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### RESEARCH ARTICLE

#### RIGHT OF CHILDREN TO MAINTENANCE.3

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#### Abstract

The United Nations being a humanitarian organization demonstrates its love and care for children by observing Children's day in October each year. It is also the day of the declaration of the rights of children. Islam however, had drawn attention towards children's affairs over fourteen hundred years ago. Even before a child is born, its rights are given to it by Islam. At several places in the Quran and Sunnah, Allah and his Prophet (Peace Be Upon Him) have talked and acted lovingly towards the children, it thus leaves no possibility of Islam not paying particular attention to clearly charting out the rights of children. The following article brings out references from the Quran and Sunnah to highlight these very rights and collects them in one script of writing.

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#### Introduction:-

The United Nations demonstrates its care and love for children by observing Children's Day in October each year; it is also the day of the declaration of the rights of children.

On its part, Islam had aroused attention to children's affairs over fourteen hundred years ago. Even before the child is born, its right are given to it by Islam.

Islam draws the picture of childhood as a lovely world with happiness, beauty, dreams, love and amazing experiences. The verses of the Qur'an disclose Allah's love for children, for instance:

لَا أَقْسِمُ بِهَذَا الْبَلَدِ وَأَنْتَ حِلٌّ بِهَذَا الْبَلَدِ وَالْوَالِدِ وَمَا وُلِدَ.

“I swear by this city. And you are a dweller in this city. And by the begetter and that which he begets” (90:1-3)  
 (The Urdu has..... by the parents and the child.) Children are mentioned as glad tidings.

يُزَكِّرِيَا إِنَّا نُبَشِّرُكَ بِغُلَامٍ اسْمُهُ يَحْيَىٰ.

“O Zakariyya! We give you the glad tidings of a son, whose name is Yahya.” (19:7)

**They are described as joy to the eyes:**

رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ.

“Our Lord! Grant us coolness of eyes from our wives and our offspring”. (25:74)

**They are ornaments of the world's life**

الْمَالُ وَالْبَنُونَ زِينَةُ الْحَيَاةِ الدُّنْيَا.

“Wealth and sons are an adornment of the life of this world”. (18:46)

**Allah's Messenger □ presented a child before us as if it was paradise. He said:**

الاطفال دعاميص الجنة.

**Children are butterflies of Paradise:-**

The Prophet ﷺ also said "If infants were not fed mother's milk, old people did not bow down in worship and animals did not graze in the open fields then surely you would be seized with a severe chastisement."

He was delivering the sermon one Friday when Sayyidi-na Hasan and Husayn (may Allah be pleased with them), his two grandsons came running towards him — now stumbling, now checking them- self! — He paused and descended from the pulpit and lovingly picked them up. Returning to the pulpit, he continued his sermon, saying, "O people! Your wealth and your children are mean of your madness. I saw my two children fall and stumble as they scampered to me and could not restrain myself, so got down and carried them in my arms." (1)

He crawled on all fours once having placed Sayyidina Hasan (may Allah be pleased with him) on this back. Someone remarked, "Son, you are riding the best of transport." The Prophet ﷺ remarked, "The rider too is the best of riders!" (2)

If, during the salah he led, he heard a child weep, he would shorten the salah. He would remark, "I do not like to cause distress to its mother."

As he was passing by Sayyidah Fatimah's (may Allah be pleased with her) house one day, he heard Sayyidina Husayn (may Allah be pleased with him), crying. He was moved on hearing him cry, so went into the house and reprimanded Sayyidah Fatimah ﷺ: "Do you not know that I am pained when he weeps?"

**He stressed the importance of teaching and training children, saying:-**

لأن يؤدب الرجل ولده خير من ان يتصدق بصناع.

"A man's training his child is better than giving a sa' in charity."(3)

**The Prophet & said:**

ما نحل والد ولدا من نحل افضل من ادب حسن.

"No father has given his children anything better than good manners" (4)

A child will be brought up according to the training the head of the family imports to him. Training a child is to groom him practically on how to live his life and to learn this in the household atmosphere.

**Someone has said very rightly:**

إذا كان رب البيت بالطبل ضاربا فلا تلم الا اولاد على الرقص.

"When the Lord of the house beats the drum then blame not the children if they dance." (5)

We must act as we want our children to do because their hearts are like mirrors that reflect our actions. (6)

ينسأه اذ قلبه كالجوهـر الصافـى  
فسوف يأتى به من حفظه وافى

والطفـل يحفظ ما يلقى اليه ولا  
فانقش على قلبه ما شنت من خير

**If a father does not train his children well then they cannot be trained all their lives. Sayyidina Umar Ibn Khattab (may Allah be pleased with him) said:**

من لم يؤدونه الشرع الا ادبه الله.

"If anyone does not train the child according to Shari'ah then Allah also does not train him". (7)

**Children's livelihood as outlined by the Qur'an:-**

In pre-Islamic days, it was common to kill children. Poverty and want drove men to eliminate their children. It is more commonly believed that people killed their daughters, but the truth is that they killed all their children because they could not feed them. The Qur'an forbid people to do this repulsive thing. It said in very clear terms:

وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ.

"And slay not your offspring for (fear of) poverty. We provide sustenance for you and for them". (6:151)

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِنَّ قَتْلَهُمْ كَانَ خِطْأً كَبِيرًا.

"And slay not your children for fear of poverty we provide for them and for you. Surely the slaying of them is a great sin"(17:31)

The Qur'an instructs man not to appropriate to himself the duty of apportioning to sustenance. Instead, he must behave as Allah's slave. He had been like that child, helpless but the Provider of sustenance fed him he grew up to the age when he considers his children a burden. He still gets his provision. Then why should he forget the Provider and present himself as one.

This also rejects the ideas of family planning. The propagators are worried about population growth, who kill children of other people that their own bellies should be full. They collect large sums of money from western, irreligious forces on the pretext of promoting family planning. They inspire fear of having to spend on children but put down the drain millions of rupees on advertisement in newspapers and television. They could instead spend this money on the poor people's children.

#### **Their falsification:-**

The promoters of family planning have made bold to distort verses of the Qura'n in their book, Islam mein bachchon ki nighaydasht sponsored the ladarah Itfal Aqwam Muttahidh, Pakistan. The writer has cited the verses 29 of an-Nisa; 151 of al-An'um, 32 of al-Ma'idah. He has presented only that piece of verse 151 of al-An'um as serves his purpose: *وَلَا تَقْتُلُوا أَوْلَادَكُمْ* (slay not your children). The words following it are a slap on the face of family planning *خَشِيَةَ إِمْلَاقٍ* (for — Fear of — porverty). The words following that are also dropped *نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ* (We provide sustenance for you and for them).

If they had not imitated the Jews and Christians in concealing the words of the Qur'an, they would have lost tens of thousands of dollars. Instead of a pat on the back, they would have faced the anger of their bosses. May Allah protect us! Aameen.

#### **Children's live hood as outlined by the Hadith:-**

Hadith is really a commentary and an explanation of the Qur'an. The Prophet ﷺ was asked once, "Which sin is the greatest?" He said: "That you ascribe partner to Allah although He has created you." The man asked, "What is the next great sin?" The Prophet ﷺ said:

*ان تقتل ولدك خشية ان ياكل معك.*

“That you kill your son for fear that he will share your food with you” (8)

So we see that right from the pre-Islamic days, people killed their children lest they become an economic burden. The Qur'an and Hadith state that people killed their children for food because the father is responsible for it and he shuns that responsibility and commits the crime of killing children.

#### **Mother's love lauded:-**

Allah has created love of children in His creatures so that they become active to raise them. In the field of maintenance, Allah has given excellence to offspring alike of men and animals that parents are made responsible for their feeding, and this carries on till they grow up. As they gain adulthood, parents let them earn their own livelihood; examples of this are seen in all creatures from birds to men. The Prophet is quoted in a Hadith:

*جعل الله الرحمة في مائة جزء فامسك عنده تسعة جزء، وانزل في الارض جزء واحد  
فمن ذلك الجزء يتراحم الخلق حتى ترفع فرس حافرها عن ولدها خشية ان تصيبه.*

“Allah has divided mercy into a hundred parts, but retained ninety-nine of them with himself. He has sent one on earth because of which the creatures show mercy to each other so that even the mare lifts up her hoof away from her young colt lest she should trample on it” (9)

"The Prophet ﷺ demonstrated this mercy to his Sahabah. Sayyidina Umar (may Allah be pleased with him), reported that some captives were brought to the Prophet ﷺ, a woman among them. Her breasts were full with milk which overflowed. She ran till she found a child among the captives. She picked it up and suckled it. The Prophet ﷺ said, "Do you suppose that she would throw her child in fire?" They replied. "No. As long as she can, she will not throw her child in the fire." He said, "Allah is more Merciful to His slaves than this woman is to her son. (10)

These Aha'dith show us how a mother loves her children instinctly.

#### **Equal division among offspring:-**

The Prophet ﷺ also taught us that we should not discriminate among our children causing distress to the deprived. All our children have equal rights. If we prefer one over the others, they will suffer from inferiority complex. Sayyidina Nu'man Ibn Baheer's (may Allah be pleased with him) father gave his son a slave as a gift and requested the Prophet ﷺ to bear witness for that. He asked him if he had given a similar gift to all his children to which he said that he had not. The Prophet ﷺ said to him, "Take back your gift." (11)

Some ulama' in their commentary on this Hadith have said that it is mustahab to show equality to all children. equality must be shown in the love bestowed on them, too. Sufyan Thawri رحمه الله عليه, said that in bestowing them,

too Sufyan Thawri رحمه الله عليه said that in bestowing gifts, sons and daughters are equal. They are not treated as inheritance but some maintain that, like inheritance, gifts will also be divided in the ratio 2:1 between sons and daughters, this is what imam Ahmad and Ishaq said.(12)

### Initial upbringing:-

For the first two years a new-born is fed mother's milk. Allah has given this command and the duties of parents in the Qur'an. He says:

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُبْتَغَى الرِّضَاعَةَ ۖ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۗ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۚ لَا تُضَارُّ وَالِدَةٌ بَوْلِدًا ۚ وَلَا يُؤَلَّفُ لَهُ يَوْمُهُ \* وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ ۚ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا ۚ وَإِنْ أَرَدْتُمْ أَنْ تُسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا اتَّيْتُمْ بِالْمَعْرُوفِ ۚ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

And mother shall suckle their children for two whole years, for one who desires that (he suckling be completed. It is upon the father to provide them their maintenance and clothing according to known fair manner. No one is burdened save to his capacity. A mother shall not be made to suffer on account of her child. Nor a father on account of his child. A similar duty to wean (the child) by mutual consent and consultation, there is no blame on them. And if you wish to have your children nursed, there is no blame on you provided you hand over according to known fair manner what you settled to offer (the fostering mother). And fear Allah, and know that Allah is seer of what you do.] (2:233)

### The commands in the verse for the newborn are:-

1. Mother should suckle their babies for up to two years, parents can stop that before this period.
2. If mother's milk is not enough then the parents may feed the child other milk or nourishment. The father will bear the expenses.
3. It is a grave sin to stop feeding the child mother's milk without any reason or out of stubbornness (with-in the period).
4. It is wajib for a mother to suckle her child without remuneration as long as she is married to its father or, if he has divorced her, as long as she observes the iddah. It is unlawful to claim wages from her husband while she gets maintenance from him.
5. Maintenance of the wife, or expenses towards the iddah, is wajib on the husband. If she is divorced and the period of waiting (iddah) is over and the child's suckling period is not yet over then the mother can demand a reasonable remuneration for suckling the child. If she feeds milk to the child without charging wages then it is better and there is a reward in that for it because it is an obligation on her as its mother.
6. The maximum period of suckling according to Shari'ah is two years. It is a sin to exceed that period without reason.
7. When there is an excuse that is exempted.
8. In exceptional cases when a child does not take other nourishment or there is risk of his becoming seriously ill, there is permission to feed milk for two and a half years. This is one report from Imam Abu Hanifah.
9. It is allowed if father and mother agree to wean their child before two years are over provided that is beneficial to the child, or, at least, it is not harmful to it.
10. If the child would suffer if he is weaned before two years are over.
11. All other expenses, besides milk, like medical treatment, etc. are the father's responsibility.
12. When the child's mother is divorced, the father's responsibility for the child does not cease with wages for milk but he is responsibility for all other expenses of the child.
13. According to sharp ah, the mother has the right to raise up the child after she is divorced.
14. A boy of seven years or a girl of nine years must remain in their mother's care. If their mother marries a stranger and he is not willing to raise her children then the maternal grandmother or great grandmother has the right to raise them.
15. If they are not there then the right lies with the paternal grandmother, then paternal aunt and then maternal aunt. But, mother's right is foremost. "A mother shall not be made to suffer on account of her child, nor a father.(13)

### The period of suckling:-

The authorities differ on the limit of suckling period. Most of them regard it as two years among them Abu' Hanifah رحمه الله عليه and Abu' Yusuf رحمه الله عليه. Imam Maalik رحمه الله عليه puts it at two years and two months, but many views are attributed to him including as much time after two years "as the child needs to accustom to another diet. (14)

Imam Abu Hanifah رحمه الله عليه puts it at two and a half years. Imam Jafar رحمه الله عليه holds that the total period of suckling is three years. (15)

**Most go by the command of Allah:-**

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ (آيت: ٢: ٢٣٣)

**Sayyidina Ibn Abbas (may Allah be pleased with him) reported:**

قال رسول الله صلى الله عليه وسلم لا رضاع الا ما كان في الحولين. (16)

**Imam Abu Hanifah رحمه الله عليه said about:-**

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ.

That it is not necessary that “حولين” stops suckling after that. He argues that “فان” in the following phrase فَاِنْ أَرَادَ فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا hints at the post-period of Hence, “حولين” this verse does not mean to limit the period of suckling but specifies that the maintenance of the woman who breast-feeds is wajib on the father for up to two years, not more than that.

**Many deduce from the following verse too:-**

وَحَمْلُهُ وَفِصَالُهُ ثَلَاثُونَ شَهْرًا.

“And the bearing of him and the weaning of him is thirty months” (45:15)

The minimum pregnancy period is six months, the remaining twenty-four months is of weaning. (17)

Imam Abu Hanifah رحمه الله عليه also bares his argument on this verse.

The outlier of Hidayah states that Allah has mentioned two things in this verse that pregnancy and weaning are over a period of thirty months.

كالا لاجل المضروب للدينين.

**However, there is a drawback against pregnancy period. Sayyidah Ayshah (may Allah be pleased with her) said:-**

لا يكون الحمل اكثر من سنتين قدر ما يتحول ظل المعزل. (18)

This means that the maximum period of pregnancy is two years.

**However, Mawlana Anwar Shah Kashmiri رحمه الله عليه said:**

وما اجاب به صاحب الهداية ههنا فهو ركيك جداً.

The saying of Sayyidah Ayshah (may Allah be pleased with her) necessitates abrogation of the verse which is not correct. Hence, the correct answer is what Allamah Nusfa has suggested, "The meaning of حمله is to carry in the arms." Thus, the verse implies that the period of suckling is thirty months which is also the time during which the infant is carried in the arms. If an objection is vaised that the verse 46:15 كرها ووضعته كرها clearly refers to carrying the child in the womb, so حمله وفساله would also refer to the same thing, then our contention is that the verse describes the different stages of hardship the mother undergoes for the sake of her child they are:

حملته امه كرهاى فى البطن (carrying it with hardship in her womb).

ووضعته كرها (and brings it forth with hardship).

وحمله على الايدى (and carries it in the arms)

وفصاله (and weans it).

However, there is no doubt that the majority opinion is preferable.

**Allamah Ibn Nujaym writes: (19)**

ولا يخفى قودة دليلهما.

**This is because the words:**

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ.

**Continues to the verse:**

لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ.

**Which indicate that there is no sucking once (two years are over. However, someone might put forth the words:**

فَاِنْ أَرَادَ فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا.

Indicate that weaning is subject to mutual constant after “حولين” so that if consent is not forthcoming suckling might carry on even after “حولين” (two years). The answer to this is that the consent is required within two years (to wean.). It is not needed thereafter when it is specified that breast-feeding will cease.(20)

**Maintenance of child after two years:-**

The father is responsible to arrange for the child's nourishment when he is able to subsist on that. Hence, he labours all day to earn that and at night lends a hand to the child's mother in looking after it and coaxing it to go to sleep. He wards off flies and mosquitoes from the child.

ويخشى عليه الثقل من وطاة الذر

and he even fears the ants on its account lest they bite the child. The father and mother say:

اكبادنا تمشى على الارض  
لامتنعت من الغمض

وانما اولادنا بيننا  
لو هبت الريح على بعضهم

(Our children. Our beloved walk on the earth among us. If the wind blows over any of them, my eye lashes will stop flickering.) (21)

This is a natural love that Allah has put into His creatures. The father is driven by those sentiments to see that his children have the best possible nutrition. However, that is not all. For, Islam has made it mandatory on the father to provide maintenance to his children who are minors. Allamah Ibn Nujaym رحمه الله عليه has written:

ولطفه اى تجب النفقة والسكنى والكسوة لولده الصغير الفقير.

“It is wajib on the father to provide maintenance to his minor and needy children” (22)

This maintenance is wajib for the father singly. No one else will share his responsibility for that. The Arabic word **طفل** (minor children) means a child from birth to end of adulthood. The qualification of **فقير** (poor) implies that if the child is rich then its maintenance is not wajib on its father, even if his property is a piece of land, sheets of cloth or drapery, etc. The father can sell those things and spend on the child. If both father and son are poor then according to Khassaf, the father will beg of people to meet the expenses of his child (ren). Or, the Bayt al-Maal is responsible for such people. (23)

It is stated in the marginal notes to al-Bahr-ur-Ra'iq by Allamah Ibn Aabidayn Shami رحمه الله عليه that the father will not compel his daughter to earn a livelihood. (24)

وَلَيْسَ لَهُ فِي الْأُنثَى دَالِكٌ.

And Ramli has said that if the girl can sew or spin yarn and earn therefrom then it is not wajib for the father to provide them maintenance on condition that they earn according to their need. If their earnings fall short of their needs then it is wajib on the father to make good the short fall. (25)

**Inheritance for children:-**

Sometimes, a man has good intentions in protecting his legacy for his children through a waqf, or endowment. However, very soon the family grows, there are more children and relatives. Supervisors and guardians then quarrel with each other. This intensifies into rivalry and enmity. Many Muslim countries have therefore, abolished family endowments. Allah alone knows what His slaves require and what is good for them. The shares of inheritance are defined and Shari'ah has taken upon itself the responsibility of its apportioning because the rightful should get his right and people might not go to the courts and antagonize each other after death in their family member.

**Allah, the Majestic, the Glorious has said:**

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ.

“Allah enjoins you concerning your children, for the male is the share equivalent of that of two females: but if there be more than two (or two) females only (and no male child) them for then are two thirds of what (the deceased) left, and if there be only one female child (and no male child), for her is the one half” (4:10)

**Orphaned grandson's share:-**

The family laws in our country have apportioned a share for an orphan from the legacy of his paternal grandfather. But, it is not reasonable that the right of other heirs is taken away to accommodate the orphan by force. This is altering the laws of Allah and His Prophet ﷺ. Rather, the options indicated by Allah and His Messenger ﷺ for the orphan must be observed. The laws of Shari'ah for maintenance must be enforced. To set aside a share for the orphan in the legacy of a paternal grandfather is not the solution of his problems because everyone does not leave behind a legacy when he dies. Also, it is not normally so abundant as to support an orphan. But, if the laws of maintenance are enforced then every helpless and poor orphan will have his difficulty removed. The Qur'an, the

Ahadith and the scholars have explained exhaustively the issues of maintenance. We present some here. A similar duty is upon the heir). (2:233)

وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ.

Thus, if a father dies then it is as wajib on the child's heirs to provide maintenance to his mother or wet-nurse during his suckling period. They are also responsible for the child's maintenance.(26) Imam Abu Bakr Jassas Razi (d. 370 A.M.) has written in explanation of this verse:

وعلى الوارث مثل ذلك: يعنى النفقة والكسوة وان لا يضاره اذا كانت المضارة قد تكون فى النفقة كما ذالك فى غير ما قال عطفاً على ذالك وعلى الوارث مثل ذالك كان ذالك موجباً على الوارث جميع المذكور وقد روى عن عمر وزيد بن ثابت والحسن وقبيصة بن ذؤيب وعطاء وقتادة فى قوله تعالى وعلى الوارث مثل ذالك، النفقة على الرجال والنساء على قدر موارثهم وهو قول اصحابنا.

“Feeding and clothing are the responsibilities of heir. He should not cause hardship to women which is through maintenance or otherwise. Since Allah has placed it on the heir then it is necessary for him to observe all that Sayyidina Umar □, Zayd Ibn Thabit □, Hasan □, Qabeesah Ibn Zuwayab عليه رحمة الله and Qatadah عليه رحمة الله explain the verse as speaking of maintenance. Zayd Ibn Thabit □, said that maintenance is wajib on men and women according to inheritance. This is what our (Hanafi) ulama' say. (27)

**Imam Fakhruddin Razi** رحمه الله عليه **has written in his Tafseer (exegetes):-**

المراد وارث الاب يجب عليه بعد موت الاب كل ما كان واجباً على الاب وهذا قول الحسن وقتادة وابى مسلم والقاضى.

“It means the heir of the orphan's father. All that was wajib on the father (in the favour of the orphan) will become wajib on him after the father's death. (28)

**Allamah Mahmood Aaloosi** رحمه الله عليه **has written:-**

والمراد بالوارث وارث الولد فانه يجب عليه مثل ماوجب على الاب من الرزق والكسوة بالمروف ان لم يكن للولد مال وهو التفسير الماثور عن عمرو ابن عباس وقتادة ومجاهد وعطاء وابراهيم والشعبى وعبدالله بن عتبة وخلق كثير.

“The heir refers to the child's heir because all that is wajib on him which is wajib on father. It is feeding and clothing according to law provided the child does not have his own wealth. The exegesis of this verse is known from Sayyidina Umar □, Ibn Abbas □, Qatadah عليه رحمة الله, Mujahid عليه رحمة الله, Ata عليه رحمة الله, Utbah عليه رحمة الله, and many other authorities”

**We learn of the following things from the verse and its exegesis by the scholars:-**

1. After the death of the father, the heirs will shoulder every responsibility concerning the orphan.
2. The heirs are bound to give the orphan a proper education and training.
3. It is wajib on his paternal grandfather, paternal uncle and elder brothers to give him maintenance for all his needs.
4. His needs for food, clothing and other essentials will be determined according to dictates of Shari'ah in every circumstance. (30)

**Maintenance of homeless children:-**

Those children who are heirless will be provided maintenance from the Bayt al-Maal. This is what was done also in the initial days of Islam with a child without father or a child found on the thoroughfare. It was brought to Sayyidina Umar □ who would allocate for it a hundred dirham and whatever was needed for its sustenance and other essentials. The child's guardian would collect its stipend every month while the Ameer ul Mumineen would go every year and examine the progress of the child. He would also give instructions for kind treatment to it. (31)

**The author ofai-Bahr has defined such a child thus:-**

هو فى الشريعة اسم الحى مولود طرحه اهله خوفاً من العيلة او فرار من تهمة الزينة مضية اثم ومحزره غانم.

“In Shari'ah, a laqeet is a living child whose people have abandoned it lest they have to raise it or from fear of being scandalized. Those who abandon it are sinners while those who protect it are sinners while those who protect it are worthy of reward” (32)

Such children are the responsibility of the state. This is also confirmed by Sayyidina Umar □ and Sayyidina Ali □ for the Laqeet is a Muslim who is unable to earn a livelihood and neither owns anything nor has relatives. His maintenance is from the state treasury.

ونفقته فى بيت المال، وهو المروى عن عمر وعلى ولاته مسلم عاجز عن الكسب، لا مال له ولا قرابة فاشبهه المقعد الذى لا مال ولا قرابة. (33)

“Though it is the responsibility of the state to pick up abandoned children, if anyone does it in his individual capacity then he will earn reward.

ندب التقاطه لما فيه من احبائه وهو من افضل الاعمال.

“It is commendable to pick up such children because their life depends on it. It is the best of deeds (to let someone live).” (34)

In this connection, the very well-known social worker who has devoted himself to service to humanity, Abdus Sattar Edhi performs praiseworthy Tasks. At the Same time as doing other tasks for the common people, he has made reasonable arrangements to bring up heirless, homeless children and to give them maintenance. Innumerable children have been saved from destruction through his efforts.

### References:-

1. Trimizi v2-p.218
2. Trimizi
3. Tirmizi v2, p.16 (Sa'is measure of weight.)
4. Ibid
5. Aaghi Qawaneen Shani'at ki Roshni may p.249
6. Jshoeh Mu'asharh aur Islam p.591
7. Jilam may bachchay ki nighehdasht, p.69
8. Bukhari, v2, p.886
9. Bukhari, v2, p.886
10. Bukhari, v2, p.887
11. Tirmizi, v1, p.253
12. Ibid
13. Islam may Awlad ki Tarbiyat aur es kay Huqooq, p.40-42. Mufti Abdus Salaam Chatgam, Islami Kutub Khana
14. Fath al-Qadeer v3, p.307
15. Ibid
16. Sunan Daraqutni v4, p.147
17. Fatah al-Qadeer, v3, p-308
18. Daraqutni, v3, p.322
19. Al-Bahr ur Ra'iq v3, p.223
20. Dars Tirmizi v3, p.45, Mufti Taqi Usmani, Maktaba Darul Uloom, Karachi
21. Islam awr Islaah Mu'asharah, p.562, Doctor Habibullah Mukhtar
22. Al-Bahr ur Rai'q v4, p.201
23. Al-Bahr ur Ra.iq v4, p.201
24. Ibid
25. Marjinal notes to Al-Bahr ur Rai'q, v4, p-201
26. Aaili Qawaneen Shariat ki Roshni may, p.108-10
27. Ahkam ul-Qur'an, v2, p.482
28. Tafseer Kabeer, v2, p.393
29. Rooh al-Ma'ani, v3, p.147
30. Aaili Qawaneen Shari'at ki Roshni may, p.114
31. Futooh al-Baladan, p.452
32. Al-Bahr ur-Ra'iq, v5, p.143
33. Ibid, v5, p.144
34. Ibid, v5, p.143