CHAPTER FIVE

WOMEN’S LIVES

All fiqh works have chapters devoted to marriage and divorce and, as we have seen, in essence cover the same topics even if the variety of different details sometimes results in different emphases and over time, in significant change. This is not the case when it comes to women’s lives in and outside their homes. Coverage of daily life is more uneven. There are topics not covered at all in some works, and often those that are discussed are scattered in different chapters. Material relevant to women as witnesses, for example, may be in a chapter on judgments and evidence, or in one on witnessing in general, or in the chapter on marriage as part of a discussion on whether and under what circumstances a strange man may see a woman’s face. The classical jurists studied in Chapter 4 have more to say about women’s lives than the jurists of the formative period, so in this chapter I rely mainly on classical texts to describe women’s lives and refer to material from the formative period only when it provides a background helpful for understanding what classical authors have said.

Women at Home

Maintenance

1. The Prophet said: “When a Muslim provides for his family, with regard to the Hereafter, it is counted as his having given alms.”
2. Mu‘awiya al-Qushayri said: “I asked the Messenger of God, ‘What does one of us owe his wife?’ He replied, ‘That you feed her what she eats, clothe her in what she wears, do not beat her face, do not censure her and do not keep apart from her, except in your home.’”
3. ʿA`isha said: “Hind bt. ʿUthba said to the Prophet, ‘Abū Sufyān is stingy. He does not give me enough for my son and me, unless

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2. Abū Dāwūd, Sunan, 3:127, Kitāb al-nikāh, no. 2143. In his commentary Ibn al-Jawziyya says that “except in your home” can mean either that a man should not shun his wife, or, that he should not turn her out of the house.
I take it secretly.' The Prophet said, 'Take what you and your son need, with fairness.'

Although the Qur’ān does not explicitly mention maintenance (nafaqa), it figured as part of Wāḥidī’s explanation for Qur’ān 4:128 (see Chapter 1 above). Wāḥidī said that according to ‘Ā’ishā, a woman who wishes to remain in her husband’s household and avoid being divorced, can offer to relieve him from providing her with maintenance. In Chapter 3, we saw disagreement about the circumstances in which a widow or a divorcee receives maintenance during her ‘idda, as well as disagreement about whether she receives lodging. In discussions about marriage rather than divorce, the notion of maintenance includes both food and clothing, as well as lodging. Once a couple are married, and a wife has been delivered into her husband’s care and is available for sexual intercourse, he is expected to maintain her. The first and second traditions above state that a husband owes his wife good treatment. The third says that a wife should be maintained “with fairness (bi’il-ma’rūf),” and all discussions of maintenance refer to “with fairness” regardless of whether they actually mention these instructions the Prophet gave Hind bt. ‘Utba.

To “feed her what she eats” and “clothe her in what she wears” are the two basic things a husband must provide to maintain his wife. What she eats and wears are generally agreed to vary depending on the status of the spouses and the time and place in which they live. Some say that the level at which a wife should be supported is based on her husband’s status, some say on hers, others on a combination of both of theirs. Different texts emphasize various aspects of domestic maintenance.

For the Ḥanafīs, Qudūrī says that a man must provide his wife with food, clothing and one maid if she is accustomed to having one. For lodging, he says that a wife must be lodged in a separate dwelling that does not include any of her husband’s relatives, unless she chooses otherwise. If her husband has a child by another wife, that child cannot be lodged with her. Qudūrī adds that a husband can forbid his wife’s parents and any children she may have from a previous marriage from

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3 Bukhārī, Sahīh, 3:427, Kitāb al-nafaqāt, no. 5364. For Hind bt. ‘Utba, mother of the first Umayyad Caliph, Mu’awiyya, see El, s.v. For variants on this tradition, see also Ibn Sa’d, Tabaqāt, s.v. “Hind bint ‘Utba,” 8:170–72.
4 See El, s.v. “Nafaka.”
5 However, a wife who has not received her marriage portion has the right to refuse to have intercourse with her husband and at the same time to receive maintenance.