



## The Development of Family Rights In Islam and Its Social Importance

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**Abstract:** The article describes the social importance of family rights development based on the Islamic religion in our country. It has been studied that new laws have been passed which are related to family matters and family relations.

**Keywords:** family, marriage, sharia, jurisprudence, law, constitution.

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### Introduction

The coordination of family rights to Sharia requirements is related to the spread of Islam in the lives and livelihoods of Asian peoples. It is known that the religion of Islam originated in the Arabian Peninsula in the 30s of the 7<sup>th</sup> century and slowly made its way to other countries through conquests. The spread of Islam to Movarounnahr began in the second half of the 7<sup>th</sup> century (674-675 years) and lasted over the years. According to some sources, this process was finished in the first half of the 7<sup>th</sup> century, but according to other scholars: V.V. Bartold said that the establishment of Islam occurred approximately in the middle of the 9<sup>th</sup> century.

### DISCUSSION

It must be noted that, with the spread of Islam in the region, rituals and holidays based on Islamic instructions were widely propagated among the local people based on the requirements of the Qur'an. Moreover, customs rituals, family holidays and relationships are adapted to Islamic rules. In the early years of the emergence of Islam, the legal norms of marriage, relations in the families, indeed relations between husband and wife, and also among children were determined based on the rules in the holy book of Islam - the Qur'an. However, the spread of Islam into the lives of different peoples and nations created the need to develop a set of laws covering socio-economic and religious activities in the countries where Islam was introduced. The Qur'an and the Sunnah are the basis for this. As a result, a religious legal system regulating the material and spiritual, social and personal life of Muslims was created.

Sharia's sects ("mazhabs") played an important role in the establishment and development of the Islamic legal system in the 7<sup>th</sup>-11<sup>th</sup> centuries. Hanifism, Malikism, Shafiism Hanbalism and Jafarism played a significant role in Sunnism and Shiism orders. They deal with matters of Sharia law.

Although complying with the requirements of sharia in governing began in the 8<sup>th</sup> century, statistics show that it was completed in the 11<sup>th</sup> and 12<sup>th</sup> centuries. It contains the family law norms and domestic life issues, rules of swearing, terms of waqf rules, as well as fasting, prayer, zakat, hajj and other requirements.

While the family is considered a relatively independent phenomenon as a social unity, it is determined as a socio-economic, religious and most importantly moral part in the historical development of society. In the historical process of getting married, the achievement of moral perfection was important and contributed to the development and strengthening of the family. This situation combined religious and universal moral norms.

Therefore, each society has established its own type of family and family relations. Scientific researches show that in the historical development of society, there was a suitable family structure for each period. First, in the stage of wildness, the group family, in the period of barbarism, the couple family, and in the period of civilization, monogamous (a family consisting of a couple) family relationship was formed.

Therefore, today's family and its legal norms are regulated in a certain way based on the evolution of a long historical period. In this regard, Abdurauf Fitrat stated: "Definitely, the happiness and honor of every nation depends on its internal discipline and harmony. Peace and harmony rely on the discipline of the families of this nation. Once the family relationship is based on strong discipline and order, the country and nation will be strong and organized. If the population of a country weakens family relations with immorality and ignorance, and allows indiscipline, then the happiness and life of this nation will be in doubt" [1, 6].

The President of the Republic of Uzbekistan Shavkat Mirziyoyev wrote about today's family: "Family is a place of love and happiness. As long as there is a family, there is a priceless gift that is called a child and there are human dignity and spirituality. Family happiness is the greatest happiness" [2, 229].

After independence, the Constitution of the Republic of Uzbekistan states that women have equal rights with men, that the family is the main link of society and that it is under the protection of society and the state... that the state creates social, economic, legal and other conditions for the full development of the family. Along with the approach, the work of women in strengthening the family and raising children, the requirements for the implementation of the privileges granted to them are guaranteed [3, 3-75].

At the same time, with the approach to the system of family law norms based on the Family Code of Uzbekistan, the Uzbek people, especially those who believe in the religion of Islam, continue to observe the family law norms of Sharia law until now.

Therefore, family relations based on sharia, which have passed the tests of history and have been verified by experience, have been passed from generation to generation and deeply rooted in people's consciousness and psychology. The idea that if one does not comply with this, the family will be damaged, and its strength will be broken, was a peculiar inner feeling for Muslims, and it remains so.

The introduction of Islam into the lives of the peoples of Central Asia and the introduction of Sharia laws had a strong impact on social life. The formation of family law norms based on Sharia requirements is a historical and social phenomenon, and the establishment of a family in the period of the emergence of Islam and earlier centuries was related to the regulation of women's and men's rights.

The introduction of Islam to Central Asia played a positive role in the social life of defining the rights of men and women in family relations, first on the basis of the Qur'an, and then on the basis of Sharia laws. Although women have some personal, civil, property and other rights, the rights of men in the family have remained higher. This situation became even more pressing in the later stages of the development of the society. In countries where Islam is widespread, especially in countries where Islam is the state religion, the Qur'an is recognized as a holy book. In all state affairs, social life, family life, marriage and family in determining the rights of citizens, the instructions of the Qur'an were to be followed. Acceptance of Islam by various nations and peoples, as a result of its wide spread as a world religion, the development of Sharia laws, which to a certain extent respond to the social, family, legal, property and other relations that occur in

the lives of all peoples who believe in it, began to be developed and for several centuries current sharia norms were formed.

Sharia law is based on the surah and verses of the Qur'an in formulating its norms and in solving and commenting on every legal issue. Therefore, the Qur'an was not limited to being considered the basis of Islamic religious teachings but also formed the basis of religious legislation. The instructions of the Qur'an are included in the list of requirements that are obligatory in Islamic law and are called "fard"<sup>1</sup>. Some legal norms, punishments, ownership, inheritance, family marriage and similar programs are brought into law in it, which has caused some orientalist to claim that the Qur'an is the legal code of Muslims. But such a conclusion has no sufficient basis. Because programs related to legal norms are one direction of the Qur'an, the majority of the verses in the remaining parts express the tenets, requirements of faith and religious prayers of Islam. When developing the Sharia, the jurists relied on the legal and other verses of the Qur'an: the verse that is relevant to an issue.

In this way, fiqh has become a standard for Muslims to perform moral and disciplinary rules in performing religious prayers, in mutual relations, in social life, in religious ceremonies, in social, personal and family life.

The formation of fiqh laws dates back to the period after the Chariyars Abu Bakr, Umar, Uthman, and Ali in the early days of the emergence of Islam. In the Islamic tradition, jurisprudence was considered the most prestigious among the theological teachings. Because it established the rules for performing religious prayers and rituals, rights and duties, and the rules of order in personal, social and political life. Also, by defining clearly many problems related to religious beliefs and prayers, financial, administrative and legal issues, it provided an opportunity to find a perfectly calculated answer to each problem within the framework of religion.

In this period, regardless of the development of jurisprudence and the elaboration of complex laws of the Sharia, there was no consensus among the jurists in the interpretation and implementation of these laws of the Sharia. In addition to the unique subjective views of each jurist, there was an objective reason for this, that is, there was also the issue of applying it to the concrete conditions of the life of each country and people.

As mentioned above, the system of religious jurisprudence, which played an important role in the Sharia, was created during the creation of Sharia law. From these, four schools of Sunnism, Abu Hanifa, Imam Malik, Ash-Shafi'i and Ibn Hanbal, were formed, and they still exist today. In the Shia direction, there was only one Al-Jaafari school of law.

Among these schools, the school that had the greatest influence on the formation of Sharia law was the "Hanafi school", founded by Abu Hanifa (696-767). He is famous in the Islamic world for having written several works, such as "al-fiqhul akbar", "al-Alim wa muta'allim", "Maskaf", "Ilm al-kalam" and "Muallim", in particular for contributing greatly to the formation of sharia laws which are considered the most authoritative on Sharia issues.

This is how Abu Hanifa defined his path in law. "I get solutions to legal issues from the Qur'an and the Sunnah of the Prophet. If I do not find it in them, I look for it in the words of the Companions. If it is not there, I do ijihad". Ulema's range of thinking was wide, he expressed worldly valuable opinions on legal issues among all issues. His teachings were continued by his students; including his ideas in the field of Islamic rights, which his students put in the form of books. Six such books belong to his student Imam al-Shaybani. These books are called methods.

Abu Hanifa came to the field with a madhhab that made a significant contribution to the formation of Sharia laws. This madhhab is the followers of Imam Azam madhhab in Iraq, Syria, India, Afghanistan, Central Asia, part of Volga Muslims, Muslims of the Caucasus, Turkey, Balkan countries and many Muslims in other Islamic world. In countries dominated by Islam, the jurisprudence of this sect was taught and is being taught in universities, served as a program for the work of judges, and still is.

<sup>1</sup> The jurists were the ones who ensured the jurisprudence, that is, the daily lifestyle of Muslims was in accordance with the Sharia.

The "Malikiya School" founded by Imam Malik ibn Anas (719-795) was of great historical importance in terms of adapting the norms of family law to the requirements of Sharia. "Risolutur-kadr", a treatise on judiciary created by the Malik school of law, has spread rapidly in Muslim law. Its norms regarding marriage and divorce are taken from the laws of Muslim countries. For example, the divorce norms described in articles 6-11 of the Egyptian government's law number 25 in 1922 are decided by Malik's fatwas. Also, articles 12, 13, 14 of this law regarding the husband who left his wife without alimony were resolved by Maliki's fatwa. In addition, Maliki's first poetic fatwas of the Madhhab opposed the laws of temporary marriage and temporary wives issued during the Abbasid period, and Maliki defended the rights of women. This school is mainly spread in Egypt and Syria, Lebanon, Saudi Arabia and the west of the Arab countries. In the formation of Sharia law, along with other social lifestyles of family law relations, the "Shafi'iyah school" founded by the third Idris Abu Abdullah al-Shafi'i (789-820) was established; the fourth, the "Hanbaliya school" founded by Ahmad Abu Abdullah ibn Hanbal (780-855), gained a certain historical significance.

Both of these schools of Shafi'i and Ibn Hanbal, like the imams before them, are based on the Qur'an, Sunnah, ijma' and qiyas in establishing the laws of Islamic Shari'a, including family law. Their difference from previous sects was that they made extensive use of hadiths in the development of each fatwa. That is why they are recognized as great muhaddiths in the Islamic world, apart from formulating fiqh laws.

As the 3rd source of Sharia after the Qur'an and hadiths, when a verse becomes ineffective in solving certain issues, a hadith has been interpreted, and scholars have unanimously ruled on it. It is called Ijma'. The fourth basis of Qiyas-Shariat was used as a source. There was a method of finding similar verses and hadiths in the Qur'an and Sunnah and making judgments based on them.

At the present time, supporters of the Shafi'i school are widespread in the Arabian Peninsula, Egypt, mainly in Sri Lanka and Indonesia. Although the Hanbali school is relatively rare, its adherents can be found in almost all Muslim countries, including Saudi Arabia and Egypt.

"Jafariya school" named after Ja'far al-Sadiq (700-765) is a religious and legal system of Islam in the Shiite direction. Shiite theology is based on belief in 12 imams. As a result, the 6th imam al-Sadiq of the Imami doctrine, which originated in them, was recognized as the founder of the Shiite jurisprudence system. If the founders of the 4 sects of Sunnism left several religious sources (books) as a result of their activities, the founders of Jafariya did not leave any works related to the religious-legal system. They also used the existing religious legal system in their own way.

Nevertheless, the Shia religious-legal system is still called Jafariya and is considered the 5th religious legal school in Islam, along with 4 schools of Sunnism. By the beginning of the 16th century, the Jafarian school became the dominant religious and legal system in Shia-oriented Muslim countries, especially in Iran.

Thus, this school of thought continues to have its influence among the Muslims of Iran, Iraq and other Shiite schools.

As a result of the analysis of the above opinions, we can come to the following conclusions: firstly, the founders of the 4 sects of Sunnism, with the participation of their students and supporters, deeply and comprehensively studied the sources of Islam; secondly, these religious traditions and fiqh rules in Sunnism were of great importance in the formation of family law norms; thirdly, in the past, and even now in some countries, Muslims' beliefs in one of these schools determine the legal norms. In addition, until recently, a group of legislators in Muslim countries used to reach a conclusion on the same issue by 4 religious judges; fourthly, the requirements for family law norms are perfectly developed in the Sharia, taking into account any circumstances, which Muslims have followed for centuries and are still following.

Thus, the formation of Sharia laws and their application to life, including the microenvironment such as the family, became an important stage in the historical development

of Muslim nations and states. On the basis of Sharia requirements, the legal norms of both men and women, family-building procedures have been created. According to the norms of family law, the traditions and rules that existed before Islam, contrary to the life and taste of the people, were abolished, and only Sharia rules were considered valid.

So, we can see that family law norms of Sharia have played a certain positive role in the life of Muslims, regardless of some limited aspects. Islam Karimov, the first President of Uzbekistan, said: "Let us not forget any period of our ancient history. Religion has always called people to self-govern, increase their good feelings, and get rid of their bad ones. In one word, to every individual, family, community, region, to the whole nation"[4, 54].

Indeed, in the history of human society, religions, including Islam, have played an important role in social and spiritual life. The Qur'an, which is considered the holy book of Islam, as well as the hadith, the requirements of the Sharia, were used as a program for the personal life of Muslims, building a family and social life. But worldly laws are not left out. In the history of the peoples of Central Asia, marriage is organized as the main institution of society through marriage established by Sharia law.

Sharia marriage is considered the most complex, colorful and, in turn, very delicate religious system that initiates the stage of family building between Muslim men and women. Islamic trends and legal sects, the method of marriage, although they do not differ much from each other in terms of their content, in terms of their organization, taking into account the demands and needs, they not only differ but complement each other to a certain extent. Therefore, the method of marriage reflected in Sharia norms has been completed taking into account all aspects. Even in later periods, many works were devoted to the issue of marriage by Islamic scholars based on the characteristics of the socio-economic development of the new era.

Sharia marriage is concluded between a man and a woman (girl) who have reached the age of maturity. Based on their mutual consent, it is determined whether there is an obstacle to Sharia requirements or not. In addition, two sane men or one man and two women testifying that they agree to the validity of conjugal rights and the acceptance and wishes of the parties creating a family are required for marriage. Such a marriage is called a Sharia marriage[5, 15].

Determining the age of majority, which is one of the important conditions for marriage, has always been a problem of our people's attention. This issue has been defined differently in different countries at different times. For example, according to Article 15 of the Family Code of the Republic of Uzbekistan, mutual consent of the spouses and their reaching marriageable age are required to enter into marriage. The age of marriage is set at 18 for both men and women. At the same time, when there are good reasons, in special cases, the age of marriage can be reduced by a maximum of one year.

Determining the age of marriage in this order is typical for most developed countries. But in countries where Islam is widespread, in countries based on Sharia laws, the marriage age is 12 years for boys and 9 years for girls. However, this condition is characterized by a relative nature of menstruation and menstruation in girls. Consequently, each boy and girl was approached individually when determining their age at the time of marriage. This setting of the marriageable age is not only characteristic of Muslim countries but also a feature of many other developed countries. For example, in Byzantium, where Christianity reigned, marriage was allowed for boys at the age of 12 and for girls at the age of 10. In France, in the 11th-13th centuries, the possibility of marriage for girls at the age of 12 and for boys at the age of 14 was reflected in the state law. It can be seen that in the development of the history of peoples and nations, the problem of determining the age of marriage and starting a family has always been at the center of people's attention. The general situation in this process is that, despite the presence of different religions in the history of nations (Islam, Christianity, Buddhism), marriage is allowed from a very young age in all nations, except for the difference of only 1-2 years in determining the age of marriage. Of course, we must admit that it is important for social life to a certain extent and has more negative consequences.

## RESULTS

The result of our research shows that, in practical life, in the life experience of the peoples of Central Asia, the marriage of girls is not at the age of 9, as specified in the Sharia, but in practice, in most Muslim families, it is 12-14 years old. Similarly, the age of boys is slightly different from that of girls. In general, the fact that boys and girls reach the age of maturity in the process of starting a family, and the fact that it is implemented, has not always yielded positive results. In this case, first of all, determining the age of puberty based on the fact that boys have a ehtilam, and girls have menstruation, is a one-sided approach to this issue. In such a case, young people are expected to grow up only physically, and their spiritual and moral formation is not paid sufficient attention, whether they are ready to get married or not is often times neglected, secondly, getting married at the age set by the Sharia is related to girls' motherhood duties. In such cases, the fact that the young body is not completely ready to have a child has often led to unpleasant events; thirdly, starting a family is a very responsible social factor that imposes a number of rights and obligations on both men and women. Therefore, if he gets married at a very young age, he will not be among the young people who can fully understand the norms of family law; fourthly, if we recognize that any society is formed from a collection of families, men and women and their children should participate in creating material goods in production, which is the basis of society. This is why the birth and upbringing of healthy children require education. Those who start a family at a very young age are unlikely to accomplish such a task; fifthly, in the later stages of the development of the society, especially in Muslim countries at the present time, it is possible to meet the cases of increasing the age of adulthood, when the young people defined by Sharia are considered too young.

According to a study by scientists, 88% of young people in Uzbekistan, even in urban areas, ask for their parents' consent when starting a family. This indicates a high relationship between parents and children. Families built in this way will have a solid foundation. Young people live a happy, harmonious life without suffering. In families built on peace, soon children will be born and will strengthen the family even more. That's why there is almost no divorce in families with children. The results of the research conducted on families living in Uzbekistan showed that 87% of the population in the village and 84% in the city responded that there is no reason for divorce in a family with children.

Indeed, taking care of children has a special place for the Uzbek people. Many families with many children can be found in our republic. Here, raising a family, raising children, and family customs and traditions in general have been greatly influenced by Islamic teachings, in particular, by the Qur'an and Sharia. Having a family and having children is considered one of the blessings of God. Families with many children are respected among the people, and they are imitated in many cases. According to Islamic teachings, getting married to start a family is a religious duty related to childhood, not getting married is considered a pity.

Starting a family and having a child has been a part of our nation since ancient times, and it was considered an honorable and sacred duty for every parent. It is the duty of parents, who pay special attention to the education of their children from the day they start a family to the end of their lives, to give a good and reasonable name to the baby born, to teach morals and manners from the time he speaks, to distinguish between good and bad, halal and haram, to make him a professional, to develop his literacy, education (including religious education), circumcision of boys, marriage after puberty, marriage of girls, etc. These duties are the best qualities inherited from our ancestors. The teaching of Islam contributed to the care of children and enriched its content with religious concepts.

Thus, as noted above, family strength is largely related to the birth and raising of the children. In Muslims, having more or less children is usually considered as God's will, that is, as many children are born and this is still the case in many families. The birth and reproduction of children in a family is one side of social life, and the other side is that it is important to raise them as perfect people for our current society, our New Uzbekistan. The leadership of our republic is

paying special attention to this issue.

### CONCLUSION

One of the more important aspects of getting married and starting a family is the issue of circumstances that prevent marriage. As stated in the Family Code, it is not permissible to start a family between the peoples' even either one of them is in another marriage, is a close relative of the one another, biological or step brother or sister of the one another, is a step parent of the one another, has a mental illness or is reported to lose the ability to deal according to the verdict of the court.

The parties preventing marriage in Sharia are well explained in the work of Burkhanniddin Margiloni "Hidaya". In it, those who are close to marriage on the mother's side are sisters, daughters, aunts, uncles, and brothers. It is considered haram to marry women such as half-sisters, aunts, aunts, brothers' daughters, sisters' daughters, nursing mothers, nursing sisters, mothers-in-law, and daughters under the upbringing of closely related wives, and this is absolutely not allowed in the Sharia. In civil marriage, along with these, the physical ability of the man to be married is also taken into account.

From the above points, it can be seen that regardless of the form of marriage, our nation has not allowed marriage between people who are closely related to each other. This is a very important aspect of marriage, and those who do not follow this rule do themselves great harm, first of all. According to modern medical science, unexpected unpleasant events may occur between those who have married due to close blood and kinship. For example, in such families, if two children are born, there is a risk of having children with weak minds and physical disabilities. If such an unfortunate sign in children is not observed in the first generation, it can return in the next generation.

Therefore, creating a family and raising the children born from them to be worthy people is not only a personal task but also a social task of a certain society. Therefore, persons entering into a marriage must inform the other party of all the obstacles to the conclusion of the marriage known to them. Article 125 of the Criminal Code of the Republic of Uzbekistan stipulates criminal responsibility for concealing circumstances that permit marriage or for knowingly providing false information in civil status registration offices.

Determining family law norms and clarifying them have always been considered as urgent problems in the development of society. In the Republic of Uzbekistan, equal rights for women and men are established and guaranteed. In the Family Code of the Republic of Uzbekistan, it is stated that a couple has various personal and property rights in family relations. Consequently, the rights and obligations of the spouses come into being from the moment the marriage is recorded in the registry office. In addition, the rights of husband and wife and children in the family are protected by state laws. Sharia marriage does not provide for such a period and protection. Civil rules prevail in such cases is evident. In the teachings of Islam, Sharia's instructions consider marriage and family formation to be the most delicate aspects of relations between spouses and family members. The emergence of these standards was important in eliminating the unacceptable aspects of marriage and family in the life of the Arabs in the pre-Islamic period, as well as in the life process of other peoples who adopted the religion of Islam.

In connection with the independence of the Republic of Uzbekistan, the attitude towards religion, including the religion of Islam, and especially the rules of Sharia, changed in a positive direction, and religious a policy of tolerance is being implemented. A fair attitude towards religion and religious organizations has been established. The Constitution of the Republic of Uzbekistan and the Law "On Freedom of Conscience and Religious Organizations" were adopted on July 5, 2021. In this law, the citizens of Uzbekistan can believe in whatever religion they want or not believe in any religion, i.e. the right to freedom of conscience. Also, the updated Constitution of the Republic of Uzbekistan established that our country is a secular state.

On the basis of the Family Code of the Republic of Uzbekistan, husband and wife have equal rights in the family and the requirement to register the marriage in the state office is

established when forming a family. Writing civil status documents is only a marriage concluded in state bodies creates the rights and obligations of the wife. Thus, we can draw the following conclusions from the above-mentioned points and the analysis of the presented evidence:

Firstly, the formation of family law norms in a developing society and their place in social life has its own long history, and every social system has had its influence on it;

Secondly, the influence of the Islamic doctrine of marriage, especially Sharia's instructions, was strong on family issues and historical development of the Uzbek people, and some cases have been preserved today;

Thirdly, we need to recognize that marriage procedures established by the Sharia have acquired an important social importance. At the same time, regardless of some shortcomings in the requirements of Sharia marriage, Sharia marriage has served to ensure family stability and to form good relations between parents and children;

Fourthly, the Constitution of the Republic of Uzbekistan provides equal rights for men and women, which is reflected in the Family Code. Only the marriage recorded in the civil registry office creates and guarantees rights and obligations between the spouses;

Fifth, in the conditions of New Uzbekistan, the issue of marriage and family relations, their rights and duties and family relations of husband and wife, their rights and duties regulated on the basis of state laws. In such conditions, even if the establishment of family and relationships like religious marriage does not have a legal basis, it is possible to practice them within the framework of the law of conscience and religious organizations.

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