

Rights of Women in Islam at Accession and Into Marriage

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Resume: The article is devoted to the issue of women's rights when entering into marriage, as well as the cultural and moral foundations for resolving the women's issue in Islamic law. The author examines the content of the concept of women's rights in Islam by citing substantiated facts from the Koran and hadiths. Spiritual values play the most important role in the spiritual healing of society and the strengthening of the family. But if religious norms and rules are interpreted incorrectly, then they can become the basis for discrimination against women. Such attempts, on the one hand, lead to the infringement of women's rights, and, on the other hand, they cast a shadow on Islam's rights, code, Koran, Hadith.

Keywords : Family, marital relations, women's rights, code, the Koran, the Hadith.

In Islamic law, marriage is considered a sacred act, the family is a prerequisite for living together. Islamic law does not allow a celibate residence of a man and a woman. This circumstance serves as a strengthening factor in family relationships.

In Islamic law, divorce is not approved, it is allowed only in extreme cases. The Koran says: "And if you are afraid of a break between the two, then send one judge each from his and her family; if they wish for reconciliation, then Allah will help them. Verily, Allah is the Knower, the Aware!" [Quran, sura " *Niso* ", verse 35].

In Islamic law, divorce is allowed only if it is impossible to live together. This is stated in the Hadiths of the Prophet: "Marry, do not say" *talaq* "(I give a divorce), as the *Arsh* (throne) of Allah will shudder from this word." "Among the permitted and permissible actions, the most unpleasant for Allah is *talaq* (divorce)" [1, 12].

Islamic law provides for the following conditions for marriage:

- free will of newlywed men and women;
- marriage in front of witnesses;
- the mental health of a married man and woman;
- they do not have to be close relatives;
- they must be of marriageable age;
- the man must give the woman mahr (dowry).

Marriage is concluded after the oral invitation of the man and the oral acceptance of it by the woman (her consent) [2, 646].

Thus, mutual consent is the basic condition of marriage according to the Islamic religion, and forced marriage is prohibited. Their verbal and vowel expression of will in front of people is called " *iyzhob* " (answer) and " *kabul* " (acceptance).

I must say that the consent of a woman is especially important. This is stated by the Hadith: "Abu Hurairah (s.a.) testifies: "The Prophet Muhammad (s.a.w.) said: "A virgin is not married without her consent, and a woman is not married without discussing this issue with her". The Companions asked: "O Messenger of Allah, how can one find out about the consent of a virgin?" "If she is silent, then she agrees!" – answered the Prophet» [3, 350].

"In silence, agreement is strongly expressed. Since the girl is embarrassed to openly express her consent, but she does not hesitate to express her disagreement openly. A girl's smile means more agreement than her silence. And her cry, on the contrary, speaks of her disagreement. Crying girl means that she does not want to get married ... " [4, 669].

Thus, according to the norms of Sharia, a girl who has reached the age of majority is a free person who cannot be forced.

Islamic law requires the mandatory participation of witnesses at the conclusion of a marriage: two men or one man and two women. A marriage concluded without the participation of witnesses is invalid, illegal (" *botil* "). The Prophet (pbuh) said: "Marriage without witnesses is not a valid marriage."

The purpose of the participation of witnesses in marriage is to inform people about the creation of a new family. The fact of creating a family must be officially announced and brought to the attention of people. In a Hadith narrated by Imam Termizi, the Prophet Muhammad (peace and blessings be upon him) said: "Announce the marriage and blow the *girbol* (musical instrument)." According to the tradition stated by Imam Nasoi, the Messenger of Allah said: "Marriage separates the pure, permitted, from the impure, forbidden, and therefore announce it publicly and blow loudly" [5 , 20] .

In Islamic law, an additional condition for marriage is " *kafoat* " .

Kafoat - according to the dictionary means "to be equal", "to be worthy". In Islamic law, this means that people who marry must be equal and corresponding to each other. Equality in marriage means equality in the following six positions: origin, religion, freedom, wealth, profession and faith" [6, 681-683] . In our opinion, these conditions are relative. In addition, these conditions, basically, should be with the husband. Because these conditions arise from the social stratification of society and are regulated by the community of people. It should be noted that these phenomena are still encountered, such as the division of people by origin, wealth, etc.

One of the special aspects of Islamic law is the gift to the wife - *mahr* . The inevitability of the *mahr* serves as a guarantee against a hasty dissolution of the marriage by any of the parties to the marriage union.

Mahr is a material value given to a woman for accepting a man's invitation to marry him. *Mahr* has been preserved in modern Muslim states as a gift to the wife in connection with the marriage.

The family and marriage laws of Islamic law also set out in detail the categories of women who are forbidden to marry. Women who are forbidden to marry (*al-maharamot min an-niso*) are divided into two groups:

- women who are generally forbidden to marry;
- women who are forbidden to marry because of a certain reason, after the elimination of which they can be married.

The first group is divided into three parts:

- 1) women who cannot be married because of their *nasab* (kinship):
- 2) women who are forbidden to marry because of marital relationship:

Marriage with women from this part is forbidden in the 23rd verse of the sura " *Niso* " of the Qur'an.

- 3) Women forbidden to marry because of breastfeeding:

In verses 21-23 of Surah *Niso of the Qur'an*, the following is said: " And how can you take it away when you have come together with each other and they have taken from you a covenant of Cyrus? Don't marry those women your fathers were married to, unless it happened before. Verily, this is an abomination and abomination and as filthy as the way! And forbidden to you are your mothers, and your daughters, and your sisters, and your aunts by father and mother, and the daughters of your brother, and the daughters of your sister, and your mothers, who nursed you, and your sisters, and feed, and feed your pupils, who are under your protection from your wives, to whom you have already entered; and if you have not yet entered them, then there is no sin against you; and the wives of your sons, who are from your loins; and - to unite two sisters, if it was not before. Verily, Allah is Forgiving, Merciful!"

The ban on marrying women related to breastfeeding comes from the Koran, Sunnah and Izhmo. The Prophet Muhammad (peace and blessings of Allah be upon him) spoke about it this way: "(Women), forbidden by origin, are also forbidden by feeding" [7, 399] .

For a woman to be considered a nursing mother, she must breastfeed her baby at least once before the baby reaches two and a half years of age.

In our opinion, the prohibition of such marriages in the norms of Islamic law is justified from the point of view of ethics and biology. This point of view is confirmed by the data of modern medical science. According to biological research, it became known that if not close, strangers are combined in marriage, then the descendants will be healthy.

are forbidden to marry for certain reasons :

1) One person cannot marry sisters, a niece and her aunt at the same time. But, if the wife died or died, then you can marry these women. This is stated in the 23rd verse of Surah *Niso* . The Hadith also says that "you are forbidden to marry your wife's aunts, the daughters of her brothers or sisters" [8, 398-399] . Faqihs (Islamic jurists) are also unanimous in their opinion that it is impossible to unite in marriage women who are related by origin and also by feeding”;

2) A woman who has become a widow due to the death of her husband or who has become single due to a divorce cannot marry until the end of the *iddah period* (three menstruations);

3) It is forbidden to marry women who are not people of the book (Koran, Bible, Tara). If they accept Islam, then you can marry them;

4) It is forbidden to marry women who are married to another person.

A favorable course of life after marriage depends on many conditions. Anyone who wants to be happy in marriage, live calmly and measuredly, create a strong family, should be serious about choosing a life partner. This is especially emphasized in Islam. The Prophet Muhammad (peace and blessings be upon him) said: “Wives are chosen based on four factors: from her wealth, from her beauty, from her social background, or from her religion and religiosity. You choose a believer” [9, 392] . As can be seen from this Hadith of the Prophet, the origin, wealth and beauty of a woman are also important, but her behavior, upbringing, and faith are more important. Her religiosity is determined by her honesty, cleanliness, decency, humanity.

Islam also established that future newlyweds can see each other before marriage in order to create a strong, conscious family in the future. According to the Hadith narrated by Imam Ahmad, Ibn Mozha and Imam Termizi: “Mughira ibn Shu'ba (r.a.) decided to marry one girl. The Prophet Muhammad (peace and blessings be upon him) told him: “Go and look at the girl, talk, this can serve as the appearance of love between you.” And in another Hadith of the Prophet it says: “If any of you decided to marry someone, you can first meet her if you wish” [1 0, 253-254] . Such a meeting can be held under the supervision of representatives of both sides in compliance with the norms of Islamic ethics and Sharia. Islam, as a religion of peace, is doing everything possible to ensure that the future family is created on the basis of mutual respect and mutual love.

Summarizing the above arguments, we can conclude that Islam considers marriage as a union of two equal people, created freely, voluntarily and on the basis of Sharia norms. As a result of such a marriage, the rights and obligations of the newlyweds arise. These are the personal property and non-property rights of husband and wife.

It should be noted that not all relations between husband and wife are regulated by law. Personal qualities are also important here. Much is regulated on the basis of ethics and aesthetics (on the basis of love, mutual respect and support).

Property and non-property rights of women in Islam:

The content of personal legal status in Islamic law comes from private law. Based on this, the legal status of an individual traditionally includes relationships within the community (marriage, divorce, inheritance, property).

Islamic family law has developed clear rules for managing problems related to personal and family property, pensions, child support, the appointment of guardians, and the elimination of discrimination in intra-family property relations. This means that personal and property relations within the family are based on the equality of the parties.

According to Islamic law, on the basis of a legal marriage (*sahih nikah*), the following property rights arise: *mahr* (dowry, gift), *nafaqa* (pension, payment) and inheritance. Receiving *mahr* and payment (*nafaqa*) is the right of a woman, and the right to inheritance is the right of a husband and wife.

Mahr. In Islamic law, there is a big difference between *mahr* and *kalin* (farming), which comes from traditional law. The *mahr* is given personally to the woman and is considered her property, and the *kalin* (farm) is given to the girl's parents.

There are different opinions about *mahr*. For example, the researcher M. Mashanov, who critically assessed family law in Islam, writes: “Undoubtedly, such a marriage includes all the signs of a sale: on the

one hand, a woman is offered as a commodity for sale, on the other hand, a groom acts as a buyer, he gives the appointed price (*mahr*)" [1 1, 67] .

Also, L. Shaidullina comes to a superficial conclusion that "Islamic marriage is "a contract of sale, a man buys a woman for himself" [1 2, 107-116] .

Some scholars, for example, D.S. Mil, consider the *mahr* as the property of the wife, "after all, the *mahr* not only ensures the existence of a woman, but also strengthens the relationship between husband and wife, since a man who wants to divorce his wife is obliged to fully reimburse the *mahr* " [1 3, 68] .

If you look deeper, you can see that the *mahr* does not turn the marriage into a contract of sale and does not humiliate the woman. The wife is not the object of the Islamic marriage contract, but its subject. She herself receives *mahr*. *Mahr* is a sign of gratitude for the woman's consent to marry a man.

Mahr is not a condition of Islamic marriage, but an obligation arising from it. Based on this, in the Hanafi madhhab, marriage is considered legal even without a definition of the *mahr*, in this case, the average size of the *mahr* established for this region (*mahri misl*) must be given to the woman. In other schools of Islam, for example, in the Shofeit madhhab, *mahr* is a prerequisite for marriage.

As stated in *Al-Khidoy* , the smallest size of the *mahr* is ten dirhams, which should be enough to equip and equip one soldier [14, 691] .

According to the definition of *Al-Khidoy* , if the size of the *mahr* is not determined during the marriage, then the woman has the right to receive it in the amount of at least ten *tenge*.

Mahr belongs to a woman. Without her consent it is impossible to dispose of it or any part of it. In the Qur'an , verse 4 of the sura " *Niso* " it is said: "And give to their wives the *mahr* as a gift. If they favor any of this for you, then eat it for health and well-being.

In conclusion, we can say that *mahr* is the personal property of a woman, she retained the right to it even after a divorce, and this served as a guarantee of her maintenance after a divorce.

Nafaka (providing). One of the property rights of a woman arising from the marriage contract is to receive security (*nafaqa*).

" *Nafaka* " in the dictionary means "to squander". Islamic law under this word means providing a man with a wife, children and parents with food, clothing and a place to live.

The book " *Al-Khidoy* " says: " *Nafaka* is the basis of the life of a husband and wife and a guarantee of the duration and strength of the family" [15, 683].

Providing for a wife is enshrined in the Koran, in the Sunnah and in *Izhmo*.

If the husband is poor and provides for his wife poorly, but over time he becomes rich, then the wife has the right to go to court, and the qadi has the right to increase the amount of support (*nafaq*) and determines the amount based on the wealth of the rich.

The husband, in addition to food and clothing, is obliged to provide his wife with a house where his relatives do not live. If the wife agrees to their living with her, then they can live in this house, since the right to the house belongs to the woman.

If the husband left for another city, leaving his money to someone in debt, for storage or for doing business, then the wife has the right to receive money through the court for her security.

These and other norms determine the right to provision for a married woman. But the divorced wife also has the right to certain property benefits. If the wife to be divorced is pregnant, the husband must provide her with food, clothing and a place to live until the child is born. Also, a woman who is waiting for the period of *iddah* (three menstruation) after a divorce is kept during this period by her ex-husband.

A woman's right to inheritance. Islamic law stopped the practice of ancient states and peoples, aimed at humiliating women in matters of property and inheritance.

Islamic law paid special attention to the right of inheritance, since this issue is of great social importance. If it is not dealt with fairly, society cannot live in peace and become stable. Islam pays great attention to the correct distribution of inheritance. Islamic teaching also declared the right of a woman to a part of the inheritance.

Qur'an, verse 7 of sura " *Niso* ": "For men - a lot from what parents and relatives left, and for women - a lot from what parents and relatives left - from what is small or a lot, a certain lot."

In verses 11-13 of Surah *Niso* it says: Allah commands you regarding your children: a son - a share similar to the share of two daughters. And if they (children) are women, more than two in number, then they

- two-thirds of what he left, and if one, then she - half. And to his parents, each of the two, one-sixth of what he left, if he has a child. And if he does not have a child and he is inherited by his parents, then the mother is one third. And if he has brothers, then mothers are one sixth after the bequeathed, which he bequeaths, or debt. Your parents or your sons - you do not know which of them is closer to you in favor, as established by Allah. Verily, Allah is Knowing, Wise! And for you - half of what your spouses left if they don't have a child. And if they have a child, then you - a quarter of what they left after the bequeathed, which they bequeath, or debt. And to them - a quarter of what you left if you do not have a child. And if you have a child, then to them - one-eighth of what you left after the bequeathed, which you bequeath, or debt. And if a man is a lateral heir, or a woman, and he has a brother or sister, then each of them both is one sixth. And if they are more than this, then they are partners in the third after the bequeathed, which he bequeaths, or debt, without causing harm, according to the covenant from Allah.

As you can see, a man is given twice as much as a woman. This is explained by the fact that according to Islam, a man or son gets married, while they must pay mahr, support his wife, provide her with food, clothing and a home, support children and the whole family.

A woman or a girl, unlike the male population, spends her part of the inheritance according to Islam only for herself. If she marries, she receives mahr, and her maintenance is completely imposed on her husband.

The French researcher R. Charles writes that in Islamic law “the inequality of the shares of a man and a woman in Islamic law is explained by the fact that the husband pays *mahr to his wife* and provides for his family, and this is logical” [16, 111-112].

Islamic law provides for the motivation for receiving an inheritance from the point of view of Sharia. Islamic jurists are unanimous in the opinion that the following motives are needed to receive an inheritance:

- 1) kinship, that is, those receiving inheritances must be related to the owner of this state;
- 2) marriage, that is, husband and wife. Entering into legal marital relations is the basis for the emergence of the right to inheritance, while the place of residence of the husband and wife does not matter: they can live together or separately.

According to Islamic law, people who married illegally (*botil* or *fosid*) do not have the right to inherit.

A woman in Islamic family relations also has several non-property rights.

Feeding the child (*razo*). Naturally, a married woman becomes a mother. The appearance of human offspring and its upbringing largely depends on the woman. This process is accompanied by many difficulties and it is important that society recognizes these labors and hardships endured by a woman.

The pregnancy of a woman, the birth of a child, long courtship and feeding require great effort and patience on the part of the expectant mother. During this period, the woman herself also needs help and care. She cannot protect herself during pregnancy and while breastfeeding. She is very sensual and weak by nature. Therefore, during this period, she needs the help of her man. Protecting mother and child is a man's concern.

If we pay attention to the norms of Islamic law, we can state that during pregnancy and lactation, a woman is protected, she is taken care of.

Sharia law has developed many norms related to feeding a child. This shows that Islam deeply delves into the problems of everyday life and family life of Muslims. For example, according to Sharia, mother's milk is considered the most useful food for an infant. Of course, Shariah does not prohibit requiring a husband to pay for the efforts and expenses of his wife for feeding a child, and this is considered a sign of normal behavior. If the woman demands more money than the child's nanny, then the husband has the right to take the child away and give it to another wet nurse.

The husband is responsible for feeding the children in Islam. If the mother does not want to feed the child, fearing her weakness, or cannot do so because of weakness, illness, or lack of milk, the father is obliged to find another nurse for the child, since it is also the responsibility of the father to provide food for the baby.

Firstly, breastfeeding is a right of the child determined by Allah. Secondly, at a certain period, mother's milk is considered by Islam to be the most beneficial food for children. Allah in the Qur'an, in the

233rd verse of the sura " *Baqarah* " established: "And the mothers feed their children for two full years; this is for someone who wants to complete feeding. And on the one to whom he was born - their livelihood and clothing according to custom. Nothing is entrusted to the soul, except what is possible for it. Let no offense be caused to a parent for her child and the one to whom he was born, for his child. And on the heir - the same thing. And if both of them wish to be dismissed with agreement between them and advice, then there is no sin over them. And if you wish to ask to feed your children, then there is no sin over you if you hand in what you give according to custom. And fear Allah and know that Allah sees what you do!"

Islamic jurists argue on the issue of feeding: "Is the mother obliged to feed the child or not?". According to the Hanafi trend in Islam, if a child does not want to be fed by another nurse or there is no other nurse, or the husband does not have the means to pay another nurse, then the mother is obliged to feed her child.

According to the sources of Islamic law, a woman is not obliged to feed a child. She may refuse to feed if there is another worthy nurse. But if there is no other nurse or the child does not want to eat with another nurse, and his future depends on nutrition, then the woman must feed the child.

It can be concluded that feeding a child is the task of a woman from the point of view of her conscience and ethics, and not a duty imposed by Shariah.

Raising a child (*khidona*). Islamic law is very attentive to the upbringing of the child. The upbringing of children is divided into several stages and responsible persons are appointed for each stage.

The first period of raising children is from birth to seven years. During this period, the responsibility for raising children rests with his mother. The stage is called " *al-khidona* ". If there is no mother, then the child is raised by his mother's mother, his father's mother, sisters, aunts. If they are absent, then the upbringing of the child can be entrusted to another reliable and clean believing woman.

In conclusion, we can say that in Islam the main sacred condition for creating a family is marriage. So, according to Muslim rules, the creation of a family and the upbringing of worthy descendants should be carried out through the only and main commandment - this is an approved marriage according to Sharia.

In Islam, the family is based on the laws that ensure the natural, biological and physiological human needs, his spiritual upbringing and financial situation. Islam, calling for marriage to a prisoner according to Sharia, emphasizes the following benefits: Marriage ensures the stability of moral and ethical mores and prevents their fall in society; legal marriage ensures social unity, harmony and inviolability; marriage, being a guarantee of a healthy society and all mankind, protects them from various dangerous diseases; marriage teaches people responsibility; marriage preserves a healthy legacy .

According to the norms of Islamic Sharia, a woman, entering into family relations, retains her right to independently determine her fate. In addition, it retains full legal capacity in the exercise of its property and non-property rights.

In the norms of Islamic law, the issues of marriage are covered in detail and in detail. They set out the conditions of marriage, the grounds for declaring a marriage invalid, the rights and obligations of a woman and a man, and issues of divorce. The true purpose of all these norms of Islamic law is the formation and maintenance of healthy and pure family relationships. Relations between husband and wife are not built on the basis of their property and legal dependence on each other, they are built on the basis of mutual trust and mutual assistance. **Firstly** , this is a marriage union of equal and free people and they will have equal responsibilities. Hence, in Islamic law, marriage is a voluntary union of a man and a woman, created through the free expression of their consent; Islamic law presupposes the ability of each person to freely express his will. **Secondly** , a man and a woman, both during the period of marriage and throughout family life, enjoy equal personal and property rights. **Thirdly**, marriage is a sacred, eternal and vital union, its highest purpose is the emergence of a healthy generation and its worthy upbringing.

All family and personal rights of women, arising from the norms of Islamic law, are consonant with the norms of modern legislation in force. Along with this, there are some peculiarities regarding the issues of financial security, mahr (dowry) inheritance.

In pre-Islamic times, a woman did not have property, she could not engage in entrepreneurial activities where one could earn income, she was even deprived of the right to inherit. Islam has established that a woman does not have to be dependent on a man, that she also has the right to her own property.

From the point of view of Islamic law, a woman after marriage does not lose her personal rights, she continues to use them.

The financial support of the wife is the task of the husband. Providing for children is also his function. It also has obligations to educate and raise children. If a woman has enough wealth and property, then she can spend it on children. But she is not obliged to do this, she can do it only of her own free will. A woman disposes of her property and property at her own discretion.

The norms of Islamic law relating to family relations, on the one hand, reflect universal and humanistic values, and on the other hand, they reflect the eastern rules of human behavior. Although Islamic behavioral norms have shades of a patriarchal nature, they are aimed at maintaining the stability of the family, at creating harmonious relations between husband and wife.

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