

## Regulation of Family Relations in the Sources of Islāmic Law

*Nigora Yusupova*<sup>1</sup>

**Abstract:** Today, it is important to examine the historical, legal, cultural and moral aspects of family relations in Islāmic law, as well as their settlement with general social, socio-historical, socio-economic, legal, educational and organizational bases.

This article examines the universal values and ideas of philanthropy, especially the oriental moral education set out in the views of the scientists of Mā Warā' al-Nahr relating to family relationships. Also, the article emphasizes and analyzes the importance and role of family rules in Islām, its peculiar properties, socio-economic, cultural and educational bases that are very effective in educating members of the family in the spirit of a national idea, values and patriotism.

**Keywords:** family problems, matrimonial relationships, women rights, family code law, Qur'ān and ḥadīths.

As is known, all the main laws of the progress of society are expressed through law, through specific rules that fix the construction of social life, the creation of a family and attitude to it, marriage, divorce, parenthood and childhood, relations between parents and children, and other issues of life.

As stated in the Constitution of the Republic of Uzbekistan, religion is separated from the state. But, religion is not separated from society. The role and importance of religion in the processes occurring in society is growing, since religion must serve to preserve the purity of the nature of our people, establish a relationship of kindness and mercy between people [1]. It is known that the family is regulated in society as a natural link by existing laws, customs and religious rules.

At the present stage of development of our society, in the process of improving the spirituality of the Uzbek people, in particular, religious literacy, a scientific analysis of the provisions of the Islāmic doctrine concerning family relations becomes a social necessity. Therefore, the study of the social essence of the norms regarding family relations in Islām, the scientific analysis of absolutely incorrect views about the family relations of fundamentalist trends, which are becoming more and more rooted today, and their negative consequences in the social aspect, from the practical point of view is extremely important [2]. For this reason, in the norms of Islāmic law today, when there is a religious and ideological struggle, it is especially important to study scientifically, on the basis of the main sources of Islām, the general social aspects of family relations, their socio-historical roots, cultural-spiritual, legal features, comparative study with customary law. Since Islāmic law is perceived as a type of customary law, everyone knows how deeply its influence on the people.

During the rule of the totalitarian system, such concepts of family relations as justice, duty, obligation, relations between spouses, parents and children, relatives, defined in the verses of the Qur'ān and ḥadīths, the basic demands stemming from universal moral values were completely distorted.

In this connection, in the study of the problem, it is extremely important to analyze the true sources of Islāmic law, the classical books of Fiqh, including the works of scholars from Central Asia, for example, in the 12th century Fakhr al-Dīn Qāḍīkhan's book *Fatāwá Qāḍīkhan*, Burhān al-Dīn Marghīnānī's "Al-Hidāyah", 'Alā' ad-Dīn al-Samarkandī's "Tuḥfah al-Fuqahā", Iftikhar al-Dīn Ṭāhir al-Bukhārī's "Khulāṣah al-Fatāwá", Abul Qāsim al-Samarkandī's "Al-fiqh an-Nafī", 'Alā' ad-Dīn

<sup>1</sup> Doctor of Law, Professor, International Islāmic Academy of Uzbekistan, Tashkent, Uzbekistan



Kāsānī's "Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'" as well as ideas concerning this relations in contemporary works written in Arabic, Turkic and Persian [3].

As we know, Fiqh is Islāmic law, it is the greatest value, the achievement of the peoples of the East and Islāmic culture, which absorbed not only religious issues, but practically the entire life-style of Muslims. Reflecting in himself the samples of the culture of the peoples of Mā Warā' al-Nahr and other Eastern peoples, he also absorbed universal human, religious, moral and legal values. In this sphere, the favelies of Mā Warā' al-Nahr, with their profound knowledge, famous works, achieved great success, influencing the spiritual, religious and legal life not only of Mā Warā' al-Nahr, but of the entire Muslim world.

In the laws of the Sharī'ah - fiqh, which occupied the main place in the legal regulation of the public relations of the peoples of Mā Warā' al-Nahr for more than a thousand years, the rules related to the registration of marriage and divorce, the legal relations between spouses, parents and children, guardians and trustees taken into custody ) By persons, as well as by the obligations and guarantees of their execution, have been settled comprehensively and in a very perfect manner. Faqihs in their writings sought to bring certain rules of law in line with local conditions. At the same time, these provisions have not yet been theoretically studied and analyzed in sufficient detail.

It should be noted that the improvement of family relations is connected with the customs, religious views and principles of each people. From this position, taking into account the perception of some customs as a dogma, misinterpretation of certain religious positions, one should look at the history of the emergence of customary law, study various doctrines concerning the history of political and legal views regarding family relations, as well as a collection of a set of rights historically inherent in the institution of the family, To investigate the circumstances revealing the connection between the norms of family law and the development of society.

When studying the issue of family relations in the writings of the scientists of Mā Warā' al-Nahr, one should approach from the socio-legal position. Since, at one time, our scientists in their works tried to highlight the social and legal position of the family in Islāmic law; The basis for the formation and strengthening of family relations.

We know that one of the sources, which includes, along with all spheres of Muslim law, also the issues of marriage, kinship, divorce is "Hidāyah". The provisions of this work, based on the conclusions of the Hanafī current, are relatively soft and convenient to use, taking into account local traditions, like the laws of this current, have become widespread in most Muslim states, respectively qāḍī (judges), when considering disputes arising from various social relations Civil, marriage-family), along with other sources successfully used "Hidāyah." Created in the following as a commentary and synopsis of "Hidāyah" works "Mukhtasar al-wiqāyah", "Majmū'ah al-Maqṣūd" earned authority and veneration among the peoples of Mā Warā' al-Nahr, speaking in Turkish and Uzbek languages [4].

The complex of the ḥadīth of Imam al-Bukhārī "Al-Adab al-Mufrad" ("Pearls of morality"), for many centuries, used to regulate marriage and family relations in the territory, is also included in a number of these works. It contains a hundred ḥadīths concerning the family located in two hundred and sixty chapters, the rules of honoring parents, respecting the elders and caring for the younger, good-neighborliness, humanity and charity, generosity and greed, deceit, betrayal, bragging, extravagance, evil, shame and shamelessness and other.

In general, the thinkers of Mā Warā' al-Nahr in their writings revealed their views on family issues on the basis of the following provisions:

- according to the teachings of Islām , in a family relationship a man and a woman are equal, they must fulfill the social and mundane tasks assigned to them based on their needs and requirements (that is, women are women's tasks, men are masculine), follow the path defined by the sharī'ah and do only good deeds. About this in 228th verse of "Baqara" Surah Qur'ān says: "The rights of women (defined for them) in accordance with their norms are equal to men's (rights) ..." [5], also in the 19th verse of "Nisa" Surah Allah commands men: "Live with them in the world". [6]



- In Islām, a woman who enters into family relations is given the right to determine her own destiny. In addition, she as a person with full legal capacity has property and non-property rights. In Islām, the issue of marriage is comprehensively developed. It defines the conditions for marriage, the grounds for recognizing its invalidity, the rights and duties of spouses, and divorce. The main goal of the norms defined in Islām is the formation of healthy, pure family relationships. Relations between spouses are not based on economic or legal dependence of a man or woman, but on a marriage union, mutual assistance and support of persons having equal rights and obligations in family relations. So, first, in Islām, marriage is a voluntary union of a man and a woman, reflecting their free will and desire; The norms of Islāmic law mean the ability of each person to express his will and desire independently; Secondly, each of those who marry in the process of marriage and in the process of the marriage union enjoys equal personal and property rights; Thirdly, marriage is a sacred, eternal and lifelong union, its supreme goal is the continuation of the family and the upbringing of children. At the same time, in Islāmic law, alongside with the rights and duties of women, stemming from family relations and relatively consonant with modern legislation, there is a certain specificity, manifested mainly in the relations of material security, mahr, inheritance.
- Material support for the wife (nafaqa) is the task of the man. Nafaqa of children also lies on his shoulders. He also takes care of the education and upbringing of children. If a woman possesses self-sufficient property, she can spend it on her children if she wishes. She has the right to dispose of her property without the intervention of her husband. Also, the duty of upbringing, education and culture, caring for the marriage of daughters is placed on their fathers, and after marriage - on their spouses. Nafaqa of a woman who does not have a father or a wife, is vested in her brother or a person who replaces him. In general, in Islām, a woman can not be left without nafaqa. Nafaqa of daughter is entrusted to the father, the wife to the husband, the sister to the brother, the mother to the son. At the same time, Islām creates opportunities for family women in the field of entrepreneurship - independently do business and gain knowledge, increase the activity of every woman and show her creative and spiritual potential in the field of spirituality and enlightenment [7].
- In general, the teachings of Islām on family relations have reflected the universal values and ideas of humanism, the principles of moral education, inherent in the peoples of the East. Although the norms of morality in Islām are expressed mainly in the norms of the patriarchal type, they are aimed at strengthening the institution of the family, the life of the spouses. According to Islāmic family law, the husband is the head of the family, the person in charge, its head. About this in 34th ayah of "Nisa" Surah of the Qur'ān it is said: "Men (as head of the family) always stand (take care) over women. The reason is that Allah created some of them (men) better (in some properties) over others (women) and the content (of their families) of the property. The righteous (among women) are submissive (to Allah), keeping purity before the call to Allah (that is, containing the honor, secret and property of the spouses) ..." [8]. According to the sharī'ah, the husband, above all, is the person who is responsible for all financial aspects of the family, protecting it from all external attacks. For all these reasons, the man is the head of the family, because he is entrusted with such a responsible function as the realization of the interests of the family. Therefore, to ensure the stability of the family, a woman is required to maruf, that is, obedience in not sinful deeds. In our opinion, the person responsible for ensuring internal order in the family and protection from external threats has the right to have such powers.

It is impossible to deny the spiritual significance of the Islāmic religion in society. Islām - created and creates a very large number of governing rules in the sphere of the spiritual and moral sphere of people's lives. These provisions, paying special attention to the universal values of morality and morality, do not deny the positive humanistic features of religion.

The restoration of religious values has a positive significance in the spiritual recovery of society and the strengthening of the institution of the family. But if its principles and teachings are interpreted incorrectly, it can lead to humiliation, bullying of women and girls within the family and society. It is



worth emphasizing that recently under the mask of the demands of Islām and sharī'ah in the family, the rights and freedoms of women are being degraded. Justification under the guise of Islāmic spirituality and the morals of such vices is nothing more than the support of a superficial and absolutely ignorant approach to the issues of "Islām and family relations".

The Prophet (s.a.w.) said: "Be fair in relations with women and children in the family, for in Islām justice is a sign of the perfection of man" [9].

In Islām, good and truthfulness applies to all members of society. This, in the first place, should be formed in the context of family and marital relations. This is mentioned many times in the Qur'ān, the ḥadīth and the works of our great thinkers.

Allah commands every Muslim to treat his woman well. The ḥadīth from Abu Hurayrah says: "A woman is made from a rib ... If you try to correct it, you will break ... Therefore, always consult with women in a good way!" [10].

The honor of the family, the rights of the married parties, based on these foundations, is respected in Islām, independent Uzbekistan developed and implemented a number of practical programs for the implementation of such sacred religious and human commitments as the education of a healthy generation, the strengthening of the family, the veneration and respect of women, Protection of motherhood and childhood.

The creation of sufficient guarantees for the protection of the family institution in the society belongs to the internal competence of states. The laws of each state on family and marriage are formed on the example of the norms of international law and norms of religion and customs of this people. From a theoretical point of view, well-developed, logical, lawful norms of religion and customs are entitled to be implemented in national law.

So, one can not deny the connection of the national legal system with sharī'ah and legal customs.

Much activities implemented in our independent republic testify that the issue of the family is being solved at the level of state policy. This, in turn, calls for the issue of family relations in modern society to be approached from the positions of general social and national values.

In conclusion, we note that the study and analysis of the essence and sources, branches of the norms of Islāmic law on the basis of the modern concept of the family, allows us to clarify which rights and freedoms are universal and which are derived from the standpoint of traditions, culture, religion and customs of a particular society. This study reveals the influence of traditions and customs on the process of protecting family relations at the national and regional levels. It is also worth noting that the success of democratic reforms largely depends on the happy and prosperous life of the family in society. Therefore, it is necessary to determine the factors of all spheres of public life that affect the activity of family members, take into account the general social and national-religious characteristics in developing theoretical conclusions, conclusions and practical suggestions.

#### References:

1. Otaxujaev F. Marriage and its legal regulation. – T.: "Uzbekistan", 1995. – P. 8.
2. Yusupova N. Women rights in Islām. – T.: "Academy", 2006. – P. 4.
3. Yusupova N. Human rights in the republic of Uzbekistan: significance, peculiarity and methodology of investigation. // T.: The humanities in Uzbekistan, 2016. – №4. – P. 8-13.
4. Toshqulov J., Yusupova N. Family law in Islām. – T.: "Tashkent Islāmic university", 2015. – P. 37.
5. Mansur A. Tafsir and translation of sense of Qur'ān. – T.: "Tashkent Islāmic university", 2006. – P. 36.
6. Mansur A. Tafsir and translation of sense of Qur'ān. – T.: "Tashkent Islāmic university", 2006. – P. 80.



7. Yusupova N. Problems of property in family relationships in Islāmic law. – T.: “Movarounnahr”, 2011. – P. 57.
8. Mansur A. Tafsir and translation of sense of Qur’ān. – T.: “Tashkent Islāmic university”, 2006. – P. 84.
9. Mansur A. Thousand and one ḥadīth. –T.: "Uzbekistan", 1991. – P. 223.
10. Imam al-Bukhari. Ḥadīth. – Volume: 3. – Tashkent, 1994. – P. 421.

