo, she lived with her brothers, who were very strict. She was not allowed to visit friends or go out of the house except to work (she works in a government institution).

As a divorcee with children, in spite of being young and beautiful, her prospects of marriage were slim. When a married man with six children proposed marriage to her, she saw it as an escape and accepted even though he was twenty years older than her. She told me,

I did not want to marry a married man, especially with the difference in age and his big number of children. But I was caught between living a miserable life under the unbearable control of my brothers and accepting this marriage as an escape. I agreed to marry him on one condition, that I would continue working in order to pay the expenses of my children who live with my mother. He accepted that. After the marriage, he started bargaining with me over my salary; he wanted me to pay the rent of the apartment and to pay all the household expenses. I refused because I wanted to continue paying my children's expenses. I told him, 'You spend one night with me and another one with your previous wife, so you have to pay me expenses for fifteen days, and I can take care of myself for the rest of the month.' I told him that I would even pay half the rent. He refused, so I left the house to my family's place to find a solution.

Now I have sued him for *nafaqa*. In response, he has filed a case of house of obedience. My lawyer says that he cannot take me to the house

of obedience unless he pays me the *tawābi'* and *nafaqa*. I do not want to leave him because I do not want to go back to live with my conservative brothers. But by taking this step, I want to set new rules for our relationship. I want to find better foundations that do not affect my children. At the same time, I want to live free of my brothers' pressure.

Conclusion

How do women manoeuvre to solve their familial problems? How do they choose between very limited options? And how do they transform the law from an instrument of oppression into a tool for empowerment? I hope the above cases have demonstrated the multiple realities of Palestinian women and their innovative use of the *Šarī'a* court.

The cases show how women effectively use their available power resources and adopt various strategies, such as enrolling others in their projects (LONG 2001) or manipulating the law to serve objectives that are far beyond its intentions.

These cases may demonstrate a general trend of how women use their power resources. They first rely on their own personal power resources, such as being employed in the labour market and thus having a stronger say in the family; having/not having male offspring; or being a relative of/unrelated to the husband's family. The next step is bringing the natal family to the negotiation table. Here, the daughter may receive support from her father, brothers or other male members of her natal family. If these power resources do not counter-balance the power of the husband and his family, a (male) mediator is selected to intervene. These are the most common and preferable routes and steps for women to resolve familial conflicts.

Going to the courts is not an easy choice to make for a woman or her family because of the negative connotations attached to intervention by public institutions in familial (private) conflicts. It is still considered shameful for families to use formal institutions, whether they be the courts, the police, or any other 'outside' institution. Therefore, when women appear in court, they are often accompanied by their relatives, which implies that the decision to approach the court is likely to have been taken collectively by the family. This can be read in two ways. From one perspective, women appear to be powerless, unable to act on their own, despite the rights assigned to them by Islamic family law. However, a close look reveals another reality: women thoroughly exploit their relationship with their natal family and enrol its members to solve their marital problems.

As mentioned earlier, the power structure of the family law is based on a strict equation of rights and duties. Women have the right to be looked after; and in response, they have to be obedient. This equation is meant to maintain the firm gender power distribution in the family, and as such, it essentially does not serve women's interests per se, but rather perceives their interests as part of the larger welfare of the family. Yet, women continuously and effectively use the provision of *nafaqa* to meet their demands and to secure their interests. Often, when women find one provision too limiting, they embrace others, as we have seen above. The important question thus is not only how women use the *nafaqa*, but also at which moment women decide to use it.

The women's oppressive framework exists, and it is within this structure that they negotiate their demands; but they operate, manipulate and exploit areas of indeterminacy, ambiguity or uncertainty. They often search for these gaps at certain junctures of their lives to meet their needs. Women are aware of the significance of their context. At certain moments, they may decide to abandon particular interests because they feel that they may lose gains that are more important; they do so with full consciousness of their actions. The main point here is that they perceive the law and the provision of *nafaqa* as instruments available to be used when needed.

Thus, within the existing power framework, women find the provision of *nafaqa* a useful tool for empowerment. Whether the family law reform is based on *Šarī'a* or principles of *Šarī'a* or international human rights conventions does not matter to them as much as their ability to use *Šarī'a* or principles of *Šarī'a* or international human rights conventions to increase their manoeuvring space.

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