

Judicial Rulings and the Mechanism of Division of Property in the Spouses' Legal Life

Majid PourahmadReyhan¹, Reza Nikkhah*², SiamakJafarzadeh³

¹ PhD Student in Private Law, Department of Islamic law and jurisprudence, Urmia University,

Urmia, Iran

majid.pourahmadreyhan@gmail.com

²Department of Islamic law and jurisprudence, Urmia University, Urmia, Iran (Corresponding Author)

R.nikkhah@urmia.ac.ir

³Department of Islamic law and jurisprudence, Urmia University, Urmia, Iran

S.jafarzadeh@urmia.ac.ir

Abstract

Women in the current communities and era are demanding promotion of their role as constituents of the main members of the society in different social, economic and cultural scopes and etc. Recognition of this role and definition of right and duty in the dynamic context of Shia jurisprudence in Islam and tradition and the society habits by compiling of comprehensive regulations and removing prohibitions on observance of these rights and elimination of discrimination, provide not only the benefits of the women as wife but also long term benefits for men as husband in marriage contract. Finally, it causes social progress and prosperity that are the most important rights and duties of spouses in marriage and especially in divorce.

Keywords: Role, women, right and duty, elimination of discrimination, divorce, financial claims of spouses.

1. Introduction

Financial rights have important legal and economic effects not only in the legal life of spouses but also during the dissolution of marriage. One of the most important rights is the condition of dividing husband property in the marriage contract. Dividing property in halves should be made by the court in the case of spouse's agreement and the request of divorce from the husband. How the judicial procedure and the basis of the division of husband's property, the way and its amount is significant according to the monopoly of this decision by the courts. Although, various studies in the form of doctrine have been conducted by jurists according to its importance, we aim to investigate the factors affecting it according to the importance of the decisions made in the judicial procedure and the practical result of the votes and opinions of law scholars in this little opportunity.

2. Theoretical literature of research

2-1 The concept of dividing "property"

Article 1119 of the Civil Code stipulates that the parties of marriage contract can enter any condition that does not contradict the requirements of the mentioned contract in other necessary marriage or contract. Clause A of the conditions for marriage or foreign marriage, which are included in the marriage deeds of the official government of the Islamic Republic of Iran, must be observed if the spouses signs. This clause of the conditions during the

marriage refers to the fact that the husband is obliged to transfer half of his property that acquired during the marriage to his wife that he intends to divorce her, gratuitously.

Theory October 14, 2004- 4851/82/7 Legal Department of the Judiciary: Although according to the philosophy of marriage, the principle of limited will of the parties is contrary to transactions, if these conditions are not contrary to the requirements of marriage, it is valid [1]. This condition is an agreement that is made for the financial support of the wife during the divorce and is not directly related to the marriage and is one of the functions of the contract that is mentioned in private contracts [2].

2-2 The concept of condition and its types

Condition in the word means appointment, covenant, obligation [3] and in jurisprudence also means absolute commitment [4]. In civil law, this concept has been used in two different meanings. Restrictive conditions create restrictions on the manner of fulfilling the main obligations, and suspensive conditions are conditions that have suspended the realization of the effect of the contract or the dissolution of the contract to foreign affair [5]. In Article 190 of the Civil Code, a condition is something to which the existence or non-existence of conditioned depends on it, but in Article 232 of the Civil Code, a condition means a subordinate agreement dependent on a main contract.

Clause A of the conditions during the marriage is one of the correct conditions that is within the scope of this article. According to Article 234 of the same law, the correct conditions are divided into three types: The qualification condition, the result condition and the action condition are positively or negatively the condition of absolute action and this article is a conditional sentence [6]. According to the last part of the article, dividing condition is the legal positive action condition during which the husband is obliged to perform legal action of the subject of the condition within the scope of legal actions of Igha.

2-3 Executive guarantee of condition

Articles 237 to 239 of the Civil Code has stated the executive guarantee of this condition as the general rules, but according to the unique features of marriage, part of which is stipulated about the difference between power of attorney in marriage and other contracts in the fifth chapter of the first paragraph of the seventh book of civil law (Theory 4851/82/7-October 14, 2003) and especially the way of writing the condition of dividing in the marriage deed causes the effects that have made the executive guarantee different from other contracts.

As we know, the non-executive guarantee of the action condition consists of various stages, which are mentioned in Articles 237, 238 and 239 of the Civil Code. Proof of violation of the execution of the condition (Judgment No. 1387 dated September 6, 1937 of Branch One of the Supreme Court), the conditional obligation of the defendant to perform the action of subject of condition or to pay the cost of its execution is one of those cases.

The last step in the hierarchy of executing mentioned condition is the termination of the contract if the obligation to perform the condition or to obtain a fee is not possible [7]. Marriage can be permanent or intermittent [8]. On the other hand, as we know, divorce is Igha, divorce literally means the separation of a woman from a man, the release from the marriage [3]. In jurisprudence, divorce means the dissolution of the marital relationship in a permanent marriage [4].

2-4 The difference between the dividing of property condition and other conditions during the marriage

However, the prediction of condition in a marriage contract has a relatively long history in the relevant laws (Article 4 of the Marriage Law approved in 1931 and 1937) [9]. Nevertheless, most of these conditions are in order to maintain the requirements of the nature of marriage, which is related to human growth and excellence, childbearing, and so on [10]. Its non-executive guarantee is generally divorce and the special and absolute attorney of the wife in the request for divorce by the husband [11]. The conditions of one to twelve of marriage documents of the Government of the Islamic Republic of Iran are among them, however, paragraph A of this document is one of the conditions that in case of dissolution of the marriage only through divorce and at the request of husband will be applied during the issuance of court ruling (Article 24 of the Family Protection Law). If this condition has not been signed by the spouses during the marriage, the issue is basically eliminated. If one of the spouses has signed it, there is no agreement between the two wills according to the general rules of contracts, and due to the lack of intention, the issue is basically eliminated again. This condition is binding only when the spouses, as parties to the marriage contract, accept this condition with good intentions and consent and sign it [2].

The Third Branch of Tabriz General Court, after the spouse disagreed on the signing or non-signing of the dividing of property condition, which was not signed in the contract, after inquiring from the office, refers the wife's claim to sign the justified condition and the husband's property to the expert for evaluation. The expert estimates the value of properties that husband acquires after marriage to be three hundred and sixty-eight million rials, and the court obliges the husband to pay half of it in order to divide the property. The parties object to the verdict, the husband states that the reason for my request for divorce is due to my wife's misbehavior and lack of special obedience, therefore, the elements of the condition have not been fulfilled and the wife is not entitled to use the condition. The wife also objected that all of the husband's property has not been evaluated. This verdict was approved by Branch 13 of the Court of Appeals during the lawsuit No. 00820 dated November 11, 2010 and the First Branch of the Supreme Court also rejected the husband's appeal stating that the wife was not entitled to it and states in the lawsuit NO. 900970906100209 dated June 11, 2011.

Another major difference between this condition and other conditions, including the 12 conditions of the marriage contract, is that the twelve conditions and generally other conditions between the spouses benefits the wife from the executive guarantee of divorce at her request for the husband's violation of the conditions, while this condition is provided to protect the rights of the wife after the dissolution of the marriage. In other words, in case of violation of the condition, the wife must first prove the husband's violation in a competent court and, like other conditions, benefits the guarantee of its implementation [11], while in paragraph A, the wife has no need or entitlement before the divorce request by the husband to refer to court regarding the application of the mentioned condition [12]. The husband in the case of applying his intention to divorce his wife must refer to a competent court within the limits of the rules and prove that the request for divorce is in terms of violation of the wife's duties or immorality and misbehavior [2].

2-5 Scope of applying condition

Obviously, the use of these general titles has led to different interpretations in the courts and legal authorities. For example, if the wife has been convicted an illicit relationship in a competent court, her disqualification is somewhat reasonable in terms of applying condition. Although it is possible to comment on the amount of property of the husband or the extent of the wife's influence in its acquiring, the issue becomes significant when this condemnation of marital relations such as refusal of woman to fulfill marital status [13] or a conviction regarding his business relationship. (Theory 983/91/7 - 2012) For example, if the spouses got married in 1976 and the wife was convicted in 2016 and the husband requested for issuing a sentence of divorce in 2018 (certificate of impossibility of compromise), what will be the obligation to apply this condition? Confirmation of this issue is the theory No. 718617977 dated February 18, 2007 of the Legal Department of the Judiciary that necessarily considers the wife's mistreatment and immorality with others as an example of abuse if the husband's life is disrupted, even if she pays attention to the husband. While establishing an illegitimate relationship between a woman and a foreign man led to the murder of a foreign man by her husband and her brother-in-law. According to the lawsuit No. 233-92 dated August 22, 2013, Branch 1 of the Criminal Court of East Azarbaijan Province, the husband was sentenced to retaliation for intentional murder and the husband's brother was sentenced to four years in prison for murder which is definitely an example of the wife's misbehavior, and if a certificate of impossibility of reconciliation is requested, the dividing of the property will not take place.

2-5-1 Examining the dividing of property condition in domestic court rulings

In the verdict No. 346-98 of the First Branch of the Azarshahr City Court of Justice, with the argument that the wife did not provide any evidence regarding dividing of the property, no comment was made on it. Branch 33 of the Court of Appeals of East Azarbaijan Province has referred the issue of dividing of property to an expert and according to the date of marriage of the spouse in 1989, it has determined the amount of one hundred and fifty million Tomans as a condition for dividing property. This verdict was violated by Branch 15 of the Supreme Court during the lawsuit No. 15/82/99 and Branch 33 of the Court of Appeals repeated the previous verdict by insisting on the dividing amount and (other financial derivatives).

In another case, the first branch of the General Legal Court of Shabestar city, during the lawsuit 641/96 dated November 27, 2017 to divide the property oblige the husband to transfer half of the registration plaque of a building unit to the name of his wife. By objecting husband, this verdict was approved by Branch 13 of the Court of Appeals of East Azarbaijan Province during the letter No. 1560-96 –November 1, 2017, and with the re-objection of the husband, Branch 16 of the Supreme Court considers the verdict inconsistent with the contents of the case and refers it to the same branch regarding the condition of dividing the property. Branch 16 of the Court of Appeals of East Azarbaijan Province with the authority deriving from Article 358 of the Code of Civil Procedure 1 and considering that the property is in bank collateral, regardless of the husband's defense on assigning three disputed properties to the wife according to official power of attorney considers the appeal to be valid and issues a ruling that the wife is not entitled to this condition. This verdict was also violated again in the

lawsuit No. 946-97-28 /5/97 of Branch 16 of the Supreme Court, and considering that the condition of contract has not considered the wife's rights half and the determination of the entitlement is with the court, it is referred to the same branch to re-investigation. Branch 5 of the Court of Appeals of East Azarbaijan Province, by convening a debt hearing session, deducts the registration plaque from the agreed amount and, considering the wife's consent to the minimum amount, sentences the husband to pay fifty-six million tomans for dividing the property in case of divorce. According to the constraint of husband from requesting the issuance of a certificate of impossibility of compromise, this decision was rejected by the branch 16 of the Supreme Court due to the return of the husband's lawsuit and referred to the same branch again, finally the branch 33 of the East Azarbaijan Court issues the rejection of lawsuit of plaintiff as a husband during the lawsuit 441 -98- 20/3/1398. In other words, due to the court's insistence on enforcing the subject of the dividing the property condition, the husband gives up requesting a certificate of impossibility of reconciliation (divorce).

In another case, Branch 6 of the Tabriz Family Court issued a certificate of impossibility of reconciliation at the request of the husband during the lawsuit No. 1957-99. While determining financial rights such as alimony, dowry and fair remuneration, it states: "Regarding the financial rights of the wife, the subject of paragraph A of the marriage document is not entitled to receive in terms of not fulfilling the conditions." This lawsuit was objected by the wife and Branch 33 of the Court of Appeals of East Azarbaijan Province, arguing that due to the misdemeanors of financial law in the matter of dividing the property obtained during the marriage, the wife introduced property from the husband and finally the husband before execution of divorce decree is required to pay five hundred million rials to the wife for half of the property. This decision is violated during the lawsuit of 243158-June 28, 2021 of Branch 23 of the Supreme Court. The Court's argument based on the husband's objection is as follows: "In Manhanfieh, the case files don't indicate the husband's existing property that was acquired at the time of marriage and that the amount of five hundred million Rials set for dividing the property about which assets and property of the husband."

By re-referring the case after the hearing, Branch 33 of the Court of Appeals of East Azarbaijan Province finally argues: In this case, the court completed the investigation of the Supreme Court and obtained an explanation from the litigants by convening a hearing and reviewing the property and assets acquired after the marriage considering that acquiring a Nissan car and three dongos of a residential house during the marital period was proven and the husband, despite the claim of their transfer and presenting contradictory statements in the respected lower court did not announce the amounts resulting from the transfer of the mentioned property, therefore, the court determined the amount appropriate considering that the wife did not violate the marital duties, and based on Articles 348-358 and 405 of the Code of Civil Procedure and Article 29 of the Family Protection Law approved in 2012, while determining the amount of five hundred million rials from the place of implementation of paragraph A of the terms of the contract that must be paid in cash by the husband to the wife at the time of divorce ... " and the decision is announced to the parties.

In another lawsuit, No. 1566783-2021, Branch 8 of the Tabriz Family Court, arguing that the wife could not introduce the property acquired by the plaintiff in accordance with paragraph A of the proviso of the marriage, therefore, the property in accordance with paragraph A of the proviso of the contract does not belong to the aforementioned. During

lawsuit No. 41683 -2021- September 11, 2021 Branch 33 of the Court of Appeal of East Azarbaijan Province, this vote was violated and considering the statements of the husband in the court session on the transfer of their property obtained after marriage, obliged the divorce applicant to pay seven billion Rial for his wife in case of divorce.

Unanimous decision of the case number 779 –August 6, 2019 of the General Assembly of the Supreme Court regarding the case in the position of dispute and conflict between the condition of dividing the property and fair remuneration or donation, arguing that the basis of the condition of dividing the property of the contract between spouses and the basis of retribution or legal regulations that the husband has been benefited the wife out of sharia and legal duties, states: "The sum of the two is not contradictory and conflicting."

In another case, the husband claimed to have married the wife in 1994 and, due to a lack of moral understanding, applied for a certificate of impossibility of reconciliation. Branch 3 of the Marand General Court referred the matter to an expert and, in terms of non-payment of fees by the wife, issued a divorce decree on October 30, 2008-1227 and annulled the issue of dividing the property due to non-payment of fees. With the wife's objection, Branch 13 of the East Azarbaijan Province Court of Appeals referred the matter to an expert again and the expert's fee was not paid by the wife and the appeal was rejected during lawsuit 01140- January 15, 2010 and the vote is proved in Branch 12 of Supreme Court.

Branch 21 of the General Court of Tabriz, regarding spouses who have lived together for 5 years, issues a divorce decree without dividing the property at the request of the husband during the lawsuit No 221- May 19, 2013. The wife's lawyer requests that the property be halved, stating that the husband owns a 120-meter shop and property. The husband's lawyer states that the property is 95 meters and is worth 95 million tomans. The shop is also mortgaged by the bank. Branch 13 of the Court of Appeals of East Azarbaijan Province, by determining the amount called dividing the property during the lawsuit 992 –November 25, 2013, approved the mentioned lawsuit and this verdict is approved in Branch 26 of the Supreme Court in case No 9109984112101038. Branch 17 of the General Court of Tabriz, in the lawsuit No. 1132-92, subject of case 920794, obliged the husband to transfer two dongos or the equivalent of the amount in order to divide the property. The husband and wife both objected and the Branch 5 of the Court of Appeals cancelled the dividing of property. The wife appeals against the verdict and Branch 31 of the Supreme Court, arguing that the cases of fair remuneration and dividing the property are in parallel, violates the verdict and refers the case to the same branch. Branch 13 of the Court of Appeals of East Azarbaijan Province, considering that the wife has declared the total property of the husband to be 176 million Tomans, will determine 10 million Tomans as the condition for dividing the property. This decision is approved by Branch 31 of the Supreme Court in case No 930450.

2-5-2 History of the condition in the relevant regulations

The condition of dividing the husband's property in 1982 and 1983 was included in the contracts according to the proposal of the Supreme Judicial Council and in a legal divorce that exists with the will of the husband until the dissolution of the contract (referral type), it will be applied if the conditions are observed [14-15].

If it is considered that this divorce is a forced divorce and in other words, divorce is not a ruling, although the husband is obliged to refer to court for the divorce of his wife and

therefore the husband can refer till the end of divorce time due to the recourse [16] and eliminate the effects of dividing his assets. (Theory 447/93/7– May 19, 2014, 1. AH) Article 29 of the Family Protection Law 3 approved in 2012 obliges the court to determine the conditions of the contract and the contents of the marriage certificate while issuing a divorce decree. (Theory 13408/7 –October 14, 2013) Although, in addition to specifying the dowry, fair remuneration, it doesn't refer to dividing the husband's property, according to the allegorical nature of the statistics and specifying the terms of the contract, courts generally at the same time the request of a certificate of impossibility on compromise from husband "divorce"(theory 125/93/7 –April 3, 2014) also consider the issue of dividing his assets (Theory 1140/93/7 –April 3, 2013) and this is while this condition is like all the conditions that can be forgiven by the obligor, i.e the wife, within the scope of Article 244 of the Civil Code.

As mentioned above, not only the title of woman abuse provides a general example of different types of actions within the scope of spouse's duties or immorality and misbehavior that even in the courts of one place may lead to different interpretations in different branches. Different regions will also cause different perceptions [14]. Because violation in the word means acting contrary to one's word or covenant or breaking one's promise [3], which finds different meanings in the context of different cultures. Imagine a man from the north of the country getting married to a woman from the south of the country with different interests and cultures and living with his first wife in the east of the country. In case of filing about violation of the wife's duties or misconduct and misbehavior, regardless of the originality or the meaning of the description, on what basis will it be recognized? Can a working woman be expected to take care of life as much as her husband at home [6]? And in case of disagreement and claim of the husband in the violation of his wife's marital duties, on what basis will the court issue the argument and the verdict of the case? (Qur'an Hakim, Surah An-Nisa, verse 19 and Surah Rom, verses 21-1 and 2) [17].

Another problem in enforcing this condition is the restriction of property to half. Most professors believe that the wife is considered as a plaintiff in the application of this condition and must prove her claim in this regard [18]. It is obvious that the new system of economics in the domestic and international arenas requires that women, as one of the most effective pillars of social progress, enjoy equal rights and, in other words, without discrimination, respecting the distinction between men and women. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in 1979, states: "Member States shall refrain from any act of discrimination against women" and Article 3 emphasizes the appropriate measures to eliminate discrimination against women. Although Iran is not a member of the conference [18], inclusion of this condition can be considered for providing practical protection of women's financial rights. In our country, in recent years, women have generally spent their time at home and parenting, and apparently have not had a direct impact on increasing the family wealth, which is usually done by the husband, while if this view survives, women in the current context of society will be very financially vulnerable. During their many years of married life, wealthy men may be tempted to divorce their wives and leave them without financial support that generally lack scientific and professional expertise. (Theory 570/93/7- June 3, 2014). Although the provision of this condition can be somewhat effective in

correcting the legal deficiencies in this area, despite the fact that it is optional, this condition, which seems to have been extended to the division of property, derived from the haste of the regulators. The judge is completely free in estimating the property acquired by the husband during the marriage, and more importantly, there is no legal rule for its division, and this will probably increase the error rate of the judge issuing the sentence [19].

The issue will become more important when the judge issuing the verdict wants to state total arguments and the basis of his verdict in the reason and justification of the division of property. In other words, on what basis will 30% of the property be transferred to the wife as absence of consideration? How is the effect of the wife in acquiring the property? [15].

2-6 Scope of applying condition

It seems that a wide range of factors should be considered, including the employment of the wife, polygamy, women's participation in strengthening the foundations of the family, the amount of fair remuneration, the amount of dowry[20]. Also, according to the Family Protection Law and the obligation of husband to various payments in case of dissolution of the contract, especially divorce, such as dowry, fair of remuneration of marriage, alimony and the subject of Article 30 of the Family Protection Law 1, which provides that the wife can receive even the usual expenses of marital life (regardless of the unusual expenses) from the husband which are in responsibility of the husband with the conditions mentioned in the article. The trial court should note that these payments are along each other and the basis for each of them is clear in such a way as to avoid similar payments. For example, regarding to the fair of remuneration of marriage within the scope of Article 336 of the Civil Code and the following note, it should not be re-cited in the calendar of the condition of dividing the property in the case of entitlement. (Theory 2454/92/7 –March 11, 2020)

Article 23 of the proposed amendment bill of the articles of the Family Protection Law approved in 2012 and the articles added to it by the General Directorate of Compilation of Bills and Regulations of the Judiciary predicts, if a certificate of impossibility of reconciliation is issued in absentia, the woman can claim her financial rights by filing a separate petition. Different measures are predicted in different legal systems in this regard, which are generally apart from gender.

2-6-1 Examining the condition of dividing property in the rulings of foreign courts

The main legal guardian court (Milas family) in Turkey in document No. 2021/01/08, page four, citing Article 175 of the Turkish Civil Code, stipulated that " the party who suffered from poverty as a result of divorce can demand unlimited alimony according to the financial capacity of the other party if her negligence is not heavier than the negligence of the other party. On page five of this verdict, it is specified that the property of the defendant (husband) should be confiscated in order to prevent the transfer of property. In other words, in Turkey, if the divorce is also at the request of the wife, the rule of division of property will apply. The Fifth Branch of the Court of Appeals of West Azarbaijan Province, during Lawsuit No. 834/95 – October 17, 2016, Lawsuit No. 471/95 –June 23, 2016, Branch 6 of the Urmia Court of Justice in the same case has issued the ruling of wife unrighteous about dividing the property. The ruling was cited by the husband to prevent a ruling within the provisions of Turkish law on the dividing of property.

Judgment in absence of the court of Essen, Germany, in case No 102F 14/155- March 9, 2016 regarding the division of property during the marriage according to Articles 113, 331 and 251 of the law and the appendices of the case, stated that the spouse had reconciled in this regard. Upon the husband resignation from work and departure to Iran, in fact, he has moved his place of residence. According to the Essen court, the husband lost his competence to claim the financial divisions of life under Article 3 of paragraph 150799 by his wrongful treatment with his wife. In this vote, withdrawing funds from personal accounts and even points gained through insurance with a certain quorum is considered illegal behavior and these funds are involved in the division of property, and there is no difference between husband and wife, in other words, the couple's property will be divided equally and each will take his/her share.

In case 1037- 2016- FD – July 30, 2018, Cleveland District Court, Oklahoma, USA in paragraph 14, regarding the division of the spouse's property, it determines the spouse's property, such as a car, comfortable furniture, even a bed, a quilt, and a mattress, and divides accordingly. In paragraph 14, it also specifies how to pay the debts in such a way that after dividing the property, it has made each spouse responsible for paying their debts.

Article 18 of Personal Status of Iranian Zoroastrians, the Zoroastrian Association of Tehran, while stating that in order to bride and groom respect the marital life after marriage and to be partners and concomitants in all parts of life, Note 4 of the article states: property that husband and wife earns after marriage alone or both through work and investment will be part of their joint property. Article 36 of the same law stipulates that the guilty party in Articles 24, 25, 26, 27, 28, 30, 31 and 32 is deprived of half of his/her property and receives only his/her furniture and property and the rest of his/her personal property.

3. Conclusion

The social role of women seems to have a different definition rather than it had eighty years ago. Women are not content to wear anklets, but drive, start a business, gain medals on sports fields, have a graduate degree, and have proved their competence as men in managing all affairs of life. The women of this land are insistently demanding a greater role in managing affairs at the highest level. The historical background also confirms that if discrimination (and not equality) of women against men is eliminated, the potential hidden in the heart of society will be easier and the path to the excellence of society will be paved. Of course, this requires the development of a mechanism that is accurate and consistent with the reality and physical and mental abilities of women in the field of religious teachings. In other words, when the social role of women is recognized as a right, it follows a duty like any right; it is not possible to increase the role of women in the economic structure of society with a one-sided set of laws and assigned the economic structure of the family solely on the husband, but like most progressive societies that the role of women in the economic, cultural and social system increases, it should be also increased in the family system. When the wife spends part of her time on economic, cultural and educational affairs outside home, the husband's responsibility for maintaining the family unit changes and increases, eventually, the marital duties of the spouses find a new definition. Therefore, in this new definition, in parallel with acquiring the right of economic activity in the society, the woman finds a new duty towards the family and its economic situation, which causes the balance of her rights

and duties towards the society and the family. For example, she should be obliged to spend part of her income on family affairs.

3-1 Suggestions

Currently, Iranian society is ready to accept such a role for women, and if the appropriate religious and cultural mechanisms are anticipated and approved, this growth will continue in the right direction and will provide the cohesion of the family and the community. And if we do not pay attention to the request of women to eliminate discrimination and play a greater role in economic issues, etc., which is currently increasing, we will definitely have an inaccurate path that will not only be not accepted by the Sharia, but will not be approved by any member of the community either.

For example, in the current laws and regulations, men have the most economic responsibility in payments during their marital life and divorce, due to the adoption of explicit laws in different periods and the protection of the apparent rights of spouses, while women's society demands a greater role in running affairs, the legislature's view is merely to emphasize the financial and economic demands of women from men, especially in the context of their marriage. However, in the case of the new role of women and the adoption of relevant regulations, for example in the field of dividing the husband's property, contrary to the legislator's procedure in Article 8 of the Family Protection Law approved in 1974 and paragraphs 2 to 13, this article can be applied in favor of the husband in the marriage contract as conditions from spouses [10], not only women and their children will be happy, but in this new definition, we will not see an influx of various duties in one-way payments such as alimony, dowry, fair remuneration, division of property to husband by the involvement of women in other economies, because these tasks will also have a more logical meaning in the new definition, and men will also be relieved of these tasks.

Perhaps this is why it has been repeatedly suggested in the religion of Islam that marriage is a sacred covenant in which financial matters should have the least impact. All that needs to be done is to use the new social sciences in the context of the dynamism of the holy religion of Islam. In fact, from paragraph A of the conditions of marriage without considering other laws and only within one condition, the economic motivations of the wife cannot be provided in the long run, but the Islamic legislature should eliminate discrimination and assignment within the scope of the subject regulations by considering all the conditions.

References

- [1] Yazdi, Omid. 2015. Family in the current order, Tehran, first edition, Ava Book Publishing.
- [2] Katozian, Nasser. 1992. Civil Law (Exchange Transactions, etc.) Fourth Edition, Tehran, Anteshar Publications.
- [3] Amid, Hassan. 2011. Amid dictionary, Tehran, first edition, Amirkabir Publications.
- [4] JafariLangroudi, Mohammad Jafar, 2019. Legal Terminology, Tehran, Fourth Edition, Ganj-e-Danesh Publications.
- [5] GhorbaniLachvani, Majid. 2016. Civil Law, two-volume period, first volume, Tehran, ChatarDanesh Publications.
- [6] Bigdeli, Saeid; Hossein Al-Musawi, SeyedMojtaba, 2016. Principled Interpretation of Civil Law, Tehran, First Edition, Mehrasa Publications.

- [7] Katozian Nasser. 2008. Law Enforcement, 13th Edition, Tehran, Anteshar Publications.
- [8] MohagheghDamad, SeyedMostafa, 1989. Family Law, Third Edition, Tehran, Islamic Sciences Publishing.
- [9] Marriage Law approved in 1931.
- [10] Moradi, PoshtDarbandi, Mohammad Reza. 2014. The Jurisprudential Position and the Law of Divorce, First Edition, Tehran, Rah-e Novin Publications.
- [11] Rodijani, Mohammad Mojtaba, 2017. Attorney in Divorce, sixth edition, Tehran, Ava Publications.
- [12] JafariLangroudi, Mohammad Jafar. 1995. Legal encyclopedia of five volumes, fifth edition, Tehran, Amirkabir Publications.
- [13] Mostafavi Khomeini, SeyyedRuhollah (RA), 2016. Discussions on the rights of Tahrir Al-Vasileh, two-volume period, translated by Ayatollah Seyyed Mohammad MousaviBojnourdi and Seyyed Abbas Hosseini, fourth edition, Majd Publications.
- [14] Shiravi, Abdolhossein, 2016. Family Law, Second Edition, Tehran, Publications of the Organization for the Study and Compilation of University Humanities Books (Samt).
- [15] Judiciary Research Institute 2012. Collection of Judicial Opinions. Second Edition, Tehran, Press Center Publications and Judiciary Publications.
- [16] Sadat Asadi, Leila. 2019. Crimes related to marriage and family relations, first edition, Tehran, Judiciary Training Center Publications.
- [17] The Holy Quran
- [18] Fahimi, Fatemeh. 2011. Women and Financial Law, Second Edition, Tehran Khorsandi Publications.
- [19] Zandi, Mohammad Reza. 2014. Disciplinary Warnings for Judges, Volume 2, First Edition, Tehran, Publications of JangalJavedan.
- [20] Rezaeizadeh, Mehdi. 2019. Temporary marriage in Iranian law, first edition, Tehran, QanunYar Publications.

Extra resources:

- [1].Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in 1979.
- [2].The proposed bill to amend the articles of the Family Protection Law (approved in 2012) and to add articles to it.
- [3].Civil law.
- [4].Family Protection Law approved 2012.
- [5].Family Protection Law approved in 1974.
- [6].Advisory Opinions of the Legal Department of the Judiciary (Ten Theories)
- [7].Rulings issued by the Supreme Court. Appeal Courts and Lower Courts. (More than fifteen lawsuits)
- [8].Regulations on the personal status of Iranian Zoroastrians (Tehran Zoroastrian Association)
- [9].Judgments issued by foreign courts in more than three lawsuits