

An Analytical Study of Islamic Family Law with Emphasis on Quranic Teachings and Imami Jurisprudence

Yoosef Torfi Saeedavi*¹

Submitted: 2025.10.28 | Accepted: 2026.08.23

Abstractt

Family law in the Islamic legal system is one of the most fundamental legal domains, because in Islamic thought the family is the locus of the formation of human personality, the transmission of moral and religious values, and the context for the realization of tranquility and psychological security. However, rapid social, cultural, economic, and technological transformations in the contemporary world have posed new challenges to the institution of the family and the traditional rules governing it. The present study aims to analytically examine the capacities of Islamic family law, relying on the teachings of the Noble Qur'an and Imami jurisprudence, in facing these challenges, and to offer solutions for its dynamism and efficiency. The research method is descriptive-analytical and based on library and documentary sources. The findings show that Islamic family law, especially within the framework of Imami jurisprudence, due to its use of authoritative sources of inference such as the Book, Sunnah, reason, and consensus, and its possession of dynamic tools such as ijtihad, expediency, custom, hardship and constriction, no harm, and the role of time and place, has considerable capacity to respond to emerging issues. Nevertheless, in the spheres of legislation and implementation, certain issues such as the age of marriage, custody, divorce, dowry, maintenance, temporary marriage, and the redefinition of spousal roles remain sites of challenge and conflict among traditional interpretations, new social realities, and contemporary justice-oriented requirements. The study concludes that transformation in Islamic family law is unavoidable, but this transformation must take place within the framework of the fundamental principles of the Shari'ah, with a maqasid-oriented approach, and by relying on dynamic Imami ijtihad, so that while safeguarding the integrity of the family, the dignity and rights of all its members are also guaranteed.

Keywords: Islamic family law, Imami jurisprudence, Noble Qur'an, dynamic ijtihad, maqasid al-shari'ah, expediency.

1. Department of Law, Faculty of Law and Social Sciences, Payame Noor University, Tehran, Iran. (usef56@pnu.ac.ir)

1. Introduction

In Islamic thought, the family is considered the fundamental unit of society and the most principal educational and moral institution. Therefore, family law occupies a privileged place in the system of Islamic law, and an important part of the rulings of the Shari'ah is devoted to regulating intra-family relations, the manner of forming and dissolving the family, the rights and duties of spouses, and the status of children (Katouzian, 1384, p. 15; Safaei and Emami, 1398, p. 21). The Noble Qur'an, with a value-oriented and normative perspective, introduces the family as the locus of "tranquility," "affection," and "mercy," and for the sake of preserving its strength, has established a set of strategic rules and principles (Noble Qur'an, Ar-Rum: 21; An-Nisa: 19).

Despite this, contemporary world transformations—including globalization, changes in family life patterns, the spread of new communication technologies, the increase in women's social and economic participation, the emergence of new issues in the fields of reproduction and lineage, and changing expectations of family relationships—have created new challenges for the traditional system of family law. These transformations raise fundamental questions about the degree of flexibility and efficiency of existing jurisprudential and legal rules; among them: Can Islamic family law, while remaining faithful to the foundations of the Shari'ah, also respond to emerging needs and justice-oriented demands of today's world?

Imami jurisprudence, as one of the most systematic schools of jurisprudence in the Islamic world, due to its capacity for continuous *ijtihad*, has always provided the possibility of re-reading subjects and re-understanding rulings in light of changing temporal and spatial conditions (Khomeini, 1378, vol. 2, p. 609; Muhaqqiq Damad, 1389, p. 44). From this passage, it can be expected that many emergent family issues can be reconsidered not through deviation from the Shari'ah, but through a more precise understanding of its aims and the use of *ijtihad* tools.

The main question of this research is: To what extent do the teachings of the Qur'an and Imami jurisprudence possess the capacity for flexibility and response in facing contemporary family challenges, and what solutions can be offered for an efficient and intra-religious transformation in this field? The hypothesis of the article is that by relying on Quranic foundations and the dynamic principles of Imami jurisprudence—such as expediency, hardship and constriction, no harm, custom, and the influence of time and place in *ijtihad*—credible solutions proportionate to today's conditions can be presented for family issues, without undermining the fundamental principles of the Shari'ah.

2. Research Method

This research was conducted using a descriptive-analytical method and by using library, exegetical, jurisprudential, legal, and some contemporary comparative sources. In this method, first the conceptual and theoretical foundations of Islamic family law in the Qur'an and Imami jurisprudence are explained, then the most important contemporary challenges of this field are analyzed, and finally, jurisprudential and legal approaches for the transformation and reconstruction of this legal system are presented.

3. Concepts and Terminology

3-1. Family Law

Family law is the set of rules and regulations governing the formation, administration, and dissolution of the family, as well as relations among spouses, parents, children, and relatives (Jafari Langarudi, 1392, p. 219; Katouzian, 1384, p. 12).

3-2. Imami Jurisprudence

Imami jurisprudence is one of the main schools of Islamic jurisprudence, which in deriving religious rulings relies on four main sources: the Book, the Sunnah, consensus, and reason; and due to the centrality of the principle of *ijtihad*, it possesses considerable capacity to respond to emerging issues (Muhaqqiq Damad, 1389, p. 31).

3-3. Contemporary World

By the contemporary world is meant the current period of human social life, characterized by features such as globalization, cultural diversity, the expansion of information and communication technology, transformation in the social roles of women and men, and change in traditional family structures.

Chapter One: Quranic and Jurisprudential Foundations of the Family Institution

4. Quranic Foundations of Family Law

The Noble Qur'an, as the first source of Islamic law, has delineated the general framework of the family institution and stated the principles governing family relations. The most important of these principles are:

4-1. Principle of Affection and Mercy

God, in verse 21 of Surah Ar-Rum, introduces the philosophy of marriage as the realization of tranquility, affection, and mercy:

وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً

"And He placed between you affection and mercy." (Ar-Rum 30:21)

This verse shows that the relation of spouses is not merely a legal or biological contract, but a moral and emotional bond that must be founded on mutual love (Tabataba'i, 1390, vol. 16, p. 166; Makarem Shirazi, 1387, vol. 16, p. 391).

4-2. Principle of Kind Companionship

The Noble Qur'an in verse 19 of Surah An-Nisa emphasizes the necessity of good conduct with spouses:

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ

"And live with them in kindness." (An-Nisa 4:19)

"Ma'ruf" has a fluid and customary meaning and refers to conduct that reason, the Shari'ah, and custom approve as good. This principle is the basis of many moral and legal duties of spouses and also provides the possibility of adaptation to the requirements of the time (Tabataba'i, 1390, vol. 4, p. 275).

4-3. Principle of Tranquility and Peace

From the Qur'an's perspective, the goal of marriage and family formation is the attainment of spiritual and psychological tranquility:

لِتَسْكُنُوا إِلَيْهَا

"that you may find tranquility in them." (Ar-Rum 30:21; also Al-A'raf 7:189)

This principle shows that every legal rule in the domain of the family must ultimately serve the stability, tranquility, and emotional security of family members.

4-4. Principle of Balance in Rights and Duties

The Noble Qur'an refers to the relative balance of rights and duties of man and woman:

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَ بِالْمَعْرُوفِ

"And they have rights similar to those over them according to what is fair." (Al-Baqarah 2:228)

This verse is an important basis for inferring Islam's balanced approach to spousal relations and shows that in the Islamic system, rights and duties are based on a kind of proportionality and rational reciprocity, not on the absolute superiority of one over the other (Makarem Shirazi, 1387, vol. 2, p. 112).

5. Pillars and Goals of Family Formation in the Qur'an

In the Noble Qur'an, marriage is introduced as a "solemn covenant" (An-Nisa 4:21):

وَأَخَذْنَ مِنْكُمْ مِيثَاقًا غَلِيظًا

"and they have taken from you a solemn covenant." (An-Nisa 4:21)

This expression shows that nikah in Islam is not merely a private contract, but a moral, legal, and social covenant with extensive effects. Among the most important goals of family formation in the Qur'an are tranquility, chastity, continuation of lineage, upbringing of righteous children, and regulation of lawful relations between man and woman (Tabataba'i, 1390, vol. 4, p. 281).

The Qur'an also emphasizes the consent and agreement of the parties, respect for the dignity of the woman in the form of dowry, and the necessity of good companionship (An-Nisa 4:4, 19). These teachings show that marriage in Islam is an institution based on mutual respect, commitment, and responsibility.

6. Rules Governing Spousal Relations in Imami Jurisprudence

Imami jurisprudence, relying on the Qur'an, Sunnah, and ijtiḥad evidence, regulates the rights and duties of spouses in two domains: financial and non-financial.

6-1. Financial Rights

The most important financial rights of the woman in marriage are:

- **Dowry (mahr):** property that by virtue of the marriage contract is established as a debt upon the husband and is a sign of respect for the woman and commitment in shared life (Muhaqqiq Damad, 1389, p. 97).
- **Maintenance (nafaqah):** including the customary needs of the woman's life, such as food, clothing, housing, and treatment, proportionate to her status (Katouzian, 1384, p. 220).
- **Wage of the like (ujrat al-mithl) during the days of marriage:** in conditions where the woman has performed tasks outside her religious and legal duties by the husband's command.

6-2. Non-Financial Rights

Among the most important non-financial rights and duties, one can mention good companionship, fidelity, cooperation in managing the family, obedience (tamkin), and the issue of guardianship (qiwamah).

One of the important discussions in this field is the interpretation of verse 34 of Surah An-Nisa concerning "qiwamah." The traditional understanding of this concept has sometimes been taken to mean a kind of male headship over the family, but considering the general principles of the Qur'an, including kind companionship, justice, and human dignity, it can be interpreted as responsibility for providing livelihood and just management of family affairs, not inherent domination and superiority (Tabataba'i, 1390, vol. 4, p. 343; Muhaqqiq Damad, 1389, p. 121).

Chapter Two: Contemporary Challenges Facing Islamic Family Law

7. Structural and Functional Challenges of the Family

7-1. Transition from Extended to Nuclear Family

One of the most important contemporary transformations is the change in family structure from extended to nuclear. In traditional societies, the extended family provided a network of economic, educational, and emotional support; but in the contemporary world, with the expansion of urbanization, migration, and individualism, this structure has largely given way to the nuclear family. This change has increased the responsibilities of spouses and made issues related to custody, care of the elderly, and resolution of family conflicts more complex.

7-2. Increase in Single-Parent Families

The increase in divorce, the death of one parent, and certain migration conditions have led to the spread of single-parent families. In such a situation, many traditional family rules based on the simultaneous presence of both father and mother in the process of upbringing and guardianship face challenges. This highlights the necessity of rethinking custody, guardianship, and maintenance regulations.

7-3. Transformation in Gender Roles

The extensive presence of women in higher education, the labor market, and public spheres has changed the traditional pattern of division of labor in the family. In the past, the man was mainly assumed to be the breadwinner and the woman responsible for internal household affairs; but today, women's economic participation and their role in family decision-making have transformed this pattern. This transformation has affected concepts such as obedience (tamkin), disobedience (nushuz), maintenance, and family management, and requires jurisprudential and legal re-understanding (Safaei and Emami, 1398, p. 97).

7-4. New Communication Technologies and Threat to Privacy

The spread of social networks and new communication tools, while facilitating communications, in some cases has led to a reduction in intra-family dialogue, weakening of emotional relations, suspicion between spouses, and violation of privacy. From an Islamic perspective, the sanctity of family privacy and the prohibition of disclosing family secrets have an important status, and this matter becomes doubly important in cyberspace.

8. Specific Legal and Jurisprudential Challenges

8-1. Age of Marriage and Child Marriage

One of the most controversial discussions in Islamic family law is the issue of the age of marriage. Although in some jurisprudential interpretations, religious maturity (bulugh) has been presented as the criterion, in today's world, psychological, medical, and social considerations show that marriage at a young age can be accompanied by serious harms. Therefore, insistence on merely traditional criteria conflicts with the child's expediency and human dignity. Some developments in Islamic countries also show that recourse to traditional readings can provide the ground for a return to underage patterns (Allam & Al Qaraghuli, 2025).

8-2. Temporary Marriage

Temporary marriage or mut'ah is one of the institutions accepted in Imami jurisprudence; but in the contemporary world, in terms of social function, women's rights, the status of the child, and the possibility of abuse, it is the subject of many discussions. Some comparative studies have shown that re-reading this institution in light of justice, human dignity, and social support for women and children is an unavoidable necessity (Azhari, Asmuni, & Nasution, 2024).

8-3. Custody and Care of Children

Traditional custody rules, which are based on specific ages and predetermined priorities, in some cases are not fully consistent with modern criteria of child psychology and the principle of the child's best interest. In Imami jurisprudence, the concept of "expediency" and the authority of the religious judge can be a basis for more flexible decision-making in this field.

8-4. Divorce and Alternative Solutions

Although divorce in Islam is considered permissible, it has been described as the most detested of lawful things. In the traditional system, the authority to divorce was mainly in the man's hand, and women, for separation, often needed to prove hardship and constriction, delegation of divorce, or use of institutions such as khul' and mubarat. In this context, the development of counseling institutions, family arbitration, and the use of rules such as no harm and hardship and constriction can lead to more effective support for harmed women (Khomeini, 1378, vol. 2, p. 531).

8-5. Dowry and Maintenance in Inflationary Conditions

In unstable and inflationary economic conditions, heavy dowries have sometimes distanced themselves from their supportive function and become tools of pressure and threat. Also, determining maintenance proportionate to the woman's status in changing economic conditions requires a review of methods of calculation and implementation. This issue, from jurisprudential, legal, and executive aspects, is one of the important issues of the family system in contemporary Iran.

Chapter Three: Approaches and Solutions for Transformation in Family Law

9. Role of Maqasid al-Shari'ah in Solving Emergent Issues

One of the important capacities for reconstructing Islamic family law is the use of a maqasid-oriented approach. Maqasid al-Shari'ah, which concerns the preservation of religion, life, intellect, lineage, and property, can provide a criterion for evaluation and preference in resolving conflicts between the appearance of some traditional rules and the real needs of today. For example, in the issue of custody, if the legally prescribed age is incompatible with the child's real expediency, the principle of preserving lineage and intellect requires that the child's expediency be preferred over fixed age.

10. Dynamic Ijtihad and Role of Time and Place

In Imami jurisprudential thought, ijtihad is not static, but with changes in subjects, social conditions, and custom, it can lead to re-understanding of a ruling or its instance. Imam Khomeini (may God have mercy on him) placed special emphasis on the role of time and place in ijtihad and considered it one of the determining elements in understanding governmental and social issues (Khomeini, 1378, vol. 2, p. 609).

On this basis, concepts such as "nushuz," "tamkin," "qiwamah," and even the manner of balance between the responsibilities of spouses can be re-read in accordance with customary and social transformations. Such an approach does not mean changing the principles of the Shari'ah, but concerns a more realistic understanding of subjects and a more just application of religious rules.

11. Function of Jurisprudential Rules in Transformation of Family Law

Several jurisprudential rules play a determining role in this field:

11-1. Rule of No Harm (La Darar)

The rule "There is no harm and no reciprocating harm in Islam" is one of the most important tools for preventing harmful actions in family relations. This rule can be used in cases such as domestic violence, refusal to fulfill marital duties, imposition of unfair conditions, and even in facilitating divorce for the woman (Hurr Amili, 1409 AH, vol. 25, p. 431).

11-2. Rule of Hardship and Constriction ('Usr wa Haraj)

The rule of hardship and constriction also provides the possibility that in the case of severe hardship for one of the spouses, especially the woman, supportive solutions including the issuance of a divorce decree or modification of some obligations be applied.

11-3. Expediency and Custom

The two elements of expediency and custom have special importance in the domain of the family, because many family relations are strongly influenced by social custom and cultural conditions. The principle of kind companionship itself indicates acceptance of the role of custom.

12. Experience of Islamic Countries and Necessity of Comparative View

A comparative study of family law systems in Islamic countries shows that legal reform in this field is possible and has precedent. For example, the Moroccan

Family Code (Mudawwana 2004) took important steps toward elevating the status of women, limiting polygamy, and strengthening the role of the court in protecting the family. In contrast, some developments in other countries show that a return to strict and rigid readings of jurisprudence can lead to the consolidation of inequalities and weakening of support for children and women (Hamoudi, 2016, p. 345; Allam & Al Qaraghuli, 2025).

Regarding the Iranian model, some studies have emphasized that Shi'i jurisprudence, due to its *ijtihad* nature, has the capacity to respond to gradual reforms proportionate to society's needs within the framework of the rule of law (Enayat & Künkler, 2025, p. 110). Therefore, a comparative view means not mere imitation, but a tool for understanding capacities, harms, and possible paths of reform.

13. Conclusion

The present study showed that Islamic family law, relying on the teachings of the Noble Qur'an and Imami jurisprudence, possesses rich epistemic and normative foundations and can continue to play an effective and guiding role in regulating family relations. Principles such as affection, mercy, tranquility, kind companionship, justice, and responsibility delineate the value framework of the family institution in Islam and have the capacity, in light of dynamic *ijtihad*, to extend to emerging issues as well.

At the same time, the challenges of the contemporary world—including changes in family structure, transformation of gender roles, the issue of the age of marriage, custody, divorce, dowry, maintenance, temporary marriage, and threats arising from new technologies—show that rigidity upon certain traditional interpretations is not responsive to the real needs of today's society. The way out of this situation lies not in breaking away from the Shari'ah, but in returning to its spirit and aims and using the internal capacities of Imami jurisprudence.

Therefore, it can be concluded that transformation in Islamic family law is an unavoidable and at the same time legitimate necessity, provided that this transformation is based on a valid *ijtihad* methodology, attention to the *maqasid* of the Shari'ah, family expediency, human dignity, and the requirements of time and place. Only in this way can a legal system be created that is both faithful to Islamic foundations and, in practice, just, efficient, and responsive.

14. Suggestions

1. Reviewing laws related to the age of marriage, relying on expediency, scientific findings, and the necessity of protecting the child's physical and psychological development.
2. Amending custody regulations and replacing fixed ages with flexible criteria based on the child's best interest.
3. Reinterpreting the concept of *qiwamah* in the form of responsibility, cooperation, and participatory management in the family.
4. Drafting comprehensive laws for protection against domestic violence, using existing jurisprudential and legal capacities.
5. Strengthening family counseling and arbitration institutions, inspired by the Quranic principle of arbitration (*hakamiyyah*).

6. Reviewing methods of determining and implementing dowry and maintenance in accordance with economic realities and in order to prevent existing dysfunctions.
7. Developing interdisciplinary studies of jurisprudence, law, psychology, and sociology in the field of the family to improve the quality of legislation.

References

A) Persian Sources

The Noble Qur'an.

Hurr Amili, Muhammad ibn Hasan. (1409 AH). *Wasa'il al-Shi'ah*. Qom: Al al-Bayt (AS) Institute for the Revival of Heritage.

Khomeini, Ruhollah. (1378). *Tahrir al-Wasilah*. Tehran: Institute for the Organization and Publication of the Works of Imam Khomeini.

Tabataba'i, Muhammad Husayn. (1390). *Al-Mizan fi Tafsir al-Qur'an*, translated by Seyyed Muhammad Baqir Musavi Hamadani. Qom: Islamic Publications Office.

Jafari Langarudi, Muhammad Ja'far. (1392). *Terminology of Law*. Tehran: Ganj-e Danesh.

Safaei, Seyyed Husayn and Emami, Asadollah. (1398). *Concise Family Law*. Tehran: Mizan Publishing.

Katouzian, Nasser. (1384). *Family (Civil Law)*. Tehran: Joint Stock Publishing Company.

Muhaqqiq Damad, Seyyed Mustafa. (1389). *Jurisprudential Study of Family Law (Marriage and Its Dissolution)*. Tehran: Center for the Publication of Islamic Sciences.

Makarem Shirazi, Nasser. (1387). *Tafsir Nemuneh*. Tehran: Dar al-Kutub al-Islamiyyah.

B) Arabic Sources

Ibn Manzur, Muhammad ibn Mukarram. (1414 AH). *Lisan al-Arab*. Beirut: Dar Sadir.

C) Latin Sources

Allam, N., & Al Qaraghuli, B. (2025). *The Politics of Personal Status Law in Egypt and Iraq*. Carnegie Endowment for International Peace.

Azhari, D., Asmuni, A., & Nasution, K. (2024). *Navigating Pluralism in Islamic Jurisprudence: A Comparative Analysis of Mut'ah Marriage in Ja'fari and Sunni Schools of Thought*. Kawanua International Journal of Multicultural Studies.

Enayat, H., & Künkler, M. (2025). *Shi'i Family Law under the Rule of Law? The Iranian Model and Current Approaches in the Shi'i World*. In *The Rule of Law in the Islamic Republic of Iran* (pp. 104–134). Cambridge University Press.

Hamoudi, H. A. (2016). Resurrecting Islam or Cementing Social Hierarchy? Reexamining the Codification of “Islamic” Personal Status Law. *Arizona Journal of International & Comparative Law*, 33(2), 329–382.

Zakiyah, Z., Muzayanah, U., & Noviani, N. L. (2025). The Life of the Terrorist Convicts’ Wives: Unequal Family Dynamics and Islamic Legal Frameworks. *AHKAM: Jurnal Ilmu Syariah*, 25(1).