

## The Husband's Alienation From His Family: Legal Rulings And Regulated Guidelines (A Pursuit Of Livelihood, Exposure To A New Environment, Support For The Family Budget, And Side Health Effects Resulting From Alienation)

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### Research Summary:

*Many people travel across the land in pursuit of a livelihood and to provide sustenance for their families, especially after failing to find job opportunities in their homeland, village, or city. Consequently, they are compelled to leave their families behind, sometimes shortly after marriage, leaving their wives either with their families or in their homes. Communication remains ongoing for reassurance and transferring the necessary maintenance funds for the wife and children. This separation and distance entail some legal rulings and ethical etiquette, which are examined in this study.*

*The primary objectives of this research are as follows:*

- 1. To provide legal answers to the questions raised by husbands and wives regarding a number of rulings related to the husband's alienation and the issues connected to money transfers.*
- 2. To compile various dispersed legal rulings and regulatory guidelines related to this topic in a single place.*
- 3. To demonstrate the capacity of Islamic Sharia to offer suitable solutions to the emerging issues people face in their lives.*

*This study concludes with a number of findings and recommendations, which are presented at the end of the paper.*

**Keywords:** Alienation – Maintenance – Money Transfer – Marital Life.

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### INTRODUCTION:

The fundamental principle in the life of a married couple is that they live under one roof in the same country, such that the husband seeks sustenance during the day and returns in the evening to his family and children. It is his responsibility to work and strive outside the home, while the wife manages her domain—her household. In this way, complementarity between the two is achieved, and the entire family enjoys a sense of security through daily unity. The father is near, not distant, and his absence during the day is only temporary. Although modern means of communication have greatly bridged distances, there are times when the husband is compelled to be physically distant, either abroad or in another city. This has implications, particularly the absence of the guiding leader who steers the family closely. The wife may feel the burden of responsibility due to her husband's absence, and she may be emotionally affected by his physical remoteness. Furthermore, the children might be impacted in terms of upbringing as a result of their father's prolonged absence.

### RESEARCH PROBLEM AND QUESTIONS:

This study addresses two essential questions, the first of which is: What is meant by the husband's alienation from his family? From this central question, a set of subsidiary inquiries emerges, each of which relates to the topic under discussion.

### REASONS FOR CHOOSING THE TOPIC:

The reasons for selecting this topic can be summarized in two main points:

**First:** A strong desire to document and observe a number of rulings and regulations related to the husband's separation from his family, whether abroad or outside his hometown.

**Second:** The frequency of questions posed by husbands and wives regarding contemporary jurisprudential issues that have arisen as a result of this separation and distance from the family.

### RESEARCH OBJECTIVES:

It can be stated that the primary objectives of this study are as follows:

1. To serve the research orientations of Najran University in the field of contemporary jurisprudential issues related to marital life and personal status.
2. To contribute through this study to disseminating the rulings and regulations related to the husband's separation from his family.
3. To compile the dispersed issues pertaining to this topic into a single reference.
4. To demonstrate the ability of Islamic Sharia to address people's problems in light of its established legal principles.

### PREVIOUS STUDIES:

After thorough investigation by the researcher and within the scope of the available sources, he found scattered pieces of articles related to the topic, along with various fatwas. However, these do not reach the level or depth of content covered in this study.

### RESEARCH METHODOLOGY:

The nature of this study required the adoption of an **inductive-analytical approach**, based on identifying the regulations and rulings related to a husband's separation from his family.

### STRUCTURE AND PROCEDURES OF THE STUDY:

The study consists of a preliminary introduction, three main sections, a conclusion, recommendations, and an index of sources and references, as follows:

- **Introduction:** It presents a summary of the research idea, the significance of the topic, its problems and questions, the reasons for its selection, the objectives, the previous studies, the methodology, and the outline of the research.
- **Section One:** Clarification of the key terms in the title of the study.
- **Section Two:** The different situations of a husband's separation from his family and the related rulings.
- **Section Three:** Jurisprudential regulations related to the topic.
- **Conclusion:** It includes the main findings of the study and its recommendations.
- **Index of topics.**
- **Index of Sources and References.**

### SECTION ONE: EXPLANATION OF THE TERMS IN THE TITLE

The proposed title of this research is: "The Husband's Alienation from His Family: Legal Rulings and Regulated Guidelines (A Pursuit of Livelihood, Exposure to a New Environment, Support for the Family Budget, and Side Health Effects Due to Alienation)". This necessitates clarification of the terms that make up this title:

1. **Alienation (al-ighṭirāb):** A verbal noun on the pattern of ifṭi'āl, derived from the triliteral root verb (gh-r-b), similar in meaning to tagharrub. The lexical root of this verb,

as found in the Arabic dictionaries, revolves around the notions of departure, distancing, separating from people, and emigration from one's homeland. One says: *rajuḷ gharīb* (a foreign man) and *imra'a gharibah* (a foreign woman), referring to a man or woman who is far from their native land.[10][11][2]

2. **The Husband (az-zawj):** Every man who is legally connected to a woman through a valid and recognized marriage contract. He is referred to as *al-ba'l* (the husband) and *al-ḥalīl* (the intimate partner).[5] This does not imply that alienation is restricted to married men only; rather, bachelors from all social categories also fall under the description of alienation.
3. **The Family (al-usrah):** Originally denoting the closest group of people around a man by whom he is strengthened.[2] In common usage, it includes parents, wife, children, brothers, sisters, and similar relatives. The level of the impact of alienation varies for the expatriate and these members according to the degree of kinship and closeness.
4. **Livelihood (ar-rizq):** What God has decreed for a person in the Preserved Tablet in terms of food, drink, and wealth. Pursuing it is obligatory, while its amount is precisely determined by divine decree. What is meant by the alienation of the expatriate is the pursuit of livelihood, often referred to as *istirzāq* (seeking sustenance). It is said: "A man seeks sustenance when he strives for the means of living". It is also stated: "Travel is one of the means of subsistence, upon which life is sustained and through which its order is maintained".[8]
5. **Other expressions in the title** are clear in meaning and evident in their indications.

## SECTION TWO: THE CONDITIONS OF THE HUSBAND'S ALIENATION FROM HIS FAMILY AND THEIR LEGAL RULINGS

The default in a person's work is that it should be within his homeland and country, so that he remains close to his family, relatives, and children. This has been a long-standing human custom on Earth. Such closeness yields many benefits, the greatest of which are tranquility and serenity, resulting from one's presence in his homeland and proximity to his kin and community. In contrast, alienation causes sadness of the heart and fatigue of the soul. Many expatriates have experienced psychological disturbances and suffered from various physical ailments.

Several conditions are associated with a person's alienation, and each condition corresponds to one of the five legal rulings in Islamic law, as follows:

### FIRST: RECOMMENDATION (ISTIḤBĀB):

This applies when a person leaves his homeland and family due to the lack of employment opportunities therein, and his alienation occurs in a land of Islam where he can freely perform the rituals of Islam. He also finds an income sufficient to support himself and to remit the obligatory financial support to those under his care in his homeland. This is regarded as striving upon the earth in pursuit of lawful sustenance.

#### Allah the Almighty says:

"It is He who made the earth manageable for you—so traverse its regions and eat of His provision". [Al-Mulk: 15]

Walking through the regions of the earth is not merely casual movement, but rather it refers to deliberate striving—whether in one's locality or through travel—for the purpose of seeking sustenance that has been decreed for the seeker.

Al-Qassāb al-Shāfi'ī alluded to this meaning and clarified that the Noble Verse is: "a proof for striving and exerting effort in pursuit of sustenance, and seeking it through means of livelihood both during travel and residence, due to the unanimous agreement of all Muslims that it is not obligatory upon one who is seated to rise and walk throughout the regions of the earth. Hence, walking throughout its regions and eating of His provision—God willing—can only be understood in this manner". [16]

Financial support (nafaqa) does not lapse for the expatriate husband with respect to those upon whom he is obligated to provide, such as his parents, wife, and children. The basic ruling affirms that this financial obligation remains binding, and it is not nullified due to alienation. While in exile, he must seek lawful means to transfer the required funds, either through bank remittances, a *saftaja* (a financial instrument similar to a bill of exchange), or by entrusting a reliable traveler returning to the homeland with the agreed-upon amount, ensuring the exact value is properly documented in a written agreement signed by both parties along with one or two witnesses attesting to the handover.

This is in order to avoid the frequent occurrence of breach of trust by those who have lived in foreign lands. Another permissible method is to deliver the amount to a fellow expatriate in the same foreign country in the local currency, while an associate in the homeland delivers an equivalent amount to the family in domestic currency. This ensures simultaneous exchange, preventing discrepancies in currency value and avoiding the risk of falling into usury (*ribā*).

Jurists have affirmed that financial maintenance (nafaqa) is incumbent upon the husband in exchange for his ability to engage in marital intimacy [3][6][13][12]. Even if the husband is currently unable to consummate that intimacy due to his absence, the obligation of nafaqa toward the wife does not lapse. The determining factor lies in his ability to access intimacy; for if he were to return home, the matter would be easily facilitated without hindrance. Moreover, the wife does not deny him intimacy when he returns from travel and desires marital relations.

## **SECOND: OBLIGATION**

This occurs when a person does not find an income in his homeland or country to sustain himself and his family, and this can only be achieved by migrating to a Muslim country. The legal scholars have stipulated that what is necessary to fulfill an obligation is itself obligatory [9]. Financial support (nafqa) is obligatory and can only be fulfilled through migration where work is found that yields income.

## **THIRD: PROHIBITION:**

Migration carries the characteristic of prohibition in cases including:

### **1. WHEN A PERSON MIGRATES FROM HIS HOMELAND AND FAMILY TO NEGLECT RESPONSIBILITY AND EVADE IT:**

This occurs with many migrants who see it as an opportunity to evade their duty of support towards their family, neglecting financial support, and ceasing communication with the family. Their absence may become prolonged to the extent that wives suffer due to the length of their absence. Jurists classify such conduct of the migrant under the rulings of the missing person whose fate is unknown; neither his life nor death is known [4]. Several rulings relate to this, including the wife's right to file for divorce if the husband's disappearance exceeds four years [15].

## **2. That one migrates from his homeland intending to reside in the land of disbelievers (Dār al-Kuffār) without a compelling necessity:**

This is due to the consensus (ijmāʿ) of the jurists on the impermissibility of residing among disbelievers in their lands, and the obligation of hijrah (migration) and departure from them to the abode of Islam (Dār al-Islām). Allah, the Exalted, said:

“Indeed, those whom the angels take in death while wronging themselves – they say, ‘In what [condition] were you?’ They say, ‘We were oppressed in the land.’ They (the angels) say, ‘Was not the earth of Allah spacious [enough] for you to emigrate therein?’ For those, their refuge is Hell – and evil it is as a destination”. [Sūrat al-Nisā’: 97]

Ibn Kathīr said: “This noble verse is general for everyone who resides among the polytheists (mushrikīn) while being able to perform hijrah and is not capable of establishing his religion; such a person is wronging himself and committing a prohibited act (ḥarām) by consensus, and based on the text of this verse”. [7]

## **3. That his estrangement results in the loss of his religion:**

In such a case, this estrangement becomes a source of misfortune upon him, and there is no good in it. This is because preserving the religion (ḥifẓ al-dīn) takes precedence over preserving wealth (ḥifẓ al-māl). So, if his estrangement brings him wealth, it is a worldly benefit (maṣlaḥah dunyawīyah) at the expense of losing his religion—and the loss of religion is a pure evil (mafsadah maḥḍah). Scholars of legal maxims (‘ulamā’ al-qawāʿid) have established that:

“Repelling harms (dar’ al-mafāsīd) takes precedence over procuring benefits (jalb al-maṣāliḥ)”. [1]

### **Fourth: Dislike (Karahah)**

This applies in the case of estrangement (ghurba) whereby the estranged person earns an income lower than what he would obtain in his homeland. In such a case, his estrangement is deemed makrūh (disliked) and meaningless, for he has forfeited an increased income he could have secured while remaining in his homeland, stable among his family, without suffering the pains of estrangement. Rather, such conduct may be considered foolishness unbefitting a serious Muslim.

It should also be noted what estranged individuals endure in terms of deterioration in both their psychological and physical health, which generally affirms the karāḥah (dislike) of estrangement, especially when the income is equal in both settings.

### **Fifth: Permissibility (Ibāḥah)**

This applies in situations not falling under the previously mentioned categories—for instance, when the estranged person finds a salary equal to that in his homeland and in the land of estrangement. In such a case, it is permissible (mubāḥ) for him to work either in his homeland or elsewhere. And al-mubāḥ in the terminology of the scholars of Uṣūl is: “That in which there is a choice between action and abandonment”. [14].

## **Section Three: Related Jurisprudential Principles**

A set of jurisprudential maxims (qawāʿid fiqhiyyah) may be identified in relation to a man's estrangement (ghurba) from his family, as follows:

1. Every estrangement from the homeland to the lands of disbelievers (diyār al-kuffār) constitutes a probable cause (maẓīnnah) for the loss of one's religion (ḍiyāʿ al-dīn).

2. Every individual working in his homeland while utilizing his talents therein will be granted physical and psychological health in a manner that he may not attain in the land of estrangement.
3. The obligation of spousal maintenance (nafaqah zawjiyyah) does not lapse, whether in residence or travel, if the husband is capable of sexual access (istimtā'), whether presently (ḥālān) or potentially (mā'alan).
4. Every wealth whose source is unlawful or dubious activity is deprived of blessing (al-barakah marfū'ah minhu).
5. Every estrangement that leads to the destruction of the estranged individual's religious commitment necessitates its abandonment and a return to the homeland.

#### RESEARCH FINDINGS:

1. Estrangement (al-ghurba) revolves in meaning around physical separation from the native homeland, and it has numerous psychological effects that may result in physical illnesses.
2. The default is to work within one's homeland, while estrangement is an emergent necessity justified by specific causes.
3. Among the justifiable reasons for estrangement from a legal (shar'ī) standpoint is the inability to secure employment within the homeland, and the Sharī'ah encourages traversing the land, both in residence and travel, in pursuit of sustenance (rizq).
4. The estrangement of a person is governed by the five legal rulings (al-aḥkām al-shar'īyyah al-khamsah), namely:

**First: Recommendation (al-istiḥbāb)** – This applies when a person estranges himself from his homeland and family due to the inability to find work therein, and his estrangement is in a land of Islam (dār al-Islām) where he can perform the rituals of Islam and finds income sufficient to meet his essential needs.

**Second: Obligation (al-wujūb)** – This occurs when one is unable to secure sustenance for himself and his family within his homeland, and such sustenance can only be obtained through estrangement in a Muslim land.

**Third: Prohibition (al-taḥrīm)** – This applies when one estranges himself from his homeland and family with the intent of abandoning responsibility and evading it; or when he intends to reside in the land of disbelievers (dār al-kuffār) without compelling necessity; or when his estrangement results in the loss of his religion.

**Fourth: Dislike (al-karāḥah)** – This is the case when the estranged individual receives less income abroad than he would in his homeland.

**Fifth: Permissibility (al-ibāḥah)** – This applies in cases other than the ones mentioned above, such as when the estranged individual receives an equal salary whether he remains in the homeland or resides in the land of estrangement

#### RESEARCH RECOMMENDATIONS:

1. The principle: Maintenance (nafaqah) in exchange for enjoyment (istimtā') – a jurisprudential and maqāṣid-based study.
2. Documentation of financial transactions among expatriates – legal rulings and observed etiquettes.
3. The transfer of funds by expatriates – rulings and regulatory guidelines.

4. The absence of the expatriate and the related legal rulings.

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