

Reconsidering Family Law Reforms, with Emphasis on Mahr, in Light of the Teachings of the Ahl al-Bayt (as) and Imami Shiite Jurisprudence

Seyed Hatam Mahdavi Noor¹

(Received: June 17, 2026, Accepted: June 27, 2026)

Abstract

Updating family laws is an important juristic and social problem. This article argues that the Ahl al-Bayt (as) tradition provides practical precedents for context-sensitive legal reasoning, showing that the implementation of rulings may change when their subject-matter, social function, or consequences change. According to a well-established theory in Shiite jurisprudence, legal rulings are grounded in real interests and harms. The permanence of Islam, therefore, does not lie in the rigidity of every legal form, but in its capacity to establish enduring principles that can guide changing human circumstances. Within this framework, mahr had a specific function in earlier social contexts. In contemporary society, however, it has often been transformed into a sign of women's social status or a guarantee for marital continuity. This transformation has contributed to the spread of excessive mahr and has created significant social and legal difficulties. Since the Islamic legal system defines the family as an institution aimed at moral growth, mutual responsibility, and the upbringing of righteous children, family laws must be evaluated in light of these purposes. This article suggests that the contemporary legal structure of mahr and the unilateral male right to divorce in permanent marriage should be reconsidered. Instead of treating excessive mahr as an immediately enforceable debt and divorce as a one-sided male prerogative, the law should allow both spouses to seek judicial divorce under clearly defined conditions, while protecting women's financial rights through fair and balanced legal mechanisms. Such reform would necessarily require corresponding changes in other family laws.

Keywords: Islam, Family law, Immortality of Islam, Divorce, Mahr.

1. Associate Professor, Department of Islamic Studies, Yadgar Imam (RAh) Shahr Ray Branch, Islamic Azad University, Tehran, Iran: hmahdavinoor@yahoo.com



Introduction

The family is one of the pillars of society, for which various functions have been mentioned. Every ethnic group has set rules for the stability of the family. Islam has also enacted laws in the field of the family, some of which are derived from the Qur'an and some others from the Sunnah (The speech and behavior of the Prophet Mohammad). Two important laws that have a Qur'anic origin are:

a) The payment of mahr (dowry or marriage settlement) by a man to a woman (Nisá, 4).

And b) the right of a man to divorce the woman.

The mahr payment law has become a social problem in some countries like Iran. On the one hand, women consider high mahr as a sign of their dignity. It is thought that the higher the dowry, the higher the value in the husband's family and in this way there is a competition among women to increase their mahr, and on the other hand, demanding dowry has imprisoned many men by women. To solve this problem, the following two solutions are suggested by Members of the Iranian Parliament: limiting the amount of mahr to 14 or 110 gold coins of *Bahar Azadi* (a kind of valuable money in Iran) and avoiding prisoning men because of inability to pay it. The Qur'an states that the dowry should be paid as much as it is, and promises severe punishment in the Hereafter for those who do not pay the dowry for women (Nisá, 20), and the latter is not legal. In addition, legalizing on no the incarceration of men because of failure to pay mahr raises other problems like deceiving on women, not paying dowry, overweighing to women, easy divorce.

It seems, family laws dating back 1,400 years are no longer applicable today and need to be changed. Can these rules be changed? The main question of this research is whether family laws in Islam can change according to the conditions of time and place or are these laws eternal and impossible to change? To answer this question, it is necessary to consider the following questions as well:

A) What is the purpose of forming a family? By recognizing the goal or goals, one can realize the expediency and corruption of the rulings.

B) Is goodness and badness of deeds rational or religious? If the goodness and badness of religious deeds are based on shari'a, one cannot change the rules and laws of religion, and only the Shari'a is allowed to do so. However, if the good and the bad of deeds are rational, that is, the rulings follow the interests and corruptions, then the ruling can also be changed by removing the expediency or corruption.

C) How can religion meet the changing needs of human beings?



D) What is the philosophy of mahr and the right to divorce? Are there any other alternatives for them?

E) What are the problems of men in paying mahr and having the right to divorce in society?

To answer this question, this article also refers to practical precedents from the Ahl al-Bayt (as) tradition in which the implementation of rulings changed according to social conditions, public interest, harm prevention, or change of subject-matter.

Definitions and Method

Mahr: Dowry is a gift that a man gives to a woman when he marries, and it is the order of the Qur'an and Sunnah among Muslims.

Family laws: Family laws in the Islamic world, especially in Iran.

Shiite jurisprudence: refers to a set of laws that Shiite jurists have extracted from the Qur'an and the Sunnah of the Prophet and consider it obligatory for Muslims to practice it.

The intellectual goodness and ugliness of deeds: It means that man can realize the good and bad of some deeds without paying attention to God's commands.

The method of answering the questions in this research is as follows:

1. To answer the question, the purpose of forming a family is first considered the purpose of creation in the Qur'an. The goal of the family must also be in line with that goal, and by observing the nature, the goal of forming a family has been inferred.

2. Regarding the rational sense and ugliness of applying the opinions of religious scholars, it has been explained from jurisprudential and theological texts.

3. Based on the rule of goodness and the ugliness of reason, the application of my own theory regarding the change of law in Islam has been explained.

4. The philosophy of Mehr is inferred from the Qur'an and jurisprudential texts.

5. Regarding the social problems of dowry, the author's previous research has also been used.

Finally, what is presented in this article is our theory of the ability to change religious laws and is based on a scientific method. The root of this publication is the same rule of goodness and ugliness of deeds that the Shiites have accepted and we have used it regarding dowry and the right to divorce.



The purpose of forming a family

The Holy Qur'an mentions that the purpose of forming a family is the peace of mind for man and woman (Rum, 21). However, the question is why did God create man and woman in such a way that they rely on each other? Are men and women restless creatures that can only be comforted by being together? If so, why did God make them interdependent? To answer this question, it is necessary to state the purpose of creation because God created man, who is the finest of his creatures, for a specific purpose and forming a family is also in line with that goal.

According to the Quranic view the purpose of human creation is to reach God, which means to attain divine attributes, and in fact, the appearance of God should reveal in man. This claim is indicated by several Quranic reasons (Mahdavinooor, 2014). Therefore, it can be said that the most important reason for forming a family is childbearing, survival of human generation and the divine upbringing of children. The spiritual and sexual dependence of men and women to each other is for the realization of this goal. When one looks at nature, he or she realizes that other creatures have a family life; and in this respect, they are not different from humans. The difference between animal family systems is the lifespan of males and females. What determines the life span of a couple is the period of time a child needs to be raised? In some animals, the mother can raise the animals alone. In this type of animal, male and female are only together during the mating. Male and female are together for a longer time if the mother alone cannot raise the children. In the meantime, the human child has the longest upbringing time.

Human upbringing has two dimensions: physical and mental. Spiritual cultivation is essential until human death. It is the duty of parents to raise a child to the extent that he or she can take care of their own body and soul. Raising a human child is a time-consuming task and cannot be done by one person. Hence, God created man and woman in such a way that they have a long common life together. First, the sexual desire of a man is perpetual, so the need for a spouse is permanent. Second, men and women are emotionally interdependent.

The goodness and badness of rational or religious rulings

If the good and the bad deeds are rational, that is, the rulings follow the interests and corruptions, when the interests and corruptions of a ruling are altered, that ruling must also be changed. Based on shari'ah view the rules can be changed. Hence mahr and the right to divorce, if the expediency and corruption of the sentence is changed, the verdict also needs to be modified. If the good and the bad are religious, then man cannot change the ruling.



Islamic scholars are divided into two groups regarding the obedience of the rules to good and evil or good and bad. Some believe in the goodness and badness of reason and consider the relationship between action and result to be developmental. They think that anything human mind judges or decrees on, shari'a judges and authorizes it, too, and vice versa. Allamah Al-Hilli divides human actions into three categories:

- a. Actions such as our awareness of the goodness of justice, the good and the bad of which are known by the necessity of reason;
- b. Actions such as customary affairs, in which good and bad are relative;
- c. Actions such as deeds of worship, in which the intellect is incapable of perceiving their goodness and badness that are expressed by the Shari'a (Hilli, 140 AH).

Now, the question is whether the shari'a affairs are subject to corruption and real interests and God has given reason the ability to discover those materials and corruptions, or that God has established the relationship between religious affairs with pleasure and suffering in a contractual way. Because God is the procreator of the universe, he puts reality that way, and man's real intellect discovers the contract. It was likely that God created the universe in a different way and could make a different form of relationship between pleasure, suffering and moral matters and reason discovered them as real relationships. For example, God could have created the universe in such a way that lies are good and truth is bad.

Rationalists believe that actions have real interests and corruptions. Whether the Shari'a rules the goodness and badness of some actions or not, the intellect realizes their inherent goodness and badness (Motahari, 1995). Therefore, according to these people, there are three categories of actions that the Shari'a commands or forbids:

- a. Rational independence means actions that while not ruled by the shari'a, the intellect perceives their good or bad independently.
- b. Actions such as bank interest that the intellect understands their good and bad after the shari'a expresses their good or bad.
- c. Things like the fasting of Ramadan that the intellect is not able to discover the good and the bad of them, and the expression of their goodness and badness is with the shari'a (Tayyib, 1993).

Despite the belief of this group of people to follow the rules of good and evil, there are disagreements in this regard. Some of them suppose that it is expedient in itself to rule and to follow it. Some believe that expediency is inherent in the rulings, and others think that expediency is in something else. This argument is important because if the expediency is in applying in itself, the law can no longer be changed.



Others believe that the real rulings are subject to the interests and corruptions that belong to them. This group has two arguments for their claim:

A) Some verses of the Holy Qur'an [(Isrá, 32) and (Māidah, 90)] state that the corruptor belongs to the ruling, that is, adultery, drunkenness and gambling, and not to the falsification of rulings; or in the verses (Al-Ankabut, 45), (Baqarah, 183) (Tawbah, 103), the expediency in belonging to the ruling is praying, fasting and paying zakat, not applying those rulings (Alidoost, 2005). If it was intended to use such acts, it should have appeared with the application of the actions as well.

B) Another argument is based on the division of sin into major and minor. According to this group of scholars, application of rules is not different and when sin is divided into major and minor, the corruptor must be in the belonging of the ruling; otherwise, the sins were not different (Tabrizi, 1996). Some scholars such as Mohaghegh Khorasani and his followers oppose the famous view and believe that the rulings are a function of the materials available in their application of rules not their belongings (Khorasani, 1425 AH). This means that the rulings should be subject to expediency and not corruption because it does not make sense for a shari'a to make a ruling in which there is corruption.

The most important argument of this category is the existence of cases in the shari'a, for which the rulings are not subject to the existing criteria in the belonging. In some cases, there is no expediency or corruption in the subject matter of the sentence. For example, in the case of conditionless permissible, which is considered one of the five obligatory rulings, expediency does not belong to the ruling (Mazinani and Shakeri, 2013). Some also think that in apparent rulings, expediency does not belong to the ruling; rather, it is a ruling in itself (Khorasani, 1425 AH).

Some scholars believe that the existence of expediency in applying the rules is not reasonable because when the application is realized, the expediency is also attained, and there is no need for a practical obligation to do so since its purpose is achieved as soon as the sentence is applied (Saedi, 2002).

In contrast to the above category, which considers the good and bad of rulings to be rational, the Ash'arites believe in the good and the bad of shari'a and believe that the intellect cannot rule on the good or the bad of deeds; rather, their ruling is the responsibility of shari'a, and what the shari'a considers good is good and what it considers bad is evil (al-Shawkānī, 1419 AH) because the activity of God and his actions cannot be tied to anything. However, following the rules from good and evil requires binding God's actions. They argue that all actions are the same in the eyes



of intellect and completely deny the good and the bad of intellect as well as expediency and corruptor, and they say that if, for example, the shari'a had ordered oppression, rudeness and lies and if it had forbidden justice, honesty and kindness, one would have considered the former as good and the latter as bad (Hilli, 140 AH).

In response to the question of expediency and corruption criterion, those who have faith in the good and the bad of reason and consider the rulings as subject to good and evil, state that the criterion of expediency and corruption is alignment with the goal (Mesbah-Yazdi, 2015). The goal is one of the following five things: 1. Preserving the religion of the people; 2. Self-preservation; 3. Preservation of reason; 4. Generation preservation, and 5. Preservation of property (Ghazali, 1417 AH). Now, the question is what to do when there is a conflict among expediencies?

In response to this question, expediencies have been divided into several categories:

A) Essential expediencies

B) The expediency of necessities on which the maintenance of ordinary human order depends and without them human life is disrupted.

C) Admirable and decorative expediencies, the observance of which is considered valuable and violating them does not disrupt human life (Amirzadeh Jir Keli, 2004). If these expediencies interfere with each other, essential expediencies take precedence over necessity expediencies and needy expediencies take precedence over decorative and admirable expediencies.

Occasionally, some actions are both expedient and corrupt. Expediency and corruption of these types of action is the compulsory total of its expediency and corruption. If the expediency of the act is more than its corruptor, it is a good deed, and otherwise it is a bad act (Ameli, 1993).

The big problem that remains unanswered is what to do if we make a mistake in identifying expediency and corruption? Their answer to the question is that shari'a resolves disputes. If we accept this, we have an intellect whose identification is not correct and should be subject to shari'a that is not different from the opinion of Ash'arites. If we accept this view, we must answer this question: How and to what extent does shari'a rule the intellect? In the following, we will examine the theory of autonomy and also answer the aforementioned questions.

The author believes that the human intellect has the ability to discover many things. But man's beliefs, of which his accepted values are a part, are not merely the subject of reason. Rather, they are subject to indoctrination, instincts, individual and group interests, pleasant and unpleasant, and so on. Due to the differences in the abovementioned cases, there will be a conflict



between human credit perceptions. The author claims that in their variable component, human beings have specific principles and they need to understand the principles of good and bad of other actions within that framework. Obviously, they may also realize the good and the bad of those principles. Proving this requires the following preconditions.

1. Validity of rulings: Concepts that human beings contract to manage social affairs and have no objective basis. For example, property is a matter of credit, and it is not possible to broadly show what it is. Man has formulated those concepts to manage his social affairs and may change them one day. It is clear that the concepts of credit in legal terms are man-made illusions. However, the rest of concepts come from external origin, and although the structure of human existence may be effective in their abstraction, they are not entirely at the disposal of man. Credit judgments mean contractual concepts. The importance of separating true perceptions from credit is obvious. Sometimes the lack of segregation causes people to scrutinize information such as facts in rational ways or generalize the result of research on credentials to facts and as a result they should consider facts as relative concepts that are subject to human needs (Motahari, 1392 SH-a).

2. Statements express informative judgments since every phenomenon pursues goals and uses actions that are formally equipped with their means and never seeks to perform actions for which it is not prepared. In perceptual beings, the concept must be derived from the relationship between the active force and the effect of the verb. The general rule in determining whether a concept is credible or genuine is that it belongs to an aspect of active forces and in which the concept of "must" can be assumed. So, if we say "apple is the fruit of a tree", it would be a real thought, but if we say "this apple should be eaten", it is a valid thought (Tabatabai, 2008). In fact, there can be a relationship that should be depicted as shown in Figure 1.

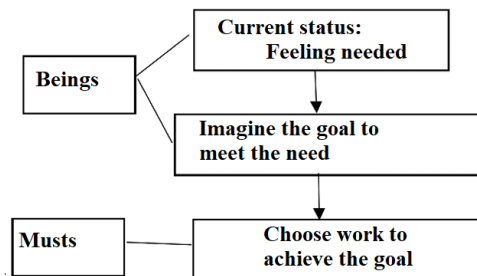


Figure 1. Abstraction of Musts from Beings based on Allameh Tabatabai's View



(Existence): Status quo: feeling of need → Imagination of purpose to meet the need → Validity of the verb to achieve the goal (Must)

Figure 1. The method of abstracting the concept of Must from existence according to Allameh Tabatabai

3. Lack of proof of jurisprudential propositions: Jurisprudential propositions are valid because they are not proof, and in this respect, the rules of rational propositions are not applicable. It should be noted that the relationship between production in real perceptions is formally diverse, namely allegory, metaphor, and analogy. The allegorical and inductive methods rely on the hidden analogy with which they are associated; therefore, without the analogical method, the two cannot establish the productive relationship between premise and the result, and only the deductive method can formally create the relationship between the introduction of premise and the result (al-Muzaffar, 2003). Credits have an impact on the real world, and their credibility is to meet human needs. At least, this research is not considered if the credentials, which are only valid and have no effect on human life and on the real world, are not rejected.

There is no argument in credit cases because the premise of the argument must have three characteristics, namely necessity, durability and generality, while these three features are not realized in credit cases. These characteristics are obtained by conforming to the soul of the Almighty but the propositions of the self are not standard; as a result, it cannot be ascribed to such descriptions.

In human credentials, one considers a goal and validates the concepts they borrow from the truth in order to achieve that goal. For research in credentials, that end is considered and anything in line with that goal is valuable. Therefore, research in the field of credit is based on compromise on or acceptance of specific goals in credit (Serami, 2006) .

Allameh Tabatabai considers jurisprudence as a credit (Tabatabai, 1997); therefore, the statements or principles used to deduce Islamic rulings are all types of credit. As a result, the rules of credit should be used in them and developmental methods cannot be used in this case (Serami, 2006).

One of the valid results of knowing jurisprudence is that it also becomes a relative matter and the rules of jurisprudence can be changed based on interests and corruptions. There is no doubt about whoever identifies the benefits and corruptions. Either God expresses the rules through His messengers according to His interests and corruptions, or He has left it to man to discern on them.

As mentioned, human laws, customs and traditions, social norms and ethics are all concepts of credit. And the establishment of credit concepts in social life is influenced by the attitudes and views that exist towards the



world and human beings. Those who consider man to be purely material and limited to the life of the world and who consider death to be the end of human life shape morality, custom, and social rules in such a way to enjoy the greatest material pleasures, lusts, and wishes of this world.

The pagans and idolaters create traditions and laws in order to win the pleasure of their goddess; however, those who believe in the origin and resurrection imagine it in the form of social life and its rules, which ultimately lead to worldly and otherworldly happiness. Therefore, in relation to the fundamental attitudes of man and the world (the realm of true perceptions), we will have different forms of social life and credit concepts (Aqajani, 2014). In fact, various perspectives on life are formed based on what society validates, and these life perspectives shape different lifestyles and thereby special moods. As a result, even those who believe in the divine may validate different morals according to the conditions of place and time.

4. Immortality of the rules of religion: Imam Khomeini, Allameh Tabatabai, Shahid Motahari, Ostad Mohammad Taghi Jafari, Seyyed Qutb and others consider the main goal of religion to be hereafter and to deal with the world transversely; nevertheless, without addressing this cross-cutting issue, the main goal will not be achieved (Khomeini, 1990). If religion is a collection of teachings mentioned in the Qur'an, it must be accepted that religion is not an individual matter and has also dealt with social affairs, including government and economics. Therefore, it must be said that religion is a complete and comprehensive thing that is involved in all aspects of individual and social life, and it is a comprehensive instruction seeking human happiness in this world and the hereafter; therefore, the realm of religion cannot be limited or separated from economics, politics and government.

5. Changing the rules within the framework of principles is a prerequisite for the immortality of religion. As stated, on one hand, religion has not neglected any aspect of human life, and on the other hand, due to differences in societies in which human beings live, their needs are also different. Religion must be constantly renewed in order to meet human needs, and communication with God through revelation must never be cut off; however, according to the Qur'an, there will be no prophet after Mohammad (Ahzaab, 40). As a result, human communication is cut off through revelation, and the religion cannot answer all the questions. How can this paradox be solved?

Morteza Motahari in his book *Islam and the Needs of Time* has solved this paradox by raising the issue of fixed and variable needs. Man has two kinds of requirements. The basic human needs that are constant and the



changing needs that vary over time. For example, man used to heat himself using coal and needed it, but today he no longer requires coal. In the Islamic legislative system, a fixed law is set for permanent needs and a variable law for changing needs. But the law of variable is one which Islam has made it dependent on a fixed law and has designated that fixed law as the spirit of this variable law, and the fixed law itself changes this variable law (Motahari, 1392 Sh-b). Scholars respond to the changing needs of human beings through the process of *ijtihad* from religious sources. Now the question is that the needs of human beings are very different. How can scholars meet all the variable needs of human beings?

Many scholars claim that jurisprudence governs society, and this requires that they provide solutions to society's problems and even lead society toward the desired direction. Scholars cannot expect others to offer solutions and be mere observers and advisers to others.

God has set laws for all human affairs, and no dignity has been abandoned from the affairs of human beings. In the fixed aspect of human life, God has specified all the details, and in the case of variable aspect of man, it is not possible to express the details. Thus, God has stated principles; that is, in all aspects of human life, Islam has introduced the prevailing principles and values. Now, man uses his principles to extract the principles and details, and by applying the principles to the conditions of the time, he extracts the appropriate systems of each time, which is the same process of *ijtihad*.

Reason discovers the expediency and corruption of the rulings in the present era

Shiite fundamentalists believe in the goodness and badness of the rules; nonetheless, when it comes to action, they are cautious and refuse to change the rulings according to the conditions of the time. One of the drawbacks is that whether the intellect is able to discover the good and the bad of the rulings? If we consider only the intellect of the infallibles as the discoverer of the intellect and that of others as incapable of discovering the good and the bad, then the shiite theory also leads to the good and the bad of shari'a. Shiite fundamentalists must do their duties in this regard, either believing in the goodness and badness of reason and adhering to its requirements or giving up their claim.

The intellect is the prophet of within. Everyone accepts religion with his or her intellect. Authority is the principle of religion with reason. In addition, the intellect of many people understands things, but the God who created man to reach the highest possible level of a being, even for those things that the intellect understands, has commanded and approved the rule of reason so that there is no harm in guiding human beings. If the intellect



of all human beings was perfect, there would be no requirement for a prophet in those areas. However, religion has a general audience and the prophet has to say everything.

Experts in any field should be familiar with these principles and also learn the inference rules of subsidiaries from the principles and then extract the subsidiaries according to conditions of the time. In economics, for example, the mujtahid is an economist who can determine the economic system of Islam according to the conditions of the day. How can a jurist who is not familiar with economics or economists who are not familiar with jurisprudence express the Islamic economic system? If we do not do so, we can not claim a universal answer for humanity. There should be such scholars in politics, medicine, etc. One cannot leave the planning to those who are not familiar with religious issues and recruit the scholars only to supervise their work.

If jurisprudence is viewed in this way, it means that the principles of Islam are counted hierarchically in all matters. Then, the scholars should derive general rules according to the conditions of time. Afterward, a general rule should be extracted from the words and deeds of the infallibles so that the problems can be solved by those principles. In this case, the words and deeds of the infallible will not be an argument. The words and deeds of the infallible will be the only evidence of how the general rules were applied to the subsidiaries at that time.

In this view, tradition is a solution to problems of the past, not a fixed thing for the future, which may even cause problems for them. Communities must change their traditions according to the conditions of their time but within the framework of those principles. Based on the above statements and the opinion of those who believe in intellectual goodness and ugliness, if it is proved that the interests and corruptions of family laws have changed, the laws can be transformed based on new interests and corruptions.

Practical Precedents from the Ahl al-Bayt Tradition

The Ahl al-Bayt (as) tradition contains several precedents showing that the implementation of religious, legal, and social rulings may change when the subject-matter, social function, or public interest changes. This does not mean that the Imams abrogated divine law. Rather, it means that they distinguished between the fixed principles of the Shari‘a and their historically conditioned applications.

A clear example is Imam Ali’s explanation of the Prophet’s instruction concerning dyeing grey hair. When Imam Ali was asked about the Prophet’s command to dye grey hair and avoid resembling the Jews, he explained that this instruction had been issued when Islam was limited in



number and socially vulnerable; but after Islam became widespread and firmly established, people were free in this matter (Nahj al-Balaghah, Saying 17). This example shows that a ruling or instruction may be connected to a specific social purpose, and when that purpose disappears, its practical legal force may also change.

Another example can be seen in Imam Ali's policy of equal distribution from the public treasury. When he was criticized for treating people equally in the distribution of Bayt al-Mal, he refused to seek political support through injustice and declared that even if the wealth had been his own, he would have distributed it equally, let alone when it belonged to Allah (Nahj al-Balaghah, Sermon 126). This shows that Imam Ali changed the prevailing administrative practice of preferential distribution and restored a justice-based legal policy. The case is important because it demonstrates that governmental and financial regulations may be restructured when they conflict with justice.

A further example appears in Imam Ali's instruction to Malik al-Ashtar. He ordered the governor to reduce the tax burden when people suffered from hardship, disease, lack of water, flood, or drought, because the prosperity of the land and the people was more important than immediate revenue collection (Nahj al-Balaghah, Letter 53). In the same letter, he also ordered the governor to prevent hoarding and to punish those who continued it after prohibition, while insisting that prices should not harm either sellers or buyers (Nahj al-Balaghah, Letter 53). These instructions show that economic rules and governmental policies are not applied in abstraction from social conditions; rather, they must be administered in a way that prevents harm and protects public welfare.

The non-application of the hadd punishment for theft during famine provides another important precedent. Imam al-Sadiq is reported to have said that the thief is not subject to amputation in a year of famine, and another report states that Imam Ali did not cut the hand of a thief during days of famine (al-Kulayni, al-Kafi, vol. 7, p. 230, hadith 2; al-Hurr al-Amili, Wasa'il al-Shi'a, vol. 28, p. 291, hadith 34795). This example is especially significant because it shows that even where a punishment has a textual basis, its implementation depends on the full realization of its subject and conditions. Hunger, necessity, and public crisis may change the legal assessment of the act.

A similar distinction appears in Imam Ali's military practice. In the Battle of Jamal, he ordered that fleeing opponents should not be pursued, the wounded should not be killed, and those who closed their doors or laid down their weapons should be safe. In another context, however, different treatment was applied because the opposing army still had an active



command structure to which it could return (al-Kulayni, al-Kafi, vol. 5, p. 12). This shows that the legal treatment of apparently similar acts may change when the underlying subject changes.

The same logic is also visible in the teachings of Imam al-Sadiq concerning clothing and social custom. When he was asked why Imam Ali wore rough clothing while he himself wore better garments, Imam al-Sadiq explained that Imam Ali wore such clothing in a time when it was not socially condemned, whereas wearing the same type of clothing in a later context could produce notoriety; therefore, “the best clothing of every time is the clothing of its people” (al-Kulayni, al-Kafi, vol. 6, p. 444, hadith 15). In another report, when Sufyan al-Thawri criticized Imam al-Sadiq’s clothing, the Imam explained that the Prophet lived in a time of poverty and hardship, whereas when prosperity becomes available, the righteous are more entitled to benefit from lawful blessings, provided that the rights of Allah and people are fulfilled (al-Kulayni, al-Kafi, vol. 6, p. 442, hadith 8). These reports demonstrate the role of custom, social perception, and economic conditions in the practical application of religious norms.

These precedents are directly relevant to contemporary mahr law. Mahr as a Qur’anic and juristic right of women should not be denied. However, when excessive mahr changes from a dignified marital gift into an impossible debt, a coercive bargaining tool, or a source of imprisonment and family instability, its current legal function must be re-examined. From an Ahl al-Bayt-oriented perspective, reforming mahr law does not mean rejecting Shiite jurisprudence; rather, it means preserving its higher objectives: justice, prevention of harm, protection of women’s dignity, stability of family life, and fairness between spouses.

Method of discovering the interests and corruptions of the rulings

When we accept that the human intellect today is the discoverer of interests and corruptions of the rulings, it is necessary to determine a way to do so. To discover the benefits and corruptions, we can examine the effects and results of the sentence that are divided into this world and the hereafter. Principles derived from the Qur’an and Sunnah can be used to study the effects and consequences of hereafter. If a ruling is not placed within the framework of principles derived from the Holy Quran, it will corrupt the hereafter. To discover worldly interests and corruptions, it is necessary to examine the individual and psychological effects (including spiritual and psychological effects and consequences) and the social outcomes of the sentence. This requires specialized teams in psychology and sociology do it based on the specific field and new research methods.



Philosophy of mahr and the right to divorce

Every legal system has a goal that is achieved by having all its components. The purpose of the legal system in Islam is that no one oppresses another in human relations. Marriage is an obligation that imposes rights and duties on both men and women. In the past, marriage was not legally registered, and only the witnesses and honesty of men and women could be effective in proving the rights of individuals. Human life should not be the toy of lustful people. There is no difference between men and women; no one should play with other people's lives. If there is no mahr or anything like that, the man can easily leave the woman and entice another woman. If a man proposes to a woman and the marriage contract is entered into effect between them, even if they are not related and the man does not like his wife for any reason, he has to pay something. This cost allows the man to make the right and rational decision and not to play with anyone.

The reason why a man gives mahr to a woman is that the man usually chooses first. If there is no mahr, the man can easily separate from his wife and go to other women. Now that a man gives mahr to a woman, she should not take advantage of this. A woman who marries a man with the intention of receiving mahr and easily separating from him and going to another man, in this case the man is abused; however, if the man has the right to divorce, the woman cannot easily play with man's life. Without this legal system, there would be a lot of abuse.

Today, marriages are registered and, as in the past, a man cannot divorce his wife without the permission of the court. People cannot take advantage of each other if other deterrents are specified in accordance with the conditions of place and time.

Problems with mahr and the right to divorce for men

Unfortunately, today, mahr has become a social problem in Iran, where a man must commit to pay the mahr that a woman can demand whenever she wants (Mansour, 2005). The amount of mahr has no condition other than being possession of woman (Mansour, 2005). In the early days of Islam, mahr was a sign of a man's honesty in living with a woman, but today it has become a guarantee (Motahari, 1990). Therefore, the woman's family is trying to raise the mahr. A woman can claim mahr before obedience. In this case, the man must also pay the alimony to the woman (Jahangir 2005, Article 1085). The legislator pressures the man to protect the woman without considering the change in the nature of mahr regardless of his economic status (Mansour, 2005). Such a man will not be able to start a new family for years. If the mahr is a guarantee today, why should a man give such a guarantee? If mahr is useful for the survival of life because



divorce is in the hands of the man it should be demanded when the man is guilty not whenever the woman wants. In addition to mahr, a woman receives alimony, which is often lower than her dignity. It is interesting that with this effort of female devotion, after the death of the husband, the heirs share what the husband and wife have painstakingly collected among themselves, and only a small part of what is left is the wife's share that do not have a significant share in the ownership.

Change in divorce, mahr and family ownership laws

Today, when all marriages are registered and the man himself cannot divorce his wife without the permission of the court, it is necessary to change the mahr law and man's right to divorce to solve the above problems and prolong the married life. This means that no mahr should be specified at the time of marriage and each spouse can apply for divorce from the court for specific reasons. In order for men and women not to oppress each other, it is necessary to carefully determine the share of each of them in their assets. For this purpose, the following suggestions are presented.

1. The property of the husband and wife, even the dowry that she brings to the husband's house before marriage, is calculated as the initial capital of life.

2. All incomes of men and women, including the value of work at home and abroad, gifts, rent, and so on should be determined.

3. Audit of assets should be done at the end of the year, which has the following benefits:

1. The possession of each man and woman is proportionate to their effort
2. Woman's work at home is appreciated
3. Women become encouraged in their life
4. Stronger support than mahr can be provided for cohabitation
5. Strong support for the wife is provided when her husband dies
6. Monopoly in the management of life is avoided (Fathian and Mahdavinooor, 2010).

To implement the above strategy, the government should take the following measures:

1. Determine the value of woman's work at home
2. Specify the share of man/woman to work at home for the family
3. Audit and balance the profit and loss in the family
4. Record changes in assets and liabilities of man/woman at the end of financial year
5. Facilitate the registration of family assets (Fathian and Mahdavinooor, 2010).



Conclusion

A man and a woman who get married obtain reciprocal rights that have been formulated by Holy Shari'a, but economic problems, cultural teachings, and the like cause these rights to be ignored. "Mahr" or "mahriyeh" in ancient times was considered the price of selling a wife to her husband. With the advent of divine religions and the formulation of laws, the nature of mahr has changed. In the current tradition of Iran, the concept of mahr for women has completely changed and it is no longer considered a gift; rather, mahr is the guarantee of marriage and the penalty of divorce or even the social value of women. According to the law, the husband must pay his debt for the mahr of his wife; however, due to its enormity, he is never able to pay it, or at the time of the wedding, he does not intend to pay at all, and if he is exceptionally able to pay the heavy mahr, he will somehow tries to evade it. As a result, if the marriage is dissolved, the woman's life has no guarantee and is not protected by law and society. Social legal study on mahr, its historical roots, nature, reasons for determining large mahrs and corrupt consequences of heavy mahriyehs, it is necessary to change the mahr laws. If the mahr law is changed, other family laws must also be changed. In the intellectual framework of jurists who believe in following the rules of good and evil, it is possible to alter family laws, including mahr and the right to divorce.

Bibliography

1. Al-Mozaffar, M. R. (2003). *Al-Mantiq(The logic)*, Editor: Ali Shirvani. Qom, Daarolelm.
2. Al-Shawkānī, M. (1419) AH. *Irshad ul Fuhood (Guidance to the investigation of the Truth from the Science of Principles)*, Researcher: Sheikh Ahmad Azzu
3. Enayya, Sheikh Khalil Al-Mays and his doctor, Valioldin Saleh Farfo. Damascus, Dar Al Kitab Al Arabi.
4. Alidoost, A. (2005). *Dependence or Non-dependence of Religious Rules on Real Interests and Losses. Islamic Law*, 2, 9-32.
5. Ameli, M. I. M. (1993). *Rules and Benefits (Rules of Jurisprudence)*, Translation and writing: Seyed Mehdi Sanei. Mashhad, Ferdowsi University of Mashhad Press.
6. Amirzadeh Jir kell, M. (2004). Obeying the Rules from Good and Evil. *Jurisprudence, History and Civilization*, 27-43.
7. Aghajani, N. A. A. (2014). Allamah Tabataba'ii and the Philosophy of Social Sciences. *Sociocultural knowledge*, 5, 21.
8. Fathian, M. & Mahdavinoor, S. H. (2010). A solution to Eliminate Social Anomalies of Women's Rights in the Country. *Management in Islam*, 14.



9. Ghazali, M.-I. (1417 AH). *Al-mustasfa min 'ilm al-usul(On Legal Theory of Muslim Jurisprudence)*, Edited by: Mohammad Abdul Salam Abdul Shami. Beirut, Dar al-Kitab al-Almiyeh.
10. Helli, H. B. Y. (1410 AH). *Nahj al-Haq wa Kashf al-Sedq*, Commentary on Hasanzadeh-Amoli, Qom, Dar al-Hijrah publication.
11. Khomeini, R. (1990). *Sahifeye Iman*, Tehran, The Institute for Compilation and Publication of Imam Khomeini's Works.
12. Khorasani, M. K. (1425 AH). *Kifayat al-Usul*, Qom, Islamic Publishing Institute.
13. Mahdavinoor, S. H. (2014). *A New Plan in Religious Beliefs Based on the Strategic Management Model*, Golestan province, Islamic Azad University, Aliabad-e-Katoul Branch.
14. Mansour, J. (2005). *Family Laws and Regulations*, Tehran, Doran Publishing.
15. Mazinani, M. S. & Shakeri, B. (2013). *Study of the Theory of Criterion Development in the Rule of Compliance*. *Fiqh*, 20, 96-117.
16. Masbah Yazdi, M.-T. (2015). *Critique of Ethical Schools*, Qom, Imam Khomeini Educational and Research Institute Publications.
17. Motahari, M. (1392) SH-a. *Collection of works*, Qom, Computer Research Center of Islamic Sciences.
18. Motahari, M. (1392) Sh-b. *Collection of works*, Qom, Computer Research Center of Islamic Sciences.
19. Motahari, M. (1990). *Nezam -e- hoghoghe zan dar Islam(The System of Women's Rights in Islam)*, Tehran, Sadra Publication.
20. Motahari, M. (1995). *Adl-E-Elahi(Justice of God)*, Tehran, Sadra publication.
21. Saeidi, J. (2002). Obeying the Rules from Good and Evil. *Fiqh of Ahl al-Bayt*, 8, 108.
22. Serami, S. (2006). The place of Real and Credit Perceptions in the Science of the Principles of Jurisprudence According to Allameh Tabataba. *Research and Field*, 236-287.
23. Tabatabai, M. H. (1997). *Tarjome Tafsire Almizan*, Qom, Scientific and intellectual foundation of Allameh Mohammad Husayn Tabataba'i.
24. Tabatabai, M. H. (2008). *The Principles of Philosophy and the Method of Realism(With Motahari footnotes)*, With the introduction of Seyyed Hadi Khosroshahi. Qom, Bustan Ketab Institute.
25. Tabrizi, M. F. S. (1996). *Margin on the Message in Justice*, Tabriz, Information Printing House.
26. Tayyib, S. A. H. (1993). *The word Medicine in the Interpretation of Islamic Beliefs*, Haj Mohammad Hossein Kooshapour. Tehran, Islamic Cultural Foundation.

