الذّمة المالية للزوجة في الفقه الإسلامي وقانون الأحوال الشخصية الجزائري

إعـــداد

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المشرف

الأستاذ الدكتور محمود علي السرطاوي

قدّمت هذه الأطروحة استكمالاً لمتطلبات الحصول على درجة الدكتوراه في الفقه وأصوله

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ملخص

تحاول الباحثة في هذه الدراسة، بحث موضوع الذّمة المالية للزوجة في الفقه الإسلامي وقانون الأحوال الشخصية الجزائري، فحدّدت الفصل الأول لمفهوم الذمة في الفقه الإسلامي وقانون الأحوال الشخصية الجزائري، ونظرة الأمم والتشريعات القديمة والمعاصرة لذمّة الزوجة المالية.

أمّا الفصل الثاني فخصص لأثر العوارض على ذمة الزوجة المالية، ودرست فيه الباحثة أثر العوارض السماوية والمكتسبة على الذمّة وألحقت أثر كل عارض بمثال فقهي.

والفصل الثالث خصّصته الباحثة للعلاقة المالية بين الزوجين حيث بيّنت فيه علاقة الزوج بأموال زوجته وعلاقة الزوجة بأموال زوجها. وسلطت الضوء على موضوع شائك كثيراً ما يكون سبباً في زعزعة البيوت وانهدامها وهو عمل الزوجة وموقف الشّرع منه. ودخل الزوجة من عملها وصاحب الحقّ فيه.

أمّا الخاتمة فقد تضمّنت أهم نتائج البحث.

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THE FINANCIAL LIABILITY OF THE WIFE: A COMPARATIVE STUDY BETWEEN ISLAMIC JURIDICAL LAW AND ALGERIAN PERSONAL STATUS LAW

By

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ABSTRACT

Money in Islam is a key element in life. Allah says: money and sons are the Joy of life. Collecting and loving money is an innate instincts in mankind. Allah says: "you love money a lot". For these reasons, Islam has organized how earn and spend money to achieve equality between Muslims with respect to financial rights, both men and women are equal.

This was not the case before Islam. In Roman Civilization, for example, the husband was the owner of the wife's money. When the girl gets married, she signs an agreement with her husband called "domination agreement", where the husband dominates all wife's affaires. In the Greek civilization, women's contribution was at the minimum level women had no rights in heritage and she was order the authority of

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the husband who supervised all her financial matters and she had no right of managing her own money unless she has the approval of her husband.

In al-Jahilyya, women had no right in heritage, that is if she has escaped being buried a live. Women were considered one of the items being inherited. When Islam came, it gave both women and men equal financial rights and civil rights. And observer of the Islamic Jurisdictions can see that in the equality of liability and obligations given to both men and women. Islam had even separated between the financial auth of men and women.

In this research, the researcher attempts to clarify the financial obligations and rights of woman in Islam. The research also attempts to clarify how Islam separates between the financial auth of women from the financial auth of men.

The importance of this research lies in the fact that it addresses money as one of the key elements of life. The research also addresses the wife's financial liability, one of the overlooked topics by the different researchers. The main objective of this study was to investigate the status of the financial auth of wife's in Islam and to identify the wisdom, mercy and justice of Allah in this important topic.

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