

A Comparative Study of Women's Rights and Family Duties in Zoroastrianism and Islam

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Abstract: Today, it is of particular importance to deal with human rights, especially women's rights, and to establish fair and non-discriminatory implementation of regulations regarding women in society, and to eliminate their legal discrimination. In this study, women's rights refer to the rights that women should have because of their existence. It is very important to deal with women's rights in every society from the point of view of social importance, and in order to create balance and justice in society, it is necessary to examine these issues properly to help social and legal issues in two religions. In order to achieve this, the present study examines women's rights in Islam and Zoroastrianism, which is the closest religion to Islam. There is a lot of similarity between the views of Islam and Zoroastrianism in matters related to women and family, they only have different aspects in matters related to dowry. In general, it can be said that all the things that were not mentioned in the Zoroastrianism have been mentioned in the religion of Islam or have been limited to a brief statement, and the topics have been stated in detail. Therefore, since Islam is the last and most complete religion, it has foreseen the needs and status of women, their rights and duties, and established laws for it.

Keywords: Lorne multifaceted intervention, perceived stress, women, divorce

Introduction

There is an urgent need to pay special attention to women's rights due to the existence of a special and fundamental position of women in the family (the most basic and important institution and organization of society) and the advancement and weakening of the society is completely dependent on the strength and weakening of the family. Therefore, it is possible to examine the background of these rights in divine religions and legal systems before Islam in order to perform the best in the field of women's rights, and achieve the most accurate and detailed rights. This causes more and better understanding and empathy of religions with each other. This study, while comparing these two religions with respect to women's rights, deals with the commonalities and differences of these two religions in some issues and examines the positive points of Islamic jurisprudence with respect to family rights. Asaadi, Seyyed Hassan (2013) in his research has investigated the "women's rights" in the Islamic legal school, its adaptation to other schools and specific goals, representation of some of the most important rules and regulations of women's rights in Iran. Although the researcher is a Twelver Shia, he has tried to explain away from religious prejudice what is compatible with the rational and customary standard and the spiritual and social values of human society and Iranian culture. Heydari, Hassan, Ebrahimi Nasab, Yusuf (autumn 2011) has investigated the rights of women in Islamic civilizations before Islam. Researchers are trying to compare women's rights with Islamic civilizations and the rights that women have in the present era. In the following, they briefly review the status of women in different societies and tribes throughout history, and examine their importance in different dimensions and explain each one clearly.

Biyoukzadeh, Saba (summer 2013) has discussed the legal issues of women in ancient Iran (referring to women in the Shahnameh), and points out that the cultural characteristics and the type of social relations

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of that era always depended on the requirements of the time. In ancient Iran, laws were established in every case, such as marriage, divorce, housekeeping, child rearing, any other big or small thing. The presence of women in various arenas is decisive, and the role of women as a link between families is discussed everywhere as a fundamental factor in the creation and destruction of power, and the position of women in ancient Iran can be understood by examining the women's rights. Latifi, Abdul Hossein, in his study entitled "Woman's position and marriage rules in the Mazda religion" has discussed the position of women. He points out that Mazda religion, like other religions, places great emphasis on the continuation of the generation through marriage, and in the category of marriage, it places equal value and rights for men and women. Also, he examines and introduces the most important conditions of marriage, which include: being Mazdaei, conditions in marriage contract, maturity, the parties being free from obstacles to marriage, health, the consent of the parties, and the presence of one and seven witnesses or, if it is not possible, two witnesses, etc., in this religion. Ghaem Magham Farahani, Nahid Al-Sadat (Winter 2013) in a study entitled "The Position of Women in Zoroastrian Religion Based on Jurisprudence and Legal Books", has pointed out the analysis and explanation of Zoroastrian religion on the importance of women, marriage and continuity of generations like other the world's religions and has had a lot of emphasis on them. By referring to jurisprudence and legal books of Zoroastrians, the researcher deals with the true position of women and subsequently with their most important rights, especially in the matter of marriage and its ceremony, childbirth, divorce and the mutual rights of men and women towards each other. Badamchi, Ghazanfari, Davari (Winter 2016) have discussed the issue of temporary marriage in Zoroastrianism according to Pahlavi texts and direct and indirect evidences from the perspective of Islam, and they point out the examination and comparison of the scope of their similarities and differences. The concluded that marriage in two religions have remarkable similarities. Mohammad Ali Iraqi examines this right in the book entitled "Women's Rights in Islam". In Islam, the husband is obliged to bear the living expenses of his wife; and provide for his needs. This right includes the cost of clothes, housing, etc. and other needs of women. Also, if the woman becomes pregnant, the couple is also responsible for paying for the costs of pregnancy and childbirth. Also, the Zoroastrian writer "John Harold Brandon" in his book entitled "Zoroastrians, History, Beliefs and Customs" examines alimony in this religion. In Zoroastrianism, as in Islam, a man is obliged to provide for the needs of his wife. This right includes similar costs in Islam.

Allamah Tabataba'i, the venerable Shia authority, in his interpretation of a series of Quranic verses (Surah Nisa verse 35) believes that the woman plays an important role in forming a family, and on the other hand, the husband plays an important role in the implementation and management of the family. Ayatollah Khomeini, the leader of the Islamic Revolution, has discussed the position of women in Islam in many of his speeches and articles. He believed that the family is based on the roles that God has assigned to them, and the role of women in the family is very important. In her book entitled "Women in Quran and Hadith", Fahima Omrani has analyzed religious texts and some hadiths to examine the position of women in Islam. He believes that the position of women equal to men is mentioned in the Quran. In this book, the author examines the rights of women in marriage, divorce and other fields related to women. In her book entitled "Women in the Islamic Religion", Fatemeh Marashi examines the position of women in the Qur'an and Hadith. He believes that men and women are equal in the Qur'an, and in some cases even women are superior to men. Mahmoud Mashaikhi (2009) has devoted an important part of his book entitled "Religion and Women's Rights" to the study of women's rights in Islam. The author of this book believes that Islam has been far more advanced than other religions in terms of women's rights. In the 7th century, the author has specified that Islam gave women the right to own property independently, and gave them the right to inherit. Also, women in Islam are given the right to pay dowry and determine the conditions of divorce. This book also deals with the difference in social indicators between men and women. The author states that these differences are acceptable in Islam as a natural result of the different roles that men and women have in society. However, these differences can be managed based on the principle of equality before law, equality before God, and realization of equal opportunities in life. In general, the author examines issues related to women's rights in Islam in his book and concludes that Islam has been far more advanced than other religions in terms of women's rights.

Terminology

1. Nikah

Nikah is an implicit contract between a man and a woman for the purpose of companionship, and as matrimonial, it must be a verbal request and acceptance, with mutual consent between the request and acceptance, and the qualification of the executor of the marriage contract and without suspension. In other words, marriage is "a legal and emotional relationship that is achieved through the marriage between a man and a woman, and gives them the right to live with each other". Nikah is one of the recommended things (mustahabb) that have been emphasized (Ahmedvand, Khalilullah, Zivari Mirzaei, Zahra).

2. Divorce

Divorce is defined as the dissolution of a permanent marriage with special conditions and formalities on behalf of himself or his representative. Therefore, divorce is related to permanent marriage and dissolution of interrupted marriage (muta') takes place through dowry or expiration of the term (Article 1139). Divorce is specific to a permanent marriage, and the divorced woman leaves the marriage on the husband's side with the expiration of the term or its end. In terms of legal nature, in Islamic jurisprudence and civil law, divorce refers to the marriage that takes place by the man or his representative. Even in the cases where a consensual divorce takes place based on the agreement of the couple in the form of divorce or divorce, or the woman requests the court to issue a verdict of impossibility of compromise, and the divorce takes place according to the woman's request, it should be considered a unilateral legal act. ; Because the agreement of the couple is the condition or motive for divorce; and divorce, that is, the last act that is realized by the execution of the concubine, and the marriage relationship is permitted at the request of the woman other than divorce. (Esaadi, Seyyed Hassan, p. 262, *ibid.*).

3. Dowry

Dowry or Sidaq, named "Kabin" or "Dast peyman" in Persian, is a property woman owns on marriage; man is required to grant dowry her. And the Holy Qur'an has used the beautiful interpretation of donation in the verse " اتوا النساء صدقاتهن نحله " about dowry (Surah Nisa verse 4), Sadaqat is the plural of Sadaqah, that is, Sadaqah, because the kabin is called Sadaqah because it is a sign of the man's honesty: (Kashaf Zemhshari) , vol. 1, p. 469, quoted by Asadi, Seyyed Hassan).

4. Alimony¹

In the common customary term of Muslims, alimony that is a legal obligation on a person to provide financial support to their spouse before or after marital separation or divorce, includes: food, health, treatment, housing, clothing and everything that a woman needs according to the custom and dignity of a woman. In general, the financial support of a woman is the responsibility of the father as long as she lives in her father's house, the responsibility of the husband when she gets married and starts a family, and when she has the title of mother and does not have a husband, it is the responsibility of the child who can pay alimony to his mother, and if the deceased husband had a salary or was insured, she earns his living from these places, and after his death, the husband or the children are also obliged to cover and bury him. In other words, the relative and causal relatives of a woman, i.e. her father, husband and children, provide for her living expenses, and she does not have to worry about her mind and is entitled to fair and equitable rights for her livelihood: (Asadi, Seyyed Hassan, *Women's Rights*, 2013 p. 133).

Method

This study is considered as a qualitative study, and documentary studies have been analyzed with a comparative approach, and instead of using numbers and statistics, qualitative data such as religious texts, jurisprudence and legal books, case studies and experts' opinions have been carefully collected, checked and analyzed.

¹ Alimony, also called aliment, maintenance, spousal support and spouse maintenance, is a legal obligation on a person to provide financial support to their spouse before or after marital separation or divorce. The obligation arises from the divorce law or family law of each country.

Marriage from a legal point of view

Some law professors have defined marriage as: "Marriage is a legal relationship between a man and a woman and it gives them the right to enjoy each other sexually". Some Islamic jurists have defined marriage as follows: "Marriage is a contract that gives legitimacy to each of the spouses to enjoy the other". (Mohammed Mohiuddin Abdul Hamid, *Al-Ahwal al-Shakhsiyah fi al-Sharia al-Islamiyah*, Egyptian Press, 1985, p. 10, quoted by Asadi, Seyyed Hassan, *Women's Rights*, p. 228). The mentioned definition will be acceptable if we consider enjoyment in this definition in a general sense and include any kind of use. There are two types of marriage: permanent marriage and temporary marriage which is known as *mut'ah* marriage, *muaqqat* marriage (temporary marriage), or *inqifa* marriage (interrupted marriage) in Arabic. In temporary marriage, as in permanent marriage, the formation of a kind of family is intended, and participation in the life and union of man and woman is realized, although the family that is formed in this way is not as strong and valuable as the family resulting from permanent marriage and family cooperation and solidarity in a permanent marriage is much more than a temporary marriage. (Asadi, Seyyed Hassan, *Women's Rights*, p. 228). According to *MĀDAYĀN Ī HAZĀR DĀDESTĀN*, marriage was for a specific and limited period of time in Zoroastrian religion, and in some ways it has many similarities with *Mutah* or temporary marriage in Imami jurisprudence, although there is a difference of opinion between Imami jurists and Sunnis. Regarding the continuation of the legitimacy of this type of marriage, the Imami jurists, citing the Qur'an and traditions, believe in its continuation in Islam for a certain period with a certain dowry that should be recorded, but a certain time is recorded in Zoroastrianism, but there is no evidence about dowry. A girl could marry temporarily without the consent of her guardian or guardian in both religions, although some of these evidences do not directly mention the issue of temporary marriage (Badamchi, Hossein; Ghazanfari, Kulthum, *temporary marriage in Zoroastrianism and Islam, women in culture and art, period 7*, 2014).

Results

1. Marriage in Zoroastrianism and Islam

1.1. Marriage in Islam

Humans are created in such a way that they are only complete when the male and female sexes come together spiritually and physically, and each is incomplete on its own. The virtue of marriage is so great that many verses have been revealed in the Qur'an in this regard. (Mahdiyeh, Sahebdeh, 2016).

One of the greatest blessings of God is a worthy spouse. The Prophet (PBUH) said: "After the blessing of Islam, a Muslim man has not received any benefit from God's grace that is better than a Muslim and worthy spouse." (Hor Ameli, 1998 p. 23. Quoted by Khalilullah, Ahmadvand¹).

Marriage is the basis of family formation in the Quran. The Qur'an considers the "family" that is formed by marriage as a comprehensive system and on the way to perfection, and considers it potentially as a sublime group to meet sacred goals, which plans to make it virtuous and determines the Personal status and duties of individuals with this characteristic. (Hosseini, Akram, 2005).

After marriage, a person's personality becomes a social personality, and he sees himself as "responsible for protecting his wife and the family's reputation and providing the means of living for his future children, for this reason, he uses all his intelligence, initiative, and talent²." (Tafsir) Sample, 1370, p. 465, quoted by Khalilullah, Ahmad Vand³).

Marriage based on religion and in the shadow of the guardianship of Ahl al-Bayt (Ahl al-Bayt) has a divine aspect, and according to the hadiths, it is a means of obtaining half of the religion. The Messenger of God (PBUH) said: "أحرز نصف دينه فليتبق الله في النصف الباقي". God's Messenger (PBUH), who sees this material matter from a divine point of view, calls it his Sunnah: "النكاح سنتي فمن رغب عن سنتي فليس مني". Therefore, marriage is not just an instinctive thing, because this instinct is also in animals, but

¹ Khalilullah, Ahmed Vand; Zivari Mirzaei, Zahra, 2022, *Ghanoon-e Yar Quarterly*, year 5, number 19, pp. 240-267.

² Makarem Shirazi, Nasser, (1998) *Tafsir Nemooneh*, Volume 14, Tehran, Darol Maktab

³ Khalilullah, Ahmed Vand; Zivari Mirzaei, Zahra, 1400, *Qonun Yar magazine*, fifth year, number 19, pp. 240-267.

⁴ Al-Amali, Tusi, p. 518, quoted by Hosseini Akbarnejad, Halle!; Shushtri, Zahra, 2014, *Women in the Qur'an*, Qom Publications, Office of the Representative Office of the Supreme Leader in Universities.

⁵ *Jami al-Akhbar*, p. 101, *Bihar al-Anwar*, vol. 100, p. 220. Quoted from the book *Women in the Qur'an*

it is a divine thing that preserves the human religion and is one of the divine revelations. However, the common man, who does not know the cause of such an instinct and attraction, thinks that this is an intrinsic desire, but the joy of marriage is considered the reward of family formation, and if it was not the joy of marriage, a person would not choose a wife, and the generation did not continue.

Nikah, Marriage

Nikah in the word means confrontation, but in the term, Nikah is the concept of intellect, which is interpreted as "getting a wife" and "getting a husband" in Persian language. Finally, marriage is defined as: "It is a legal-emotional relationship between a man and a woman, which gives them the right to live together." (Safaei, Seyyed Hossein; Emami, Asadullah, 2019, p. 30¹):

Marriage is considered as one of the emphasized mustahab, and there are countless narrations that encourage people to do it and condemn people if they leave it, and the holy law of Islam emphasizes it, and explicitly "in the Qur'an in Surah Noor, verse 24 It is emphasized and he says: "Men without wives and women without husbands should marry."

Marriage is a sign of God, just as the creation of heaven and earth, man, etc. is one of God's signs. If a person marries based on such a vision, he has preserved half of his religion (ibid.)

Marrying is the Sunnah of God's Messenger, who always said: Whoever wants to follow my Sunnah, it is marriage (Hor Ameli, 1998). Islam commands girls and boys to hasten marriage, and it is so important that disobeying it from the point of view of the Messenger of God is considered to be a departure from Islam (ibid.).

The Holy Qur'an says in Surah Ram verse 21: " ومن آياته ان خلق لكم من انفسكم ازواجاً لتسكنوا اليها و جعل بينكم "مودهو رحمه", one of the signs of God is that he has created women from your own species so that you may find peace in meet them and love each other.

- "هن لباس لكم و انتم لباس لهن" - , women are your adornment and cover, and you are their adornment and cover.

Types of marriage

The Qur'an refers to two types of marriage in this verse: " وَالَّذِينَ هُمْ لِأُزْوَاجِهِمْ حَفِظُونَ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ...". (Moemenun/ Surah 23, verses 5-6 and Ma'raj/ Surah 70, verses 29-30), marriage with inheritance (permanent marriage), marriage without inheritance (muta').

Temporary marriage refers to a marriage contract in which the dowry and duration are specified. (Mostalahat al Feghh, p. 468), this marriage is mostly referred to as "Mut'ah" (Mostalahat ol Feghh, p. 468 and Tahrir al-Wasilah, vol. 2, p. 258 and Rulings of the Qur'an, vol. 2f, p. 208) , sometimes as "Mutah Nikah " (Sahih Muslim, Vol. 5, p. 18 and al-Khalaf, vol. 4, p. 340) or "women's possessions" (Merat al-Oqhoool, vol. 1, p. 273 and al-Ghadir, vol. 6, pp. 205-220).

In many rulings, permanent and temporary contracts are common; For this reason, men and women are called husband and wife in Mutah. A temporary contract also has its own rules, for example, "Mention of dowry is a condition in a temporary marriage, otherwise, it is invalid." (Tahrir al-Wasilah, Vol. 2, p. 310 and Kitab al-Nikah) In addition, with this contract, the inheritance from each other between the spouses is not proven; therefore if they stipulate that they inherit from each other or one of them inherits, it is wrong to inherit. (Tahrir al-Wasilah, vol. 2, p. 313 and Ktab al-Nikah)

1.2. Marriage in Zoroastrianism

Zoroastrians are ordered to be chaste and avoid unchastity in different parts of Avesta. In Zoroastrian religion, marriage is very desirable, and refusing it and celibate life is distasteful and reprehensible. Marriage is called a "covenant of love and affection" and is sacred. In the texts of this religion, the purpose of forming a family, ordering world affairs, consolidating unity, preventing moral corruption, and having children are mentioned. It has been emphasized that a man who has a wife is superior to a man without a wife, a man who has a family is superior to a man without a family, and a man who has children is superior to a childless man. Zoroastrians consider being childless as one of the heavenly punishments, and it is obligatory for those who do not have children to adopt someone. Marriage is a sacred and desirable thing in Zoroastrian religion, and turning to celibacy is a bad thing. (Sheikhi,

¹ Safai, Sayyed Hossein; Emami, Asadullah, 2017, A Brief Book of Family Law, Al-Mizan Publishing

Mauritius, 1376, quoted by Khalilullah, Ahmed Vand, Zivari Mirzaei, Zahra, 1400)¹. From the Zoroastrian point of view, every Zoroastrian person is obliged to choose a wife for himself after reaching the age of puberty (in some Zoroastrian religious texts, betrothal of boys and girls in childhood has been severely criticized), and the minimum marriage age for girls is not 12 and 15 years old in another place (Gholami, Ali, 2018), and let them continue their life together with affection and producing worthy children, because then Ahura Mazda will be pleased with her and Ahriman will stay away from her (ibid).

Marriage is a good deed in Zoroastrian religion, it is the basis that a woman chooses a man as her husband so that their ability to progress in creation is fulfilled, and their happiness increases (Sahebdel, Mahdiyeh, 2016, p. 25). In Zoroastrian religion, marriage is so desirable that Zoroastrians are ordered: "Help your co-religionists so that they can choose the spouse they want and form a bond of solidarity." (Ibid., p. 26).

To get a wife, which is based on freedom of choice, and it is ordered that sons and daughters choose their wives with consultation, wisdom, truth, and purity, and the father has no right to force his daughter to marry a boy (ibid). When Porchista, the daughter of Zoroastrian, wanted to choose a wife, her father told her: "Choose as your wife the one whom your wisdom dictates." (Ibid).

In the matter of marriage, some of the articles in the Zoroastrian Personal status regulations have also been used, which are:

Article 15: The marriage ceremony is performed in accordance with the religious regulations of Iranian Zoroastrians by means of Mobad and with the presence of at least seven trusted Zoroastrian men who are not less than 25 years old, and the marriage contract is completed after hearing the consent of the parties. Of course, the testimony of two witnesses is necessary in the absence of such a number of people. These witnesses are usually relatives or close friends of the bride and groom. The witnesses must be married themselves.

Article 16: It is not permissible for each Zoroastrian man to have more than one wife, and for each Zoroastrian woman to have more than one husband, except when the spouse is separated by death or one of the causes that we will talk about in the divorce chapter. (Iranian Zoroastrians Personal status code, p. 20²).

There is no dowry in Zoroastrianism, because divorce is not allowed in Zoroastrianism.

Except in a few cases as follows:

- 1- The woman deviates from the path of chastity, and her husband can clearly prove the case.
- 2- An incurable disease of the husband or wife.
- 3- The man or woman is crazy, and a few other things.

Men and women are not allowed to marry some people in Zoroastrian religion. (Sahibdel, Mahdia, 2008, p. 28). Men cannot marry: mother, sister, daughter, sister's daughter, brother's daughter, father's sister, mother's sister, nanny who breastfed, and any daughter, whether native or foreign, who was co-breastfed during childhood. (Sahibdal, 2008, p. 71, quoted by Khalilullah, Ahmadvand, Ziyori Mirzaei, Zahra, 1400) and women cannot marry: father, brother, sister's son, brother's son, father's brother, mother's brother, and any son, be it your own or A stranger who was co-breastfed during childhood. (Ibid.)

Conditions of marriage/nikah

In marriage, it is necessary to have the permission of the parents and in their absence, the permission of the grandparents. Another condition of marriage is that the parties are Zoroastrian and mature. Marriage rituals consist of three distinct parts: courtship, engagement and marriage contract (witnesses), and the marriage contract is not complete without one of these three stages. According to the Iranian Zoroastrian Personal Status Code, there is no age requirement in the first stage, in the second stage of Article 6, the age of a girl is 14 and the age of a boy is 16, and Article 14 does not allow a marriage ceremony before the age of 16 for a girl and 18 for a boy.

According to reports, boys and girls were getting married outside of this rule before the marriage law was approved (Iran Zoroastrian Personal Status Code, p. 15). The reason for marrying at a young age was to prevent the spread of corruption and the spread of mental and psychological diseases, as well as

¹ Ghanoone Yar magazine, fifth year, number 19, pp. 240-267

² Judiciary Legal Department, Niznak, Azargashsab, Ardeshir, p. 25

to give birth to more children for the society and cause the survival of the generation. They believed that after the end of the world they will go to heaven at the age of marriage (Daryaei, Toraj, 2013, quoted by Hosni, Miza Mohammad; Khosravi, Farinaz, 2015).

Types of marriage

In the Zoroastrian tradition, marriage was performed both permanently and temporarily. Permanent marriage in the form of Padshaei, Chekri, Setri, Iokin and Khodsarai, and temporary marriage in case of time determination. Of course, some researchers have proposed another classification. In this category, there are three types of marriage: kingship, checker, and self-arrangement, which can be permanent or temporary in all three types. and divorce, p. 7, quoted by Navadri, Gholamreza, 1989). According to the Matigan-i Hazar Datistan, a man could hand over his wife to another person for a certain period of time (ibid., pp. 16-17). The Ayōk marriage indicate an intermediary successor, which are related to the field of inheritance, and not marriage and Matsukh mentioned about it. Another type of division is that marriage is independent and surrogate (Shaki, Mansour, 2013, Laws in Ancient Iran, in Comprehensive History of Iran, vol. 3, p. 82, Ibid).

As mentioned earlier, there have been several types of marriage among Zoroastrians, including:

A) King Woman: The marriage of a virgin girl with the consent of the parents, in this marriage, the children in this world and the hereafter belonged to that husband.

b) Ayōk Woman: the marriage of a virgin daughter who was the only child of her parents, the woman gave her first child to her parents instead of herself, and from then on she was considered a female king (Rajabi, Parviz 2002, p. 453¹, quoted by Hosni, Mirza Mohammad, Khosravi, Farinaz, 2015 Tarikh Nagar publication).

c) Seder woman or Seter woman (adopted woman): If a young man dies before the age of 15 and before marriage, his relative gives a foreign girl a dowry to marry a foreign man, because this woman was considered a child of the family, half of Her children belonged to the deceased youth, and the other half belonged to her husband, the wife herself also belonged to the deceased youth.

d) Checker woman (servant woman): a widow who remarries if she has no children from her first husband, she is like a Seder woman, that is, her second husband's children belong to her first husband, and the woman herself also belongs to her first husband after her death. (Rajabi, Parviz, 2002, p. 454, quoted from the same).

Q) Khodrae woman: that is, a girl who marries without her father's consent, she does not inherit from her parents, unless her eldest son grows up and remarries her father as a king woman (ibid.).

Borrowed marriage

One of the illegal behaviors of that period is arranged marriage, in such a way that a man could marry another man even without his wife's consent for a certain period of time, the children born during this period belonged to the first husband (although it was from another man's sperm), these children were looked upon as labor, and the first husband sometimes sold them (Kristen Sen, Arthur, 1994, ibid.). This act was considered as a good act, and helping a needy person with a common religion. The duration of this marriage depended on the agreement of the parties, and its purpose was mentioned benevolently, for example, the need arose for her husband due to the death of the wife or the serious illness of the wife, and the man was unable to support his children, as a result of His friend asked to borrow his wife. This marriage was often done among the lower classes of society who did not have more than one wife with the intention of cooperating with each other. In that case, for a man from the noble class who had many wives and concubines, there was less need for a borrowed wife. (Mushkour, Mohammad Javad, 1996 quoted from Ibid). This type of marriage disappeared after the fall of the Sassanid government. According to the moral teachings of Zoroaster, who mentions chaste and abstinent women in most of his words, this marriage does not seem to have a legal aspect.

2. Dowry

According to the legislative record, payment of dowry by the husband to the wife has been customary since the time of Hammurabi (about eighteen centuries BC) and according to articles 138 and 139 of

¹ Hezareh-haye Gomshodeh (Ahuramazda, Zoroaster, Avesta) (Vol. 1), Tehran, Tous Publishing House.

Hammurabi's law, which was compiled and implemented about five hundred years before the appearance of Prophet Moses, if a woman was barren, the husband could pay her dowry and divorce her, and if the woman did not have dowry and dowry, he would give her some silver, and if she left the family or committed other such errors. The husband was exempted from paying the dowry and returning the dowry¹. (Adeli Moghadam, Muhammad Ali, quoted from Ibid).

The payment of dowry by the husband was common in ancient Iran, Greece, Arabia before Islam and in Zoroastrian, Christian and Jewish religions, and in Islam, payment of dowry is not only accepted, but also rules have been devised regarding the amount and manner of payment. (Ibid).

1.2. Dowry in Islam

Dowry is considered as one of the financial rights of the woman in the family, which must be paid by the husband. In the Holy Qur'an, there are verses from Surah Nisa dedicated to this topic: "وَأَتُوا النِّسَاءَ وَصَدَقْتَهُنَّ نَحْلَهُ فَاِنْ طَبِنَ لَكُمْ مِنْ شَيْءٍ مِنْهُ فَكُلُوهُ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا", Surah Nisa Verse 4 "And give women's dowry as a gift and willingly. If they give you something of their own free will, consume it in a halal and pleasant way." (Hosseini Akbarnejad, Haleh; Shushtar, Zahra, 2015).

There must be a dowry in the marriage contract, and this rule is mandatory, that is, the parties cannot deviate from it and agree against it, because private contracts and agreements and the rule of will cannot overshadow the mandatory rules and become obsolete. Therefore, even if the dowry is not determined in a marriage, "Mehr-ol-masal" is given to the woman. This article is the reason for rejecting the claim of those who say that the dowry is the price of the woman, and consider the marriage contract as a transaction, because if this were the case, at the time of marriage, the amount of dowry and the price of the transaction must be clearly and unambiguously known, and if not, ignorance of the price will cause the transaction to be invalid, while it is correct to marry without a specified dowry as stipulated in Article 1087 of the Civil Code². (Esaadi, Seyyed Hassan, 2012).

2.2. Dowry in Zoroastrian

Article 21- Divorce is not optional in Zoroastrian religion, therefore, the dowry is not determined and specified in the marriage ceremony. Given that divorce is not optional, dowry is not determined when the contract is signed, because they believe that separation will not take place. (Ahmad Vand, Khalilullah; Zivari, Zahra, 2021).

3. Polygamy

1.3. In Islam

Islam abolished many marriages before Jahiliyyah³, such as forced, hereditary, collective marriages, etc. But he did not abolish polygamy for some reasons, and limited it in terms of quantity and quality. So that no man has the right to have more than four wives. Whereas, Islam allows these marriages only under certain conditions, which include the financial wealth of the man, the ability to establish justice between the spouses, etc. (Mois Sheikhi, 1997, quoted by Ahmadvand, Khalilullah; Zivari Mirzaei, 2021). Some of the reasons that have caused Islam to accept polygamy in a limited way are as follows:

1. Usually, men die in accidents, and their wives lose their husbands, and if women do not have guardians and their sexual needs are not met, they may commit sins, and put the society at risk of corruption, and this is in addition to the damage caused to oneself due to sin (ibid.).
2. It is possible to control the indulgence and diversity of some men who cannot protect themselves from sin through polygamy.

¹ The book entitled "Philosophy of dowry and its investigation in jurisprudence and civil law", p. 17

² Article 1087, Civil Law: "If in a permanent marriage dowry is not mentioned or no dowry is stipulated, the marriage is valid and the parties can determine the dowry after the contract, and if there is intimacy between them before agreeing on the fixed dowry, the wife will be entitled to "Mehr-ol-masal"."

³ jāhiliyyah, in Islam, the period preceding the revelation of the Qur'ān to the Prophet Muhammad. In Arabic the word means "ignorance," or "barbarism," and indicates a negative Muslim evaluation of pre-Islamic life and culture in Arabia as compared to the teachings and practices of Islam.

3. The number of women is more than men in some societies, and therefore it is necessary to solve the problem of women with the problem of polygamy in order to avoid possible sin. (Ibid).

Some verses in the Qur'an about polygamy is: "فانكحوا ما طاب لكم من النساء مثنى و ثلاث و ربع فان خفتم الا تعدلوا¹"¹, in this verse men are allowed to have a permanent marriage with Four women at the same time provided that they can respect justice between women.

"ولن تستطيعوا ان تعدلوا بين النساء"²...², in this verse, the word "ولن تستطيعوا" means that men can never do justice between women, even in terms of interest and love. Regarding the above two verses, Imam Sadiq (a.s.) says: The meaning of "...فان خفتم..." in the first verse is justice in alimony, and in the second verse "لن تعدلوا" is justice in interest. (Ayatollahi, Zahra; Women and Family, 2002, p. 182, quoted by Asadi, Hassan, Women's Rights, p. 216). Therefore, the permission to have more than one wife is a suspension of justice, which is impossible to achieve. In the Arabic language, "لن ترانى" means never, like "لن ترانى" in the blessed verse 143 of Surah Al-A'raf, which is addressed to Prophet Moses (pbuh), "لن ترانى و " "You will never see me!" But look at the mountain.

In general, it must be acknowledged that if having more than one wife is prescribed in Islam, it is influenced by the conditions that existed when Islam appeared, which: firstly: men did not have any restrictions on having a wife, and they took as many wives as they wanted. that the Holy Prophet of Islam (PBUH) limited the maximum number of wives to four. Secondly: He conditioned justice on this limited number, which is impossible to achieve, even if it is a matter of heart's desire. Therefore, it should be concluded that in the Holy Quran, marriage with more than one woman at a time is suspended on the condition that it is impossible for men to achieve it. (Ayat Elahi, Zahra; Woman and Family, 2002, p. 182, quoted by Asaadi, Hassan, Women's Rights). Therefore, the principle of polygamy as stated by Islam is based on the conditions that are rarely possible to realize and objectify it.

2-3- Zoroastrian religion

In Zoroastrian religion, everyone is allowed to have only one wife, their reason is that just as a woman cannot have multiple husbands at the same time, so a man does not have the right to have multiple wives at the same time. Getting a second wife is possible if the first wife is dead, or divorced according to the conditions mentioned in the Zoroastrian religion. Or the man does not have a wife practically" and legally", and since the production and continuation of the generation is one of the goals of marriage in Zoroastrianism, if the woman was barren, the man could have a second wife, of course, after the doctor's approval and his first woman's consent (Sheikhi, Morris (1997), quoted by Ahmadvand, Khalilullah, Zayori Mirzaei, Zahra, Ghanooone Yar, 2021, fifth year, number 13).

Contrary to Mobad Rostam Shahzadi's opinion, who says: "Marriage rules in Zoroastrian religion are based on monogamy" (Shaherzadi, Rostam, 1988, Zoroastrianism, pp. 38-39, quoted by Navadari, Gholamreza, 1367, Marriage with relatives one in Zoroastrian traditions), or Hirbad Katrak who says: "In all periods of ancient Iran, the will of a wife was valid, and it was acted upon" (Katrak, Jamshid, 1963, Marriage in Ancient Iran, translated by Rostam Shahrazadi, p. 7, quoted from Ibid). There are many evidences that show that polygamy was common among Zoroastrians until a century ago. "In ancient Iran, it was a common thing to have more than one wife, at least in terms of ability" (Rajabi, Parviz, 2001 Fahzarah Gomshadeh, vol. 1, p. 452, ibid.).

Herodotus says about polygamy among the Persians: each man has several official wives, and buys many concubines (Herodotus, 2010, History of Herodotus, translated by Morteza Saqib Far, p. 165).

Strabo believes that the reason for polygamy is: "Men take many wives, in addition, they have many concubines so that they have many children" (Strabo, Geography of Strabo, Lands under the Achaemenid Command, translated by Homayun Safizadeh, p. 325).

Strabo says about the Medes: The kings of the Medes had many wives, but the other Medes could not have more than five wives (Strabo, Geography of Strabo, Lands under the Achaemenid rule, translated by Homayoun Safizadeh, p. 53).

There is polygamy even in Iranian epics and legends (Ferdowsi, Abu al-Qasim, 1987, Shahnameh, edited by Jalal Khaleghi Mutlaq, Vol. 1, p. 125, verse 571-570 and p. 106, verse 263, ibid.). Sassanid kings

¹ Surah Nisa verse 3

² Surah Nisa verse 129

had harems and countless wives and concubines. For example, ten thousand maids were working in the court of Anoushirvan (Arian, Saeed, 2013, Pahlavi texts, Khosrow Qabadian and Ridgis, paragraphs 99-98 quoted from the Ibid). An important point in Sebeus is: "Khosrow had many wives according to the Mughan tradition". It should not be said that according to "Letter of Tansar¹", the king should be content with one or two wives, and having many children is the same as the lower classes, and nobles should boast of having few children (Letter of Tansar to Gashnesb, 1975, edited by Mojtabi Minoui, p. 70). A doctrine that was not very popular among the kings. Although, monogamy prevailed, but the contrary has been recorded in Madian Hazar Dodastan and in historical reports (Mazdapour, Katayoun, 2013, Family in Ancient Iran, in the Comprehensive History of Iran, vol. 3, p. 138, quoted by Navaridi, Gholamreza, 1988). Polygamy was also abolished and having one wife became permanent later due to the change of circumstances. Now, if polygamy was in the Zoroastrian tradition, why has it been abandoned in recent centuries? The answer is clear:

First: There are examples of it, and it is no longer supposed to be, like dozens of other customs that have been abandoned in the past decades. According to the current law, "It is not permissible to have more than one wife for each Zoroastrian man and more than one husband for Every Zoroastrian woman" (Iranian Zoroastrians Code of Personal status, 2016, pp. 22-23, Article 16).

4. Alimony

1.4. Alimony in Islam

Paying alimony to the wife is one of the obligatory things that Islam has assigned to the man and it is necessary for the man to do it. Alimony, which means the provision of food, clothing and things on which the administration of normal life depends, and becomes obligatory for three reasons: marriage, kinship, and ownership, is considered one of the inalienable rights of women. It is obligatory for the husband to pay alimony for the wife, on the condition that a woman is married to her husband and obedient to him, and obeys what is obligatory on her (Wahy, Hosseini, Moradi, 2014, p. 146; quoted by Faraji, Maliha, "Wakawi A comparison of women's economic rights in the laws of Islamic Sharia").

Every man who gets married must provide for his wife's expenses in a normal way and respecting her dignity. The obligation to spend on the husband is taken from the following verses:

"...²: "و على المولود له، رزقهن و كسوتهن بالمعروف لا تكلف نفس الا وسعها.....".

And the person for whom the child was born (the father) is required to pay the food and clothing of the mother appropriately. »

The above verse was revealed about women who are divorced and pregnant, and the fathers of the pregnant children are obliged to pay food and clothing to the pregnant women.

Sheikh Tusi writes in the interpretation of this verse: It is obligatory on the father of the child to provide food and clothing for the mother and the child whom he divorced until the mother breastfeeds the child. (Sheikh Tusi, Tabiyan, vol. 2, p. 256, quoted by Asadi, Hassan, p. 139).

³: "لينفق ذو سعةه، و من قدر عليه رزقه، فلينفق مما آتاه الله لا يكلف الله نفسا الا ما آتاهها سيجعل الله بعد عسر يسرا".

"And those who have vast resources should spend to the poor from their vast resources and those who are poor should spend to the poor from what God has given them. »

In the above verse, a person who is able to spend is ordered to spend, and a person who is in need is obliged to pay Alimony according to his ability and to the extent of his benefit from God's blessings. Because God has not obliged anyone to do more than what has been given to him, and the needy people who are able to support their spouses with difficulty have been promised that God has placed ease and comfort after hardships and problems.

الرجال قومون على النساء بما فضل الله بعضهم على بعض و بما انفقوا من اموالهم فالصلحت قنتت حفظت للغيب بما حفظ الله
"....»":

"Men are in charge of women's lives. This is because God has given some people more superiority over others in terms of wisdom and ability, and it is also because men pay the cost of women's lives from

¹ The Letter of Tansar was a 6th-century Sassanid propaganda instrument that portrayed the preceding Arsacid period as morally corrupt and heretical, and presented the first Sassanid dynast Ardashir I as having "restored" the faith to a "firm foundation."

² Surah Baqarah verse 233.

³ Surah Talaq verse 7

their property. Therefore, decent women obey their husbands' rightful demands, and since God has protected their rights, they are guardians of their rights in the absence of their husbands...¹"

The commentators believe that all the physical needs of a woman should be met in "Alimony", and all her spiritual needs are considered in "pleasantness"² (Ahmadiyah, Maryam, 2013, Necessity of Behaving Reasonably, Strategic Studies Magazine. Quoted by Shushtri, Zahra, Women's rights in Islam). The sentence "الرجال قوامون على النساء" indicates that God has entrusted the management of affairs and meeting the needs of a woman to a man, and a man should be consistent with his wife, because his wife and honor are a divine trust that God has entrusted to a man to protect and defend her as well as provide her expenses and alimony. In fact, alimony and bounty are the basis of guardianship, and some jurists have said that if a man does not pay alimony, his guardianship will be removed, and the ruler can decree divorce (Ma'amouri, Ali and Khosh Sokhn Muzaffar, Zahra, 2013, review of the evolution of the understanding of the verse of Surah Nisa, Quarterly Journal of Quranic and Hadith Sciences, Ibid).

Types of alimony

Type 1: Ownership is the criterion of this type of alimony, like the alimony that the owner of animals makes for them.

Type 2: It is alimony that a person has to pay for his children while they are minors or poor or for their parents who are poor. Ownership is not the criterion of this type of alimony, but it is the rights that children naturally have over their parents, and it is the rights that fathers and mothers have over their children due to the production, education and upbringing of the child and according to the labors that they have done during their child's childhood. The disability of the person liable for alimony is a condition for this type of alimony.

Type 3: It is alimony that a man spends on his wife. The criterion of this type of alimony is neither ownership nor ownership, nor the natural right in the sense mentioned in the second type of alimony, nor the woman's incapacity or poverty. In other words, in the holy religion of Islam, if a woman has financial ability, the man is still obliged to cover the expenses of the dependents, including the customary and personal expenses of the woman. Another difference that this type of alimony has with the first and second type is that if a man shirks from the burden of duty and does not pay alimony, he is guilty, but the violation of duty is not a debt that can be demanded and fulfilled, and there is no guarantee of performance. Civil and criminal law. But the third type - payment of alimony to the woman - if the man shirks from the burden of duty and does not pay her alimony, the woman has the right to file a lawsuit in the form of a legal and criminal matter, and collect her claim from the man, and in case If the man refuses, they will imprison him (Motahari, Morteza; Women's Rights System in Islam, pp. 105-206, cited in Ibid).

2-4- In Zarathustra

According to Zoroastrianism, a man must pay for the expenses and clothing of the female king. In a royal marriage, the expenses of the female king are the responsibility of the man as long as he is alive, and he cannot avoid this responsibility. (Barthélemy Christian, Women in Sasanian Law, translated by Naseruddin Badie Al-Zamani, 1958, p. 53, quoted by Ghazanfari, Kulthum; Badamchi, Hossein, etc., 2019, Legal Research Quarterly, No. 88). According to Article 17 of the Zoroastrian Code, as soon as the marriage ceremony has been performed, the marital relations between the existing parties and the duties of the husband and wife have been set in front of each other.

In Zoroastrian law, the relationship between husband and wife is caused by their social status, and as it can be seen, their being in the minority has caused enough attention to be paid to the basic strength of the family. The equality of husband and wife has been mentioned in Zoroastrian books.

A novice in the Mazdasina religion says: women are partners and equals in all civil and social rights with men, and there is no difference or privilege between men and women. In Mazdasina religion, the husband must be completely kind to his wife, and be of one mind with her in everything, and protect her from any kind of pain and injury, cold and heat, and do not withhold anything from her in providing

¹ Surah Nisa verse 34

² See Rak, Ahmadiyah, pp. 202-206

food and clothing as much as he can. A wife should also be completely kind to her husband, and should not fail in nursing him and his children, maintaining the house, cleanliness, truth and righteousness. According to what was mentioned, extraordinary intimacy can be inferred in the Zoroastrian family, the rule of the man in the Zoroastrian family is clearly felt, and in Article 18 of the Zoroastrian Code, it is stated that: "The head of the family is the responsibility of the husband for life, and It is the woman's responsibility at the time of death, or when a man is forbidden.

Astrology in Zoroastrian conditions shows that women do not have financial independence and do not bring anything to the husband's house except dowry, and fathers give their inheritance to daughters in the form of dowry (Namati, Tahmina; Dr. Rajaipour, Mustafa, 2018, Alimony in Islam and Religions, Allameh Jafari Festival). There is no statement about alimony in Zoroastrian law. Apparently, the religion of Zoroastrianism considers the husband's obligation to alimony to be so clear that it does not see the need to specify it, but in Article 23 of this regulation, a woman is allowed to request a divorce in case of non-payment of alimony within three years, and it is assumed that Paying alimony is a definite duty of a man.

Marital relationship is the basis of alimony obligation in Zoroastrianism, which states that couples should consider themselves as a continuous unit, and try to meet each other's needs, and due to the fact that the man is the head of the family, he is responsible for his wife's alimony. Article 23 of the Zoroastrian Code says: "If the husband refuses to pay the wife's living expenses for 3 years, the wife can divorce him according to her request."

Although the Zoroastrians have not specified the amount of alimony, but things like "the husband should not separate his being from the woman's being, and protect her from any kind of suffering and injury, heat and cold, and provide her with food and clothing as much as he can," shows that they have set the criterion of married status in the amount of alimony (Ibid). But in most sources, no comment on alimony in Zoroastrian religion was found, and it seems to be completely silent in this regard.

According to Article 35 of the Zoroastrian Code, if the reason for the divorce is not a violation of chastity or the wife's fault, the court will order the husband to pay the wife an amount for the expenses until the wife chooses another husband, considering the assets of the husband and wife.

According to Article 31 of the Zoroastrian Code, "If a husband is absent for 5 consecutive years and leaves his wife without alimony, the absence is considered death and the wife is allowed to divorce". If the missing absentee referred to in Article 31 returns after the divorce, and the divorced person is not married to another person, the woman will have the right to return by paying the past alimony.

5. Divorce

Divorce in the word means untying the knot, letting go and separating a woman from her husband, and freeing herself from the shackles of marriage. (Najafi, Mohammad Hassan, Jawahir al-kalam, Divorce Book, p. 274; Mohammad Hossein Al-Zahababi, personal status, p. 216 quoted by Asaadi, Seyyed Hassan, 2012).

1.5. In Islam

"The most hated halals is divorce in Islam"

Islamic jurists believe that divorce is realized by the man's will and there is no need for the woman's consent, and the woman's lack of consent cannot prevent it from happening (Badamchi, Hossein; Ghazanfari, Kulthum,... 2016). Also, divorce takes place in a permanent marriage (researcher of the son-in-law, Mustafa, 2011). There are many verses that show divorce and its rulings in the Qur'an and there is also a Surah called Talaq, which deals with the rulings of divorced women and their rights (ibid.).

In the Holy Sharia of Islam, divorce is considered one of the confirmatory laws, not creative or legislative, and therefore, in the verses of the Holy Quran, the incident of divorce is reported as a news, not an essay. (Asaadi, Seyyed Hassan, 2012). The reason for signing divorce in the school of Islam is that in cases where the continuation of life is necessary for the continuation of oppression and violation of the rights of one of the spouses, and advices and instructions are no longer effective, divorce is proposed to save and liberate the oppressed party, and it is not like this with a request The parties, the ruling of impossibility of compromise and permission to officially register divorce should be issued by the court immediately. Divorce repels corruption and is a cure for disease in Islam. Divorce is accepted

in Islam in order to eliminate evil and destroy the root of harm and break the chain of oppression, not to "divorce immediately" in any matter (ibid.).

Some hadiths are mentioned to further emphasize the abhorrence of divorce and condemning it:

"Abi Abdullah (a.s.), the Messenger of God (a.s.) said: "...I شىء احب الى الله عزوجل من بيت بعمر بالنكاح، وما¹ من شىء ابغض الى الله عزوجل من بيت بخرب فى الاسلام بالفرقه يعنى الطلاق

Imam Sadiq (pbuh) quotes the Messenger of God (pbuh) as saying: Nothing is more beloved to God than a house that is settled by marriage, and nothing is more abhorrent to God than a house that is ruined. Be it through divorce.

"On the authority of Abi Abdullah (a.s.) he said: We do not object to anything except God's will." Imam Sadiq (a.s.) said: There is nothing more halal than divorce in the eyes of God.

The Messenger of God (peace be upon him) said: "تزوجوا ولا تطلقوا فان الطلاق يهتز منه العرش"². Marry but don't divorce.

The Messenger of God (pbuh) said: "اوصانى جبرئيل (ع) للمراه حتى ظننت انه لا ينبغي طلاقها الا فاحشه بينته" (Jibreel (.) ordered the wife so much that I thought that divorcing a woman is not permissible except in cases of great and obvious sin of prostitution (ibid.).

In Islam, conditions must be met in divorce to become legal. According to Imamiyyah, four pillars must be fulfilled at the time of divorce, which are:

1-Divorcer

2- Divorcee

3- Divorce annulment

4- The presence of two righteous witnesses (Mohagheq Damad, 2011)

A man who is considered a divorcer must meet the following conditions at the time of divorce:

The first condition is male maturity (Murata, 1995, quoted by Badamchi, Hossein; Ghazanfari, Kulthum,... 2016).

The second condition is reason. The jurists agree that the divorce of a madman and a drunk person is not valid. However, the Imamiyyah consider it permissible for an insane guardian to divorce his wife on behalf of an insane person if it is expedient.

The third condition: having authority. If a man is forced to divorce his wife under reluctance and coercion, the divorce will be ineffective (ibid.).

The fourth condition: the intention is to have a divorce. A man must have the intention of divorce, and will it. According to Imamiyyah, divorce can only be done with explicit words, and not with irony (ibid., p. 758).

The second pillar, the divorcee must also meet certain conditions so that divorce is possible (ibid.).

The third pillar is the form of divorce, which must have conditions without which the divorce is invalid.

The fourth pillar is witnessing and is considered one of the main and important pillars of divorce. If, despite all the elements, two witnesses are not present, the divorce is invalid (Sadooq, Mohammad Bin Ali, 1989, translated by Ali Akbar Ghafari Safat, Tehran, Sadoq Publishing, quoted from the same).

Defects are one of the ways by which the parties claim to have the right to rescind in Islam. The Imamiyyah believe in annulment of marriage when defects such as Anan occur either before or after the marriage (Tousi, Mohammad Bin Hassan, 1407, pp. 347-346, Al-Khalaf, Qom, Islamic Publishing House, Qom Theological Seminary Society, Volume 4). However, if the couple has a marital relationship once, the right of termination will not be available (Sadooq, Mohammad Bin Ali, 1989, translated by Ali Akbar Ghafari Safat, Tehran, Sadoq publication, quoted from the same). Furthermore, if the wife is satisfied with the duration of her life with the knowledge of her husband's anon, she will no longer have the right to terminate (from Badamchi, Hossein; Ghazanfari, Kulthum,... 2016).

5.2. In Zoroastrian

According to the Iranian Zoroastrians Personal Status Regulations, approved on 17 - 5 - 2007, we will examine this social behavior, that is, divorce among Zoroastrians. It should be noted that according to

¹ Hor Ameli, Vasal al-Shia, vol. 15, chapter 1, from the book of divorce, chapters on the preliminaries of divorce, p. 266, quoted by Asadi, Seyyed Hassan)

² Ibid

Article 13 of the Constitution of the Islamic Republic, Iranian Zoroastrians are free to perform their religious ceremonies according to their religion. Since the Zoroastrian religion has ordered marriage a lot, divorce has been considered very reprehensible instead. This is so ugly that even if a man and a woman do not have important and valid reasons for separation, even if the parties agree to such a thing, they cannot separate from each other (22, P. H. Louis, Gray, cited From Qaim Maggi, Nahid Al-Sadat, 2014).

Mobad Ardeshir Azar Ghashesb says, unfortunately, the number of divorces is increasing recently, and women without dowry are left in a dark future in most of these divorces. Therefore, it is suggested that the Zoroastrians order that in all marriage deeds, a description with the following content is written and signed by the couple so that it has an enforceable guarantee.

A: In case of divorce, the husband is obliged to pay the wife's dowry in full and in cash (Ahmed Vand, Khalilullah; Ziuri, Zahra, 2021).

B: In case the decree of divorce is declared, if the woman is not guilty, according to Article 35 of the Zoroastrian Code, the court suggested that the husband pay her a lump sum or in monthly installments for the expenses of the woman as long as the wife has not agreed to the husband's expenses (ibid.).

In the Zoroastrian religion, at the time of divorce, there must be conditions that, if they are met, the divorce will be possible, otherwise, the divorce will not be considered valid. In divorce, the wife's consent is also a condition, and it must be clearly mentioned in the wording related to divorce, otherwise the divorce is not valid (Az Badamchi, Hossein; Ghazanfari, Kulthum,... 2016). If a man divorces a woman without the reasons stipulated in the law, he will commit the sin of cheap death. (Pahlavi narrative, chapter 33: paragraph 4-5, quoted from Ibid).

In the Sassanid period, divorce without the consent of the woman was not legal. Divorce in Zoroastrian religion was possible only in the following legal and justified cases and for the following reasons:

1- Article 26 of Zoroastrian Personal Code, if it is proven that a woman has committed adultery or a man has committed adultery.

2- Article 23 of the Zoroastrian Personal Code, if it is determined after marriage that both the husband or the wife are unable to bear children, and they are not treated within three years, with a forensic doctor's certificate that each of the parties is incurable, each of them can be treated. He can apply for divorce, if the problem is with the woman, the husband can take another wife with his consent.

3- If the woman is a witch, and she is a teacher of this science. (Danai Elmi, Menij, 1995, p. 26 quoted by Ahmad Vand, Khalilullah; Zayori, Zahra, 1400).

4- If the woman kept her femininity secret from her husband, the husband was allowed to divorce (Hirbad Jamshid, Kaus Katrak, p. 10, quoted from the same). If the man's lack of sexual ability was proven, the woman could file for divorce (Danai Elmi, Menij, 2014, quoted from Ibid).

According to Zoroastrian Personal Status Regulations, divorce is not left to the sole discretion of the man and is limited to the following:

- Article 24, if the wife or husband is addicted to any kind of drugs with a forensic doctor's certificate that harms the family life and makes it difficult for the other party to continue living, it is one of the reasons for divorce for his wife.

- Article 28, if a woman is disobedient, and her behavior threatens her husband's life, finances, and honor, and this phenomenon cannot be eliminated, with the advice or proceedings of the Zoroastrian Dispute Resolution Council of the place of residence, divorce is accepted according to the request of husband.

It should be noted that proof of extramarital sex (adultery) must be done according to the Islamic Penal Code and the Criminal Procedure Code. After that, one can request a divorce according to the Zoroastrian religion based on the criminal verdict issued.

- Article 31, when a husband or wife converts from the Zoroastrian religion to another religion, the cause of divorce has occurred between them. On the other hand, which remains in the Zoroastrian religion, and in this case, the guardianship and education of the children is also at the expense of the man, according to the vow of the side that remains in the Zoroastrian religion.

- According to Article 33, when one of the parties is sentenced to five years of imprisonment by a final court order and the punishment sentence is in effect, the other party can request a divorce, as well as Law 34 and ..

According to this regulation, the grounds for divorce at the request of a woman are as follows:

- Man's lack of sexual ability after marriage
- Article 25, if a husband does not pay the living expenses to his wife for two years under the condition of the wife's compliance, divorce is allowed upon the wife's request (non-payment of alimony).
- Article 27, if it is proven that the husband has been oppressive and cruel to his wife in such a way that there is danger to life, money and honor, and it is not possible to continue their life after the advice of the elders and the Dispute Resolution Council of the Zoroastrian Association, A woman can ask for divorce and separate from her husband (husband's bad behavior and oppression).
- Article 30, if a Zoroastrian man has a non-Zoroastrian wife, or chooses a non-Zoroastrian woman after marrying a Zoroastrian woman, and has hidden the truth, his Zoroastrian wife can request a divorce after being informed (husband's adultery).
- Article 32, if the husband is absent for 5 consecutive years, and there is no news of his being alive, he is considered absent and his wife can request a divorce. (absence of husband)
- Leaving Zoroastrian religion by one of the spouses, dissolution of marriage, in addition to annulment and divorce, if one of the spouses leaves their religion and converts to another religion, according to Article 31 of this law, it is declared as follows: "When the wife Or the husband converts from the Zoroastrian religion to another religion, the causes of divorce have occurred between them.
- The presence of a witness in a divorce is not a condition in Zoroastrian religion.
- According to the law on dealing with claims regarding the personal status and religious teachings of Zoroastrian Iranians... approved by the Expediency Council (1993), and also using Article 12 of the Law on Family Support in Lawsuits and Family Matters Related to Spouses, including Divorce and dissolution of marriage, the wife files a lawsuit in the court of her place of residence and according to Article 37, after issuing the verdict, and paying the rights of the parties according to the Zoroastrian Personal Status Regulations, the divorce event (according to the country's registry regulations) is registered in the special house office. Zoroastrians (personal status of Zoroastrians, 2007).

Table (1): Comparative table of the above topics

Women's family rights in Islam	Family rights of women in Zoroastrianism	Topic
There is no limit to the number of spouses.	The number of wives depends on the man's wealth and social status and occupation	Temporary marriage
Marriage is obligatory for both men and women. A man is allowed to marry four wives, if the woman agrees and it is possible by observing the conditions.	A man is allowed to marry only one woman.	permanent marriage
The contract is invalid without determining the dowry.	They received an amount as dowry.	Temporary marriage dowry
Dowry exists in Islam, and it must be determined at the time of marriage, and it is mandatory and must be paid at the specified time.	There is no concept of dowry in Zoroastrianism.	Permanent marriage dowry
The husband is obliged to support the expenses of the wife. In a temporary marriage, the man is not responsible for expenses.	The woman must cover her own expenses or it will be given to her by agreement.	Alimony
Divorce can be issued by the husband by observing the conditions and there is a possibility of deposing the husband in case of disrespecting the conditions.	In Zoroastrianism, divorce occurs much less often than in Islam due to high cost tolerance.	Divorce
A man and a woman do not inherit from each other, unless they make a condition during the marriage.	It is not allowed.	Inheritance in temporary marriage

Conclusion

One of the values of historical studies is to understand law as a part of culture and also the role of pre-Islamic law in Islamic law. According to the topics discussed in both religions, men and women have duties towards each other. Accepting and worshiping the wife and family is one of the most important duties of a man in both religions. A woman is also obliged to obey her husband, which both religions

agree on. The good companionship of couples is also common in both religions, although there are differences in details. The man is the head of the family in both religions, and is responsible for providing for the family and paying alimony to the woman as long as she is alive.

Among all human societies and existing laws, women were oppressed before the advent of Islam, and did not have a proper value and position. Men and women have the same position in the way of achieving dignity, increasing or losing it, and the punishment for disobedience or committing a crime is not heavier for a woman than for a man, the attitude of Islam towards women is very valuable and regulates her rights, and The dignity of a woman in Islam has the aspect of "the right of God" and not "the right of people" and it is not permissible for anyone to violate her dignity, and everyone is obliged to protect the status of a woman.

It is a man's duty to provide for a woman's livelihood and pay her alimony as long as she is alive in both religions (taking into account certain conditions). A man can transfer a part of his property to a woman in Zoroastrian religion. In Islam, the man is responsible for paying the dowry to the woman, and he must pay it if the woman requests it. Given that both religions consider marriage sacred, but Zoroastrian religion considers dowry against divorce, so no dowry is given to women, unlike Islam, which separates these two categories and According to Islam, dowry is not specific to divorce. According to the studies, divorce in both religions is specific to permanent marriage, and conditions are defined for it. For the divorce process to be valid, there must be the consent of the wife and the transfer of sovereignty to the former guardian in Zoroastrian religion, otherwise the divorce will not be valid. In addition, the conditions of validity of divorce in both religions are different and there are no obvious commonalities between them regarding these conditions. Divorce has certain pillars in Islam as well, but there are differences of opinion on these pillars in Imamiyyah and Sunni jurisprudence. Divorce is acceptable as an irony in Zoroastrianism, but it must be expressed with explicit words in Islam. Divorce is not valid without the presence of a witness in Islam. There is no mention of witnessing in Zoroastrian religion. A divorced woman must have certain conditions at the time of divorce in Islam, but such conditions are not necessary in Zoroastrian religion. Divorce does not take place without the transfer of authority and the consent of the woman in Zoroastrian religion, but in Islam, the consent of the woman is not required for divorce, and there is no transfer of authority or guardianship. The woman does not have the right to terminate the marriage due to the impotence disease of the husband in the Zoroastrian religion, but in Islam, the majority of jurists believe in the right to terminate the marriage, if this disease exists before marriage. Dowry are given to women after divorce in both religions. Couples have independence in their property in Islam, but there is a difference of opinion in Zoroastrian religion on this matter. According to the discussed topics, the commonalities of the two religions are much more obvious despite the commonalities and differences in issues related to family rights in the two religions. In addition, according to the present research, despite the differences in details, there is a common framework in the family legal system between Zoroastrianism and Islam. Compared to Zoroastrian religion, Islam has led to a careful look at the rights and duties of women in society. As a result, Islam is a more complete religion than Zoroastrian religion.

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