The Journal of Theological Academia

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Publication Principles

From the Editor

May praises be to Allah, and may greetings be to the Prophet.

A Christian mother in France holds the hands of her seven-year-old child before the doors of a mosque. After being asked by the imam why she is standing there, she states the following interesting and remarkable answer: "We have Muslim neighbors. Their children treat them very well. I want my child to treat me well, too. I came here to ask you to raise my child." This is actually the essence of Islam, submitting to nature.

We, The Journal of Theological Academia, selected the topic of family as the most important institution that should submit to nature of creation in this issue. We are here before our esteemed readers with this subject. We extend our gratitude to Allah as the new issue published with such an important topic.

It is critical for all authors and academics to make efforts to defend this important institution recently called "The Final Castle" in Turkey and to prevent any internal or external attacks against this castle. Duties of parents regarding their children should often be mentioned, and preventing young people from being burned within the eternal fire that is fed by humans and stones, should be deemed as the greatest mission.

The family model stipulated by Islam should always be reflected in sermons, speeches, and academic and free studies. Mosques that should be the key elements in our lives, should be the places which we should visit with our families at least once a day, for night prayers for instance. I occasionally ask my students the following while mentioning al-Masjid an-Nabawi: "Is there anyone who has been to a shopping mall with their family this month?" A couple of fingers were raised from a group of 30 students. "Well, is there anyone who has been to a mosque for prayers with their family this month?" Unfortunately, no fingers were raised. Academics should also make efforts to ensure that the place where daily prayers, that can be performed as religious tawhid activities, are conducted are alongside other Muslims is a key venue for all Muslims. After the importance of this topic is reflected through research, we hope that young people will devote their hearts to mosques and that they will help Islamic society reach the most pleasant of days. Families that prioritize Allah's consent will be established by them.

Children should never be neglected in a family. Making them the slaves of television or mobile phones means paving the way for great crime because young brains cannot separate the harmful from the beneficial actions. It should be noted that parents sometimes display ignorant attitudes. There are parents who tell their

children to watch television so that they will not misbehave. Teaching these parents and guiding them in terms of pediatric behaviors is critical for preventing "The Final Castle". Parents need to spare a couple of hours for their children every night. It is critical for parents to play with their children, hug them, show their love and spare time for their children so that children are not trapped in the digital world. Accordingly, one of the points to be noted is the issue of raising conscious parents.

We occasionally hear about the applications that direct children to commit suicide. The incident experienced by a friend of mine whose child jumped from the seventh floor to fly like Spider Man is still fresh in our minds. One of the ways to protect them from digital threats is to play with them. The greatest model in this regard is Prophet Muhammad (p.b.u.h.). He showed mercy to children, and he kissed and hugged them. The capitalist system, which knows no bounds in production, will generate many different elements on the virtual media to earn from children, and it will do anything to capture children's attention.

Performing studies to build a rationally and mentally-strong generation should be among the objectives of each academic for their societies, particularly for Turkish society. Projects should be generated to protect the concept of family in all steps of human sciences.

As the faculty of divinity, we aimed to review the institution of family from different aspects. With the topics ranging from domestic health to separation in a family and from an Islamic family to a modern family, we aimed to make a contribution to the literature.

I would like to take this occasion to extend my gratitude to all academics who contributed to this issue of our journal and who served as reviewers, to Ali GÜR – our esteemed rector who helped this journal be published – to Şehmus DEMİR who is our esteemed dean, and to all academics and administrative personnel of our faculty, and I would like to greet all of our esteemed readers.

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Issue Editor of The Journal of Theological Academia

Methods of Solving Domestic Problems in the Quran (With Reference to Surah An-Nisa, Verse 34)*

Ali AKPINAR**

Absract

Family, a concept that is as ancient as the history of humanity, is regarded as a verse of Allah according to Quran. "And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought." The term "verse" means any signs and documents that reflect the Creator's unique power and that direct to the divine ideology. Accordingly, the concept of family should be examined with the same seriousness and respect shown to the concept of verse. In addition, it should be considered thoroughly and protected carefully.

The verse in Quran "And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty. Allah is all-Encompassing and all-Knowing" and the Prophet's statement "Marriage is my sunnah. Whoever abandons my sunnah is not a follower of mine guide the Muslims and Islamic families are established with Allah's order and Prophet's words. Constituting the basis of the concept of family in Islam, this statement is actually a patent on a proper Islamic family. Accordingly, families should be established based on Islamic principles, and protected and maintained in line with what this statement means. Considering the fact that the Islamic practice called muta (temporary) marriage has been forbidden, Islamic family is an institution which is to be maintained throughout a couples' lives and is even believed to continue in paradise. Verses in the Quran indicate that people living in paradise will be hosted in paradise with their partners and descendants. The family of the Prophet, who is the best model for Muslims with his marriages and on any subject, was never fragmented, although he occasionally had certain problems in his marriages.

Although divorce is recommended as a solution when there is no other option, what is more important is to maintain the family peacefully. The establishment of families is based on this target and measures are taken in this regard. Sincerity is ensured between the families of the bride and groom to help the couples reach the aforementioned target. Therefore, brides and grooms, who are the key people in a family, should be aware of this. Moreover, relatives who financially and spiritually help establish the family should act accordingly. The problems seen in the institution of family in the modern days arise from people's awareness-based deficiency in this subject.

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This paper will examine the methods of solving domestic problems in Quran with reference to Surah an-Nisa, verse 34.

Keywords: Quran, Family, Women, Conflict, Violence, Problem.

Aile İçi Sorunların Çözümünde Kur'ânî Yöntem
(Nisâ Suresi 34. Ayeti Bağlamında)

Öz

İnsanlık tarihi kadar kadîm bir müessese olan aile, Kur'ân'a göre Allah'ın ayetlerinden bir ayet olarak nitelendirilir. *"İçinizden, kendileriyle huzura kavuşacağınız eşler yaratıp; aranızda muhabbet ve rahmet var etmesi, O'nun varlığının ayetlerindendir. Bunlarda, düşünen bir toplum için dersler vardır."*[1] Ayet, Yüce Yaratıcı'nın erişilmez kudretini gösteren, O'na götüren alamet ve belge demektir. Buna göre aile bir ayet gibi saygıyla ele alınması, üzerinde derinlikli düşünülerek okunması ve itinayla korunması gereken bir kurumdur.

Kur'ân'ın *"İçinizdeki bekârları, kölelerinizden ve cariyelerinizden iyi olanları evlendirin. Eğer yoksul iseler, Allah onları lütfu ile zenginleştirir. Allah lütfu bol olandır, bilendir"*[2] ayeti, Peygamberimizin *Nikâh benim sünnetimdir, kim benim sünnetimden yüz çevirirse benden değildir*[3] gibi sözleri doğrultusunda İslam ailesi *Allah'ın emri ve Peygamberin kavliyle* kurulur. Aslında ailenin temelini oluşturan bu cümle İslam ailesinin patentidir. Dolayısıyla aile bu cümlenin gerekleri doğrultusunda İslamî ölçülere göre kurulmalı, bu cümle doğrultusunda korunmalı ve sürdürülmelidir. İslam'da geçici/süreli nikâh denilen mut'anın yasaklandığı düşünülürse İslam ailesi, ömür boyu sürmesi hedeflenen ve hatta cennette de devam edeceği ümit edilen bir kurumdur. Kur'ân ayetlerinde, cennetliklerin eşleri ve zürriyetleriyle birlikte cennette ağırlanacağı belirtilir.[4] Her konuda olduğu gibi yaptığı evlilikleriyle de bizlere en güzel örnekliği sunan Peygamberimizin kurduğu aile yuvalarında zaman zaman bir kısım problemler yaşanmış olsa da aile yuvasının yıkılması söz konusu olmamıştır.

Çarelerin tükendiği aşamada boşa(n)ma bir çıkış yolu olarak önerilse de kurulan ailede asıl olan yuvanın huzurlu bir şekilde devamıdır. Kuruluş bu hedefe yöneliktir, alınan tedbirler bu hedef içindir, kurulan birliktelikle iki taraf ailelerinin yakınlaşması da çiftlerin bu hedefi gerçekleştirmelerine yardımcı olma amacına yöneliktir. Bu yüzden ailenin başkahramanları karı koca bu bilinçte olmalı, ailenin kurulmasına maddî ve manevî olarak yardımcı olan akrabalar da bu bilinç doğrultusunda hareket etmelidir. Bugün aile kurumunda görülen çözülmeler, tarafların bu bilinçten yoksun olmalarından kaynaklanmaktadır.

Bu yazıda İslam ailesinde yaşanabilecek problemlerin çözümünde Kur'ânî yöntem, Nisâ suresi 34. ayeti bağlamında ele alınacaktır.

Anahtar Kelimeler: Kur'ân, Aile, Kadın, Nüşûz, Şiddet, Problem.

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[1] er-Rûm 30/21.

[2] en-Nûr 24/32.

[3] Ebû Abdillâh Muhammed b. İsmâîl el-Buharî, *el-Câmiu's-sahih* (İstanbul: el-Amîre, 1353/1975), "Nikah", 1; Ebü'l-Hüseyn Müslim b. el-Haccâc, *el-Câmiʿu'ṣ-ṣaḥîḥ*, nşr. Muhammed Fuâd Abdülbâkī (Kahire: y.y., 1374-75/1955-56), "Nikah", 5; Ebû Abdirrahman en-Nesâî, *Sünen* (Beyrut: y.y., ts.), "Nikah", 4.

[4] Bk. er-Ra'd 13/23; Yâsîn 36/55-56; el-Ğâfir 40/8; et-Tûr 17-21.

Methods of Solving Domestic Problems in the Quran

The Quran has meaningful recommendations and precautions for solving potential domestic problems:

Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand."[5]

"And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things]."[6]

And if a woman fears her husband's contempt or evasion, there is no sin upon them if they make terms of settlement between them - and settlement is best. And present in [human] souls is stinginess. But if you do good and fear Allah - then indeed Allah is ever, with what you do, Acquainted."[7]

Efforts will be made to answer the following questions:

What does the term *qawwam* in the verse mean and how has it been reflected to the meanings?

What does the superiority of men mentioned in al-Baqarah 228 and an-Nisa 34 mean?

Why are the concepts of *salihat, qanitat* and *khafizat* used for women?

What does the concept of male and female-related *nushuz* mean?

Does the concept of *waz* suggest ordering, warning or reprimanding?

What does *forsaking in bed* mean?

Does *striking* in this context mean beating or hitting? Or does it suggest sending one away?

How is the validity of the case mentioned in regard to the reason of revelation for the afore-noted verse?

Does the violence shown toward women in the world, particularly those in the Muslim societies, arise from the objective of practicing that verse, or are the cases of violence a result of the customs? How extensively do the men who use violence against their wives know about this verse?

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[5] an-Nisa 4/34.
[6] an-Nisa 4/34-35.
[7] an-Nisa 4/128.

What do the relevant statements in the final sermon, story of Ayyub, Nabawi practice and warnings mean?

How accurate are the defensive and conjunctural comments? Can verses such as the afore-noted one be kept out of the agenda, by saying "I wish Allah would not have revealed such a verse"?

1. Superiority of Men

The Quran has verses regarding couples' responsibilities toward one another to establish a peaceful family and maintain this family in this way. One of these verses is as follows: *"And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise."*[8]

Men are deemed superior to women based on their creation, rights and responsibilities in Islam. This superiority is believed to be seen in different topics such as inheritance, jihad, management capability, aids, intelligence, understatement, physical strength, physical characteristics, beneficial activities etc.[9] Moreover, men are permitted to marry and divorce more than one woman, which is not the case for women. However, this superiority was limited to *a degree* in the verse, preventing people from understanding men's superiority as a total supremacy.[10] The concept of superiority here is related to men's rights. Men are ordered to be more tolerant when they use their rights on women and to behave in a manner suiting their superiority. The degree of superiority here encourages men to get along with their wives and to be tolerant toward them in financial and ethical matters.[11] *"And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good."*[12] The presence of duties in a family does not mean that both sides have the equal responsibilities. That is, if women wash clothes or cook meals, men are not supposed to do the same. Sides should do what they are supposed to do.[13]

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[8] al-Baqarah 2/228.

[9] al-Baqarah 2/228.

[10] Ash-Shiekh Muhammad Tahir ibn Ashur, *at-Tahrir wa at-tanwir* (Tunisia: Daru as-Sahnun li an-Nashri wa at-Tawzi', 1997), 2/385.

[11] Abu Jafar Muhammad ibn Jarir at-Tabari, *Jamiu al-bayan fi tawili al Quran,* ed. Ahmad Muhammad Shaqir (Beirut: Muassasatu ar-Risalah, 2000), 4/499; Abu Abdillah Muhammad ibn Ahmad al-Qurtubi, *al-Jami' li ahqami al-Quran,* ed. Ahmad al-Birduni & İbrahim Etfiş (Cairo: Daru al-Qutubi al-Misriyyah, 1964), 3/112.

[12] an-Nisa 4/19.

[13] Abdallah ibn Ahmad an-Nasafi, *Madariqu at-Tanzil wa haqaiqu at-tawil,* ed. Marwan Muhammad Shiar (Beirut: Daru an-Nafais, 2005), 1/121.

Ibn Abbas stated the following in this regard: *I dress to look good for my wife just like she does for me because Allah ordered the following: Women have rights equal to their social and traditional duties.*[14]

Women's rights are believed to resemble those of men and mentioned particularly. Men's rights have been known for a long period of time. However, women's rights are ignored and even violated. Islam particularly mentions women's rights and orders men to observe their rights.[15] Umar stated the following in this regard: *As Qurayshi people, we used to be dominant over our women. After coming to Madinah, we saw that Ansar women were dominant over their men. Then, our women started to look up to Ansar women.*[16]

In later periods, certain scholars reported that men's superiority was actually related to their duties rather than their merits and concept of humanity. According to those with the afore-noted idea, women reach the same level with men if they have financial power and assist men in domestic expenses.[17] However, interpreting the verses in relation to the variable cases is not actually correct. During the revelation period, there were wealthy women such as Hatijah, which is also the case for the present day. Interpretations changing based on the concepts of wealth and expenses will direct people to various explanations in various topics. However, the Quran also provides criteria regarding these topics. Therefore, scholars have stated that the superiority-related difference is present between genders and that dominance of certain women over men in terms of physical strength and similar topics does not change the reality.[18]

And do not wish for that by which Allah has made some of you exceed others. For men is a share of what they have earned, and for women is a share of what they have earned. And ask Allah of his bounty. Indeed Allah is ever, of all things, Knowing."[19] According to what was narrated by Tabari, the verse was revealed to clarify the statuses of men in polygamy and similar topics.[20] It should be noted that certain privileges assigned to men are not complimentary; instead, these privileges brought certain responsibilities to men.

The following verse can now be detailed after the preliminary explanations:

Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But

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[14] Tabari, *Jamiu al-Bayan*, 4/499.

[15] Ibn Ashur, *at-Tahrir wa at-tanwir*, 2/385.

[16] Ibn Ashur, *at-Tahrir wa at-tanwir*, 2/385.

[17] Fazlur Rahman, *Ana Konularıyla Kur'ân,* trans. Alparslan Açıkganç (Ankara: Ankara Okulu Yayınları, 1987), 120; Muhsin Demirci, *Kur'ân Tefsirinden Farklı Yorumlar* (Istanbul: M. Ü. İlahiyat Vakfı Yayınları, 2017)*,* 1/162-163; 282-285*.*

[18] Muhammad Abu Zahra*, Zahratu at-tafasir* (s.l.: Daru al-Fiqri al-Arabi, 1396), 3/1662.

[19] an-Nisa 4/32.

[20] Tabari, *Jamiu al-Bayan*, 8/260.

those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand."[21]

Guardianship of men over women indicates men's responsibility over women's actions including meeting their needs, protecting them, and paying attention to matters related to them.[22] Superiority of men over women has a proportion and thus should not be considered as a total domination. Accordingly, the degree of men can fall if they cannot fulfill their responsibilities. As noted by Elmalı,[23] men who do not fulfill their guardianship-related responsibilities will lose their degrees.

As indicated in the hadith, every member of a family has a voice in domestic issues. *You are the shepherds of your flock and responsible for what you manage. Head of family, woman of the house* and *maid of the house* were separately mentioned in the house[24] Islamic culture prioritizes the responsibilities in social relationships. Meeting the responsibilities is more important than claiming rights, meaning responsibilities should be met first. Accordingly; wives, husbands and children should know their responsibilities first and act accordingly. They can claim their rights later. In fact, fulfillment of domestic responsibilities by every member of the family means observing the rights of one another.

Guardianship of men and considering men as the head of social communities including family assign them a great responsibility. Men's difference is rather managerial. If family is considered as an institution, it will have a head like every other institution. If women were the head of the family, people would ask why women were the head instead of men. This questioning process is also valid in selecting men as the head of family

The guardianship of men is based on two reasons in the verse. The physical strength and characteristics of men, which are Allah's blessings, are among the privileges of men in certain canon provisions. The topics covering men's superiority cover prophecy, imamate, presidency of state, jihad, authority to divorce, inheritance, adhan or sermon.[25] Other relevant topics include the spending men do out of their goods, such as bride wealth and alimony.[26]

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[21] an-Nisa 4/34.

[22] Muhammad ibn Muqarram Ibn Manzur, "ʾkvm", *Lisâñuäl-ʿArab* (Beirut: Daru as-Sadr, nd.), 12/496.

[23] Elmalılı Muhammed Hamdi Yazır, *Hak Dini Kur'ân Dili* (Istanbul: Azim Yayınları, nd.), 2/556.

[24] Bukhari, "Salat", 500.

[25] Jarullah Muhammad ibn Umar Zamahshari, *al-Qashshaf an haqaiqi at-tanzil wa 'uyuni al-aqawil,* ed. Muhammad Abd as-Salam Shahin (Beirut: Daru al-Qutubi al-Ilmiyyah, 2006), 1/495; Muhammad ibn Husein Fahr ad-Din ar-Razi, *at-Tafsiru al-Fahri ar-Razi* (Beirut: Daru Ihyai at-Turasi al-Arabi, nd.), 1/1441; Elmalılı, *Hak Dini Kur'ân Dili*, 2/256.

[26] Tabari, *Jamiu al-Bayan*, 8/290; Zamahshari, *Qashshaf,* 1/234; Razîi, *Tafsir,* 1/1441; Qurtubi, *al-Jami'*, 5/168; Abu al-Fida Ismail ibn Umar ibn Qasir al-Qurayshi ad-Dimashqi, *Tafsiru al-Qurani al-azim*, ed. Sami ibn Muhammad Sallamah (s.l.: Daru at-Tayyibah li an-Nashri wa at-Tawzi', 1999), 2/292.

Women's servility occurs through absolute obedience to Allah Almighty and obedience to their husbands in certain topics. Women's guardianship over their family happens with their protection over their honor and husbands' goods. The same responsibility is also born by the husbands. Failure to fulfill this responsibility will result in nushuz between the spouses.

Nushuz literally means raising, glowering or having conflicts. Conflicts between the spouses are mentioned to suggest their failure to fulfill their responsibilities. Legal authorities consider women's act of leaving their houses without their husbands' permission or rejecting their husbands' sexual demands as nushuz.[27] Accordingly, women's nushuz is understood as their dislike toward their husbands, conflicts, and acts of glowering at their spouses, turning away from their husbands and failing to fulfill their responsibilities.

Nushuz of men toward their wives as mentioned in an-Nisa 128 includes beating the women, oppressing them, acting rudely and violently against them, swearing against them, failure to pay alimony, neglecting them, and failure to meet the responsibilities regarding them.[28] Nushuz of men is mentioned along with their act of turning away from their wives. Mistreatment toward women, negligence shown in the issue of paying the alimony, failure to fulfill the sexual-based duties and to come home in the evenings, acting indifferently and insincerely, and misusing the title as the head of family and showing violence toward the women are among the nushuz of men. According to the verse, parties should maintain their marriage by solving the issues they had or terminate their marital relationship in accordance with the predetermined methods and manners.[29]

A collective assessment toward both verses indicates that nushuz can arise from both genders. However, the Quran suggests different methods to discipline the party causing nushuz, based on physical locations and statuses. The suggestions of the Quran are the methods that are applicable for both sides, and the presentation of different methods for women and men in the Quran is suitable.

The Quran orders men to be patient and tolerant against the behaviors of their wives which bother them.[30] Moreover, the Prophet said the following and warned his followers in this regard: *The most excellent and benevolent Muslim among you are those who are the most benevolent against their wives,[31] as many women complain*

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[27] See: Hacı Mehmet Günay, "Nüşûz", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Istanbul: TDV Yayınları, 2007), 33/303-304.

[28] Ibn Manzur, "ʾkvm", 12/496; Tabari, *Jamiu al-Bayan,* 9/267; Zamahshari, *Qashshaf,* 1/559; Razi, *Tafsir,* 5/214; Qurtubi, *al-Jamiʿ*, 5/403.

[29] See: Günay, "Nüşûz", 33/304.

[30] See: an-Nisa 4/19.

[31] Muhammad ibn Isa Abu Isa at-Tirmidhi, *al-Jamiu as-sahih,* ed. Ahmad Muhammad Shaqir (Beirut: Daru Ihyai at-Turasi al-Arabi, ed.), "Rada" 11.

about you to my family. Those who beat their wives are not benevolent[32] When it becomes impossible to maintain the marital relationships, rules to terminate the marriage in the suitable manners are followed. The verses an-Nisa 34 and at-Talaq 1, 2, 6 and 7 provides suggestions to solve marital issues when couples are eager to maintain their relationships. These are the actions taken to improve the problematic marriages.

When women cause nushuz, their husbands or relatives are recommended to talk to them (delivering sermon). This concept does not mean ordering, instructing, reprimanding or swearing. The Quran is the most beautiful sermon book.[33] Allah gives the most benevolent sermon to the creatures.[34] A benevolent sermon was also provided by the Prophet.[35] Thus, this process suggests examining the marital issue meticulously and explaining the necessary aspects to the addressee in the manner they can understand. Khalil ibn Ahmad stated the following in this regard: *sermon is the process of reminding people of the most benevolent actions in a manner to touch their hearts.*[36] If such a sermon is delivered suitably, it will benefit most of the women causing nushuz, and nothing else will be needed.

If this phase does not yield a result, actions of forsaking them in the bed, discontinuing to have sexual intercourse, separating the rooms, avoid talking, or staying as offended are recommended.[37] This process suggests the action of keeping a benevolent and suitable distance with the spouse as explained with the concept of *hajr al-jamil*[38], without showing no violence. Most of those causing nushuz can be helped applying the afore-noted method, and the issue can be solved accordingly. Regarding the case of swearing (meaning promising here), the Prophet had certain issues with his wives and solved the problems using that method. Legal authorities stated that the duration of resentment should be one month at most.

If this does not yield a result, a gentle strike can be preferred. This is not an obligation but an arbitrary option. According to scholars, abandoning the latter method is better. If striking will not yield a result, this method is not used. If the marital conflicts are reflected to the court, the husband cannot beat his wife.[39] The beating should be gentle, without hurting the woman or leaving a mark on her body.[40] According to Ibn Abbas, this symbolic beating act can be performed with a

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[32] Suleiman ibn Ashas-as-Sijistani Abu Dawud, *Sunanu Abi Dawud* (Beirut: Daru al-Qitabi al-Arabi, ed), "Nikah", 42.

[33] See: Ali Imran 3/138, al-Maidah 5/46, Yunus 10/57, Hud 11/120, an-Nur 24/34.

[34] See: al-Baqarah 2/231, an-Nisa 4/58, an-Nahl 16/90, an-Nur 24/17.

[35] See: Saba' 34/46, an-Nisa 4/63.

[36] Abu Zahra, *Zahratu at-tafasir*, 3/1667.

[37] Tabari, Jamiu al-Bayan, 8/290; Abu al-Hasan Ali ibn Muhammad ibn Muhammad al-Habib al-Basri al-Mawardi, an-Nuqat wa al-'uyun, ed. as-Sayyid ibn Abdu al-Maqsut ibn Abd ar-Rahim (Beirut: Daru al-Qutubi al-Ilmiyyah, nd.), 1/480.

[38] See: al-Muzzammil 73/10.

[39] Bekir Topaloğlu, *İslam'da Kadın* (Istanbul: Rağbet Yayınları, 2016), 79.

[40] Tabari, *Jamiu al-Bayan,* 8/290; Qurtubi, *al- Jami'*, 5/168.

miswak.[41] This verse was revealed to the societies where violence against women was common, and it aimed to minimize the relevant incidents.[42] Legal authorities state that such an action goes beyond the objective of improving the family relation and protecting the domestic unity, indicating that certain financial and criminal penalties could arise as this method becomes a form of punishment.[43] Authorities may even take decisions to punish the men who beat their wives considering that men go beyond the purpose of gently striking their women.[44]

The Quran mentions the oath taken by Ayyub to beat Layya, his wife, and the method he could use to lawfully nullify this oath: *[We said], "And take in your hand a bunch [of grass] and strike with it and do not break your oath." Indeed, We found him patient, an excellent servant. Indeed, he was one repeatedly turning back [to Allah]."[45]*

According to a narrative, Ayyub took oath *to beat her wife with 100 stick strikes* as she did something wrong when he was ill. Then, Allah Almighty suggests a formula that will ensure the fulfillment of oath and not harm women.[46] It is clear that certain problems occurred in the family of Ayyub, resulting in the oath taken by Ayyub – a benevolent model of patience – to beat his wife, and Allah recommended a method to solve their problem.

According to legal authorities, this verse is the clear indication that men cannot beat their wives immoderately. Mujaheed, one of the tabiun scholars, stated that *the verse was not solely for Ayyub, meaning it concerns everybody.* Ata, one of the scholars of the same period, stated the following in regard to the question of whether religious practices could be made with this verse: *Anything revealed in the Quran are to be fulfilled and followed.[47]* According to a narrative from Aisha, *the Prophet did not beat any women, children or a maid.[48]* These universal statements made by the Prophet in the Final Sermon briefly explain the message in the verse:

"I recommend you to treat the women well because they are under your guardianship. As long as they do not perform a clearly unethical act, you cannot oppress them. If they did something immoral, forsake them in the bed and strike them gently. If they obey you, do not look for any excuse any longer."[49]

The term *darb* was explained as sending women away from home by some scholars. However, the stem *darb* has been used in many verses. When used with or

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[41] Abu Zahra, *Zahratu at-tafasir,* 3/1667.

[42] Demirci, *Kur'ân Tefsirinden Farklı Yorumlar,* 1/288-289.

[43] Günay, "Nüşûz", 33/304; Abu Zahra, *Zahratu at-tafasir,* 3/1667.

[44] Ibn Ashur, *at-Tahrir wa at-tanwir,* 5/37.

[45] Sad 38/44.

[46] See: Tabari, *Jamiu al-Bayan,* 21/211; Abu al-Faraj Jamal ad-Din Abd ar-Rahman ibn Ali ibn Muhammad al-Jawzi al-Qurayshi al-Baghdadi, *Zadu al-masir fi ilmi at-tafsir* (Beirut: Daru Ibni Hazm, nd.), 1216.

[47] See: Qurtubi, *al-Jami',* 15/212.

[48] Muhammad ibn Sad ibn Muni' Abu Abdillah al-Basri, *at-Tabaqatu al-qubra,* ed. Ihsan Abbas (Beirut: Daru as-Sadr, 1968), 8/204.

[49] Tirmidhi, "Rada", 11.

without the dative form, *darb* means *giving a spectacular example*[50]. However, when used in the active form, it means the following: *Moses' act of striking his walking stick to a stone or sea*[51]; *wearing a hijab firmly*[52], *walking by hitting the feet on the floor*[53]; *Abraham's act of breaking the idols*[54]; *Ayyub's act of striking his wife*[55]; *Israeli people's act of hitting a corpse with a piece from the body of a cow*[56]; *Construction of a wall between the believers and disbelievers in the eternal world*[57]. Without the dative form, it means *angels' act of getting the soul of a creature, ending its life*[58]. The act of striking is clear in these meanings. The narrative[59] regarding the references that explain the reasons of revelation for this verse supports this meaning. *Darb* was used with the letter *fi* to mean travelling.[60] The act of walking is also understood in this context. The afore-noted verse was also used without the dative form. Interpreting this use with the belief that it suggests sending women away from home. Moreover, translating this term into Turkish as "beat them" is not correct because beating causes continuity in the action. The translation as "strike them" seems to be more accurate considering the unity of topics in the Quran. Accordingly, the strike of Ayyub with a bunch of dried grass in his hands or Moses' strike with his walking stick on a stone or sea does not suggest the act of beating. Instead, they did it solely once. Following these explanations, how the concepts of *qawwam* and *wadribuhunnah* in the relevant verse are reflected to the interpretations can be examined:

Meaning	Guardian	Striking
İ. Hakkı İzmirli (v:1927)	they are head of family	beat them
Elmalılı (v:1942)	they are dominant	beat them
Ö. Rıza Doğrul (v:1951)	they are guardian	beat them
A. Atif Tüzüner (v: 1954)	they give instructions	beat them
H. Basri Çantay (v:1956)	they are dominant/head of the family	beat them

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[50] See: Ibrahim 14/24; an-Nahl 16/75, 76, 112.

[51] See: al-Baqarah 2,/60; al-Araf, 7/160; Taha 20/70; ash-Shuara 26/63.

[52] an-Nur 24/31.

[53] an-Nur 24/31.

[54] as-Saffat 37/93.

[55] Sad 38/44.

[56] al-Baqarah 2/73.

[57] al-Hadid 57/13.

[58] See: al-Anfal 8/12, 50; Muhammad 47/4, 27.

[59] A man once beat his wife. She visited the Prophet and complained about her husband. Upon hearing that, the Prophet wanted to apply a reprisal to the man. But then, Allah revealed the verse "*Men are in charge of women…*". The Prophet called the man, read the verse to him, and stated the following: *I wanted to do something different to you but Allah ordered a different action.* See: Tabari, *Jamiu al-Bayan,* 8/290.

[60] See: Baqarah 2/273; Ali 'Imran 3/156; Nisa 4/94, 101; Maidah 5/106; Muzzammil 73/20.

Ö. Nasuhi Bilmen (v:1971)	they are guardians	beat them
Ahmet Davudoğlu (v:1982)	they are dominant	beat them
Abdülbaki Gölpınarlı (v:1982)	they are superior	beat them
M. Esed (v:1992)	they protect and care	beat them
Talat Koçyiğit (v:2011)	they are dominant	beat them
Mehmet Zeki Duman (v:2013)	they manage	strike them
Salih Akdemir (v:2014)	they are the heads	strike them gently
Sıdkı Gülle (v: 2015)	they are dominant	beat them
Yaşar Nuri Öztürk (v:2016)	they guard and care	Get them out of your homes/send them away/beat them!
Enver Baytan (v:2016)	they are dominant/head of family	beat them
Hayrat Nashriyat	they are dominant/their heads	beat them
Y. Kutluay-H. Atay	they are dominant	beat them
Diyanet Vakıf	they are the head and guardians	beat them
Süleyman Ateş	they manage	beat them
Mustafa Hizmetli	they protect and care	get them out of your houses in the end
M. Nuri Yılmaz	they manage	strike them gently
Bayraktar Bayraklı	they protect and care	beat them/send them away
M. Çakır	they are the source of assurance	discipline them
M. İslamoğlu	they protect and care	beat them
M.Sait Şimşek	they manage	beat them
Hamdi Döndüren	they manage	beat them

Hasan Elik	they deserve the respect of their spouses	discipline them
Mustafa Öztürk	they are the heads.	beat them
Yusuf Işıcık	they are the dominant/head/responsible people, and they protect and care	beat them
Ömer Dumlu	they are the supporters	Do not attempt to beat the women who could cause conflicts and fragment the family, based on your opinion.
Y. Kandemir-H. Zevalsiz-U. Şimşek	they protect and care	beat them gently
Şener-Sofuoğlu-Yıldırım	they are the guardians and heads	you can beat them gently
Ömer Sevinçgül	they care	leave them if they persist in their irreconcilable behaviors.

It is clear that the concept of *qawwam* has been translated as *the protector and guardian, administrator, judge, head of the family* in most of the interpretational works. The concept of *wadribuhunnah* has been translated as "beat them" by some or, more accurately, as "beat them" (Duman, Akdemir, Yılmaz). It was translated as "send them away" in certain interpretation works (Y. Nuri Öztürk, Hizmetli, Sevinçgül) or "discipline them in two works (Çakır, Elik).

The following points of the afore-noted verses catch attention:

The verse determines spouses' responsibilities and attitudes, and division of labor within the family.

The family structure which is recommended as a model in the Quran consists of spouses who observe the divine limits, and peace/agreement/harmony is present in that family. Expression of these concepts in the verses aims to direct women to these properties.

If domestic problems arise from women, a gradual solution can be used.

Accordingly, methods such as effective advising, staying as offended as a psychological action, and disciplining them if no improvement is made should be followed. These methods are solely intended for problematic women.

The problem is then reflected to two arbitrators chosen among the relatives of spouses. At this phase, couples share their problems only with these arbitrators who are supposed to make fair decisions.

When the issue is examined by the arbitrators, the primary purpose of arbitrators should be to ensure couples make peace and maintain the family.

The objective here is to prevent the family from fragmentation and to help the family maintain the peaceful unity.

Divorcing should be the last option here. There are many verses and a separate surah (at-Talaq surah) on the limits and rules of divorcing in the Quran. Therefore, the process of divorcing has been subject to a couple of rules, making it a non-arbitrary act. It is clear that divorcing does not occur upon a couple of words from a man's mouth, on the contrary to what certain people believe. It is the last option that assigns severe responsibilities to men.

In each of these steps, sides should remember that Allah observes what they are doing and that they are responsible before the divine authority. The fact that the verses examined in this regard end with the terms *Aziz, Haqim, Alim, Ali* is meaningful. These terms remind people to fulfill their responsibilities and to stay within ethical limits in any topics, and indicate that Allah almighty knows everything with all details, makes decisions with wisdom and justice, and possesses the untouchable power and authority will punish them if people ignore their responsibilities.

2. The Domestic Problems of the Prophet

The Prophet's wives could mention their problems beside him or even discuss them with him. While being obeyed by those under the Tree of Ridwan during the year of the Treaty of Hudaybiyah, the Prophet stated the follows: "*I wish from Allah that those who obey me under this tree will not go to hell*" Then, Hafsa – one of the Prophet's wives – stated the following on the scene: "*But they will go to hell, O Prophet!*" After being reprimanded by the Prophet, Hafsa read the following verse: "*And there is none of you except he will come to it. This is upon your Lord an inevitability decreed.*[61] Upon hearing her, the Prophet read the following verse: "*Then We will save those who feared Allah and leave the wrongdoers within it, on their knees.*" [62] Indicating Hafsa's culture regarding the Quran,[63] this is one of the most concrete examples showing that she could converse with the Prophet.

The Quran mentions the domestic problems experienced by the Prophet to provide examples of humanity. Accordingly, the Prophets' wives who disclosed the secrets shared by the Prophet, had plans against the Prophet due to jealousy,

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[61] Maryam, 19/71.

[62] Maryam, 19/72.

[63] Aisha Abd ar-Rahman bintu ash-Shati, *Rasulullahın Annesi ve Hanımları,* trans. İsmail Kara (Konya: Uysal Kitabevi, 1987), 2/115–116.

bothered the Prophet due to worldly demands, and forced the Prophet to swear that he would not approach them can be mentioned in this regard. Due to these attitudes from his wives, the Prophet swore that he would not be next to his wives for a month.

"O Prophet! say to your wives "If you should desire the worldly life and its adornment, then come, I will provide for you and give you a gracious release. But if you should desire Allah and His Messenger and the home of the Hereafter - then indeed, Allah has prepared for the doers of good among you a great reward."[64]

According to a narrative, the Prophet's wives demanded worldly goods from the Prophet and even went beyond the limits. Upon observing how his wives acted, the Prophet swore not to approach his wives for a month and these verses were then revealed.[65] Accordingly, the Prophet was granted the option to let them stay with him or divorce them. Then, they preferred staying with the Prophet, and the issue was solved. It is a fact that the Prophet did not use any violence toward his wives.

"O Prophet! why do you prohibit [yourself from] what Allah has made lawful for you, seeking the approval of your wives? And Allah is Forgiving and Merciful.[66]

"And [remember] when the Prophet confided in one of his wives a statement; and when she informed [another] of it and Allah showed him, he made known part of it and ignored a part. And when he informed her about it, she said, "Who told you this?" He said, "I was informed by the Knowing, the Acquainted."[67]

According to a narrative, the Prophet disclosed a familial secret to Hafsa, which she shared with Aisha. That verse was revealed following this issue. According to another relevant narrative, certain wives of the Prophet had a secret verbal agreement between them, made a plan against the wife they are jealous of, and implemented this plan later. Consequently, the Prophet swore not to eat honey anymore and that verse was revealed later.[68] These narratives show that a couple of incidents that arose from jealousy and upset the Prophet occurred between his wives. Although some members of the public thought that the Prophet divorced his wives, the Prophet's marital problems were then solved. Additionally, no violent incidents occurred and the Prophet did not divorce his wives. The examples mentioned in the Quran include messages regarding how the problems can be overcome.

In this case, the Prophet kept himself away from his wives and stayed in a masjid. A similar story occurred between Ali and his wife. As the groom of the

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[64] al-Ahzab 33/28-29.

[65] See: Ibnu al-Jawzi, *Zadu al-masir,*1121 .

[66] at-Tahrim 66/1.

[67] at-Tahrim 66/3.

[68] See: Ibnu al-Jawzi, *Zadu al-masir,* 1452.

Prophet, Ali quarreled with his wife Fatima, left the home and stayed in the street with his clothes full of dirt.[69] There is actually quite an interesting aspect in these cases. Those who were sent away from home following the discussions were husbands. The reason behind this situation was that men could find alternatives where they could take shelter in, which was not the case for women. Additionally, women could wait the period of delay in their husbands' home after getting divorced.

3. The Woman Who Managed to Make Herself Heard by Allah

The Quran mentions the fight of a woman who complained to the Prophet and Allah about her husband who wanted to divorce her due to her old age. In this case, solutions were proposed for the problems experienced by the couples, and efforts were made to prevent the family from fragmentation. *Certainly Allah has heard the speech of the one who argues with you, [O Muhammad], concerning her husband and directs her complaint to Allah. And Allah hears your dialogue; indeed, Allah is Hearing and Seeing."*[70]

The following narratives conveyed by the sources regarding the reasons for the revelation of the afore-noted verses in surah al-Mujadila[71] – meaning quarreling or fighting for something – clearly reflect a Muslim woman's conception on Islam:

The husband of a woman named *Hawlah (Huwaylah)* performed zihar on his wife, which was a tradition during those days. That is, the man said the following after his discussions with his wife as a result of the traditions from the Period of Ignorance: "*You are now like my mother*". The meaning of this statement is divorcing in the traditions. Then, Hawlah told her husband that they should reflect the case to the husband and do what he recommended them to do. After stating that he would get embarrassed for mentioning such a case to the Prophet, Hawlah said "then, let me go and talk to him" and visited the Prophet. She said: "*O Prophet! I have lived with my husband for years. I tolerated what I suffered from him and even delivered children to him. Now he performed zihar in these last years of my life.* After hearing the case, the Prophet considered the meaning of zihar in tradition and said: "*You are now a foreigner and unlawful to him!*"

She said she mentioned this case to Allah and resisted in her complaints. Then, a verse was revealed and the following was reported:[72] "*Certainly Allah has*

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[69] Seeing Ali in his dirty and dusty clothes, the Prophet half-jokingly called him *Aba at-Turab/Father of soil.* See: M. Asım Köksal, *İslâm Tarihi* (Istanbul: Şamil Yayınları, 1987), 9/263.

[70] al-Mujadila 58/1.

[71] The surah was named *Mujadila,* meaning the quarreling woman.

[72] Tabari, *Jamiu al-Bayan*, 23/219.

heard the speech of the one who argues with you, [O Muhammad], concerning her husband and directs her complaint to Allah."[73]

The results here can be briefly stated as follows:

A woman looked for the solution of her domestic problem in Islam and asked her husband to consult with the Prophet.

He said he could not because he would be ashamed of asking anything like that to the Prophet. Accordingly, Aisha referred to this case with the following statement: *"May Allah show mercy on Ansar women. Their sense of shame did not prevent them from learning Islam."*[74]

The woman challenged the traditions of her era, questioned whatever she could not internalize, understood that her religion would not approve such a case which was against conscience, and continuously prayed to Allah without confining herself to the prophetic provision that referred to the traditions.

She maintained her fight and prayers until a solution that would satisfy her conscience was found.

Conclusion

This study emphasized that problems could occur wherever people are present. In addition, it indicated that certain issues could happen between spouses and between parents and their children in the family – the basic foundation of a society – and it focused on the proper solutions offered by the Quran for the relevant domestic problems. These couples mentioned in the Quran were the people who managed to solve their problems themselves and maintained their family until the last breath. What is actually ideal in this concept is not the family with zero problems. Instead, it is the family that can minimize its problems and solve its issues in benevolent ways.

A peaceful and strong society is based on a peaceful and strong family. Such a family structure can be formed only by people who are strong and qualified in terms of their beliefs and practices. The happiness and unhappiness in a family is experienced not only by the parents. These two emotions are also felt by children and other relatives as a family is a large institution covering them all. Therefore, happiness or unhappiness in a family concerns all relatives and is even reflected to them. The main purpose here is to ensure the peace and happiness of family members. When problems occur in the family as a result of the natural flow of life, parents and other family members are responsible for solving these issues. This is also the duty of anybody with authority in the family. Potential problems should be

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[73] al-Mujadila 58/1.

[74] Ahmad ibn Hanbal Abu Abdillah ash-Sheikhbani, *Musnadu Ahmad ibn Hanbal* (Cairo: Muassasatu Qurtuba, nd.) 6/148.

logically solved and unity of family should be kept with all good and bad memories. The relevant examples in the Quran and the Quran's orders in this regard are informative and directive for people.

Thus, people should not be a dreamer in forming their families or selecting their spouses. Instead, they should consider the fact that we are the people of the era we live in and that our expectations should be limited to what we can do and access. As we are not angels, we should not expect anybody to act like an angel. Instead, we should be realistic and talk about what we can do as absolute perfection is only possessed by Allah.

The Quran gradually implemented the steps necessary for abolishing slavery of Arabic culture, limited the number of women a man could marry to four while recommending monogamy, showed ways to end the act of beating women as seen in the culture of the era, and limited such an act to a gentle strike when there were no other options.

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Family in Islamic Law*

Hüseyin ESEN**

Abstract

The purpose of this paper is to present the family-related issues described extensively in fiqh books with a systematic and holistic approach, with additional contents including current interpretations without referring to sources other than relevant verses and hadiths. Accordingly, the following issues were discussed: the concept of family in fiqh sources, the importance of family in Islamic law, establishment of family through marriage, participation in family through birth, adoption, pre-marriage meeting, spousal selection, equivalence in marriage, obstacles in marriage, elements, conditions and results of void marriage act, rights and responsibilities of husbands and wives toward each other, duties of spouses in their family, responsibilities of parents toward their children, responsibilities of children toward their parents, polygamy and justice, justice between children, sexuality and relevant limits between spouses, religious education in the family, education and worshipping, privacy in family, religious differences between family members, inheritance-related issues among family members, domestic problems and their solutions, cases terminating the marriage, period of delay regarding marriage for women, alimony and residential rights of the divorced women, child welfare following the separation of spouses.

Keywords: Islamic Law, Family, Marriage, Divorce.

İslam Hukukunda Aile

Öz

Bu yazının amacı, fıkıh kitaplarında çok ayrıntılı olarak ciltlerce kitap hacminde anlatılan aile ile ilgili konuları, belirli bir sistematik ve bütüncül bir yaklaşım içinde, ilgili ayet ve hadisler dışında fazla kaynak göstermeksizin, güncel yorumlarla zenginleştirerek özet halinde sunmaktır. Bu amaca uygun olarak, fıkıh kaynaklarında aile konusunun ele alınışı, İslam hukukunda ailenin önemi, ailenin nikâh yoluyla kurulması, aileye nesep yoluyla katılım, evlatlık, nikâh öncesi görüşme, eş seçimi, evlilikte denklik, evlenme engelleri, nikâhın rükün ve şartları, sahîh nikâhın sonuçları, karı-kocanın birbirine karşı hak ve sorumlulukları, ailede

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eşlerin görevleri, ana-babanın çocuklarına karşı sorumlulukları, çocuğun ana-babasına karşı sorumlulukları, çok eşlilik ve adalet, çocuklar arasında adalet, eşler arasında cinsellik ve sınırları, ailede dini terbiye, eğitim ve ibadet, aile içi mahremiyet, aile fertleri arasında din farklılığı, aile üyeleri arasında mirasçılık, aile içi sorunlar ve çözüm yolları, evliliği sona erdiren durumlar, kadının iddeti, boşanan kadının nafaka ve mesken hakkı, ayrılık sonrası çocuğu velayet ve hadânesi gibi konular üzerinde durulmuştur.

Anahtar Kelimeler: İslam Hukuku, Aile, Nikâh, Talâk.

1. Examination Regarding the Concept of Family in Fiqh Sources

The concept of family is defined as the "community formed by the people who are relatives of one another".[1] There is no particular term or definition reflecting the concept of family in fiqh sources. However, the titles indicating the position of people in their families are used in accordance with certain topics such as marriage or alimony: Zawj and zawja (husband and wife), ab (father), um (mother), ibn (son), bint (daughter), akh (brother), ukht (sister), jad (grandfather), jadddah (grandmother), amma (paternal aunt), halah (maternal aunt), hal (maternal uncle), ammoon (paternal uncle), ibn ammih (paternal cousin).

Family-related topics have been reviewed under certain titles such as marriage, bride wealth, alimony, fate/fortune, divorce, divorce upon a fee, period of delay, zihar, swearing, lineage, missing child, care for children, breastfeeding, testament, heritage or Islamic heritage. These topics are reviewed in many volumes of detailed and separate fiqh sources. Moreover, the afore-noted topics are also present in the books with specific subheadings. Family-related topics in Islamic law have gained a rich content as a result of developments that have occurred in different geographies for centuries.

Certain fiqh sources cover specific terms such as al, iyal, ahl, ahl al-bayt, atbaa, awliya, ashirat and akarib. Synonymy or contextual differences are occasionally present between these terms based on the discussions between the scholars, but the main focal point has always been on the household and other relatives of people.[2] For instance, the concepts of ahl and ahl al-bayt are occasionally used to indicate a man's wife or wives, or the household including children.[3] Al-Mawsuatu al-fiqhiyya al-

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[1] Mehmet Akif Aydın, "Aile", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Istanbul: TDV Yayınları, 1989), 2/196.

[2] *al-Mawsuatu al-fiqhiyya al-quwaytiyya*, directed the articles of "ahl" and "ahlu al-bayt" to the article of "al". See: "ahl", 7/100; "ahlu al-bayt", 7/104.

[3] Hud 11/72-73.

quwaytiyya, one of fiqh-related encyclopedic fiqh studies, directed the articles of ahl and ahl al-bayt to the article of al.[4]

The term *al-usra* is used to mean family in the modern Arabic. Accordingly, certain works reviewing the concept of family law have been entitled with certain topics such as "ahqamu al-usra".[5] However, both the Quran and sunnah and fiqh sources do not include the term "al-usra".[6] As a result of comparisons with the western law and legislative efforts, certain books reviewing the Islamic law of the period after the 18th century have been entitled "al-ahwalu ash-shahsiya".[7]

Accordingly, a full definition of the concept of family is not present in fiqh sources. Instead, the relevant provisions are explained in line with the titles (father, husband, daughter etc.) of household based on their positions. Moreover, the context of family changes by topic. For example, a family is established with the presence of husband and wife or mother and child, and it can be extended with the presence of other family members. Only a husband and a wife can become sides in certain topics such as marriage and divorce, but in lineage-related topics, children also get involved. Regarding certain topics such as alimony and inheritance, there are provisions in referential sources covering grandparents, siblings and even aunts.

2. Importance of Family in Islamic Law

When Allah Almighty created Adam, the father of humanity who is also the first man and Prophet, the Creator also created Eve and indicated that relationships with relatives are great blessings. All of humanity was born from the lineage of this first couple.[8] In other words, the first couple also formed the first family. Accordingly, family is as ancient as the history of humanity. Therefore, it is fair to state that people who are born into a family environment are to maintain their lives collectively and socially,

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[4] *al-Mawsuatu al-fiqhiyya al-kuwaytiyya*, "al", 1/97-98. The important point here is the focus on the use of the concept of al in regard to the topics of foundation and testament. Moreover, the phrase "Prophet's family" is examined particularly, and relevant terms such as alms, war prize, booty, salawat, imamah/caliphate (presidency) are also reviewed.

[5] For instance, see: Muhammad Mustafa Salabi, *Ahqamu al-usra fi al-Islam*, (Beirut : Daru an-Nahdati al-Arabiyya, 1977), Abd as-Salam Bukhush- Abd al-Majid Shafiq, *Mudawwanatu al-usra, (*Rabat: Daru al-Aman, 2003/1424.)

[6] *al-Mawsuatu al-fiqhiyya al-quwaytiyya*, "usra", 4/223-224.

[7] For instance: see: Muhammad Kadri Pasha, *al-Ahqamu ash-shar'iyya fi al-akhwali ash-shahsiyya*, ed. Muhammad Amin Siraj- Ali Juma Muhammad (Cairo: Daru as-Salam, 2006/1427). This work by Kadri Pasha (d. 1306/1888) is a product of the efforts to legislate fiqh based on Roman law.

[8] an-Nisa 4/1-2.

rather than leading a lonely life, and to establish their own families and maintain their lineage in due course. Family is the smallest social unit. Formations such as lineages, tribes and organizations such as states have emerged as people increased by reproduction.

As humans are created to ensure they recognize and worship Allah Almighty,[9] objectives and missions of families should suit the divine reason behind their creation. Therefore, the concepts of religion and family have been collectively mentioned since their emergence. All divine religions organized the topic of family life. These religious arrangements are important for the establishment and protection of families as families are important in experiencing and protecting a religion. Accordingly, the most important objective and benefit in the establishment of families is to ensure the achievement of servitude to Allah.

According to Islam, which introduces itself as the last divine religion, family starts with the marriage of a man and woman. Marriage is the only legitimate way of establishing a family. Relationship without marriage is unlawful and adultery. Relationships based on marriage have been promoted and single people have been encouraged to marry;[10] in addition, reasons and actions that could direct one to perform adultery[11] and inconvenient relationships have all been[12] forbidden and cursed. Accordingly, the biological need for sexual relationship and reproduction has been regulated by certain religious rules.[13] It is clear that human reproduction should be maintained without deviating from the correct path until Judgement Day.

The act of marriage is both a prayer and a worldly relationship between the people (an agreement). Certain Hanafi fiqh books[14] and hadith books[15] examine the subject of marriage after the topic of prayers such as alms and pilgrimage but before the subjects of shopping or renting, at a position between the topics of prayers and treatments.

A family founded upon marriage is essentially established between a woman and man, who later become a husband and wife. A husband is

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[9] az-Zariyah 51/56.

[10] an-Nur 24/32.

[11] al-Isra 17/32.

[12] For more details on male homosexuality, see: an-Nisa 4/16; al-Araf 7/80-81; ash-Shuara 26/165-166; an-Naml 27/54-56; al-Ankabut 29/28-29. For more details on female homosexuality, see: an-Nisa 4/15. For more details on having sexual intercourse with women on period or having anal intercourse, see: al-Baqarah 2/222. There are many hadiths prohibiting anal intercourse.

[13] The number of verses on family law is approximately 70. There are hundreds of hadiths on the concept of family.

[14] *Al-Mabsut* by as-Sarahsi and *al-Hidayah* by al-Marginani can be examples in this regard.

[15] Examples include Muslim, Tirmidhi and Ibn Majah.

called zawj while a wife is translated as zawja in Arabic. When a husband and wife have a child, they gain the title of *abawayn* or *walidayn*, meaning parent. None of any divine religions, including Islam, permits same-sex marriage for either gender. Being created in a different form compared to each other, man and woman meet one another's deficits with different characteristics and roles and need one another's presence. They also soothe each other, meet their needs, protect each other from doing anything unlawful, form a unity, reproduce, and achieve peace upon love and mercy. This marital relationship is an indication of Allah Almighty's presence and oneness.[16] Thus, women and men are like clothing to each other.[17] Women and men are not the ones who are enemies or who conflict or compete with one another. Aiming to show them in this manner harm both sides and prevent the formation of peaceful families and society. Regarding the concept of marital relationship, the focal point is on the share of responsibilities and roles by men and women considering their specific characteristics, instead of the efforts to establish dominance over the other. Islam assigns different rights and responsibilities to husbands and wives which suit their characteristics. The most noble of people in the sight of Allah are the most righteous ones, regardless of their gender.[18]

The Prophet stated the following during one of his speeches: "*Having intercourse with a spouse is as rewarding as giving alms." Upon hearing this statement, the sahabah got surprised and asked: 'O, Prophet! How could we be rewarded if we met our sexual desire? The Prophet answered: 'Well, if you committed adultery, would it be unlawful?' The sahabah answered 'yes'. The Prophet said: 'Accordingly, the lawful act would be rewarding.*"[19] This hadith indicates that acts performed upon natural needs or even satisfactory actions could be rewarding if conducted with servitude-based approach.

Sexual desires (lust) are among the weakest sides of humans. The only legitimate and lawful way to meet this desire is marriage. Islam aims to protect Muslims from adultery. Muslim men and women are responsible for protecting their honor, covering their private parts, and avoidance from looking at someone else's private parts.[20] Marriage is a shield protecting people from adultery. The brave man who rejected the sexual call from a beautiful and important woman, saying "I fear Allah", was praised.[21] "*A young person visits the Prophet and says: "O, Messenger of Allah! Let me perform*

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[16] ar-Rum 30/21.
[17] al-Baqarah 2/187.
[18] al-Hujurat 49/13.
[19] Muslim, "Zakat", 16.
[20] al-Muminun 23/5-7; an-Nur 24/30-31; al-Ahzab 33/35.
[21] Bukhari,"Azan", 36; "Hudud", 19.

adultery!" The Prophet tells him to come close and says: "Would you accept it if someone would do it with your mother?" The young person answers: "May my parents be sacrificed for your path. O, Prophet, I actually would not". Upon hearing this answer, the Prophet says: "Nobody would actually want anything like that for their mothers! They do not want that for their daughters, sisters or aunts, either".[22] This hadith indicates that the Prophet aimed to tell the young person that adultery is malevolent through a rational and psychological method.

Adultery is accepted as a malevolent action in all religions. It does not comply with family structure. It is an obstacle before founding a family, and a cause for the fragmentation of families. Regardless of being single or married, [23]sexual relationship without marriage is considered[24] adultery but in certain western societies, only the disloyalty to spouses is called adultery. Moreover, adultery is not considered a crime, and it is considered a reason for divorce only upon the demand of the other side. Adultery by single people is not even objected or even encouraged under the mottos of freedom and biological needs. It is still possible for people to maintain their lineage through adultery. In addition, adultery causes many material and spiritual harms such as fights and bloodshed, oppression, and distortion in lineage, and even the destruction of a community. Contrary to the organization and peace established through marriage; adultery had many individual, social, worldly and otherworldly harms.[25]

Marriage is a significant agreement between a man and woman in the Quran (misaqan ghalizah)[26] while following the divine rules in certain topics such as marriage, sexuality, divorce and inheritance is reflected as the divine[27] limits. The Prophet and his wives, followers and following benevolent Muslim men and women were the appropriate examples for proper family life.

3. Establishment of Family Through Marriage and Marital Judgments

Marriage is promoted in Islam. The Prophet ordered the following in a hadith: "*O! the group of youngsters! Whoever could marry shall do it so as soon*

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[22] Ahmad ibn Hanbal,*Musnad*, 5/256-257.

[23] The difference between the penalty to be imposed for the adultery performed by beneficent and non-beneficent people is not important in terms of considering the act as adultery.

[24] Sexual intercourses that occur as a result of a mistake (accidentally seeing a stranger as spouse) is not regarded as adultery.

[25] Ömer Nasuhi Bilmen, *Hukûkı İslâmiyye ve Istılâhâtı Fıkhiyye Kâmûsu*, II, 44-45; Mustafa Genç, "İslâm Hukukunda Ailenin Önemi ve Evlilik Hayatının Faydaları", *Sosyal Bilimler Dergisi*, 5/30 (November, 2018), 284.

[26] an-Nisa 4/21.

[27] al-Baqarah 2/187, 229-230; an-Nisa 4/11-13; al-Mujadilah 58/4; at-Talaq 65/1.

as possible. *Marrying keeps you away from unlawful acts and helps you protect your honor*".[28] In another hadith, the Prophet said "*Marriage is my sunnah. Whoever abandons my sunnah is not a follower of mine. You shall marry. What makes me boast before other nations is your large population*"[29], promoting marriage and severely warning those who avoided marrying. This hadith was stated upon the following: "*According to what ibn Malik (r.a.) conveyed: A group of three people came to the Prophet's house to ask him about how he prayed. Upon hearing the Prophet's personal praying routines, they considered their own prayers and said 'We are nowhere near the Prophet. His past and future sins must have been forgiven.' One of them said: 'I will do night prayers every day'. Another one said: 'I will fast for a year', and the other said: 'I will get away from women and never marry'. Upon hearing this, the Prophet said: 'Are you the ones who said this and that? I swear to Allah that I am the one who fears Allah the most. I occasionally fast (supererogatory prayer) and sometimes I do not. Sometimes I pray (supererogatory prayer), and sometimes I just sleep. Besides, I marry women. Whoever abandons my sunnah is not a follower of mine.*" This hadith strictly objects the belief that one can be closer to Allah if one will not marry for religious purposes.[30] As the Prophet's life is full of benevolent examples (uswatun hasanatun); avoiding marriage, taking somebody else as a model, and presenting excuses such as education, jihad and similar concepts to avoid marrying is wrong. The cases which are considered a valid excuse for the failure to marry are exceptional. Moreover, nobody can be forced to explain the reason for failing to marry.

Allah Almighty orders the following: "*And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing.*"[31] As noted in a hadith, one of three people who are believed to be helped by Allah is the one who wants to marry and be honorable.[32] These verses and hadiths assign the social responsibility of helping the people who cannot marry by themselves marry and indicate that poverty should not be considered an obstacle before marriage. While examining these principles and notes, it will be suitable to consider the facts that marriage is free of charge, that marriage protects people from unlawful acts and provides peace, that marriage enables a plain lifestyle,

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[28] Bukhari," Nikah", 3; Muslim, "Nikah", 1; Abu Dawud, "Nikah", 1; Tirmidhi," Nikah", 1; Nasai, "Nikah", 3; Ibn Majah, "Nikah", 1.

[29] With similar wordings: Bukhari, "Nikah", 1; Muslim, "Nikah", 5; Ibn Majah, "Nikah", 1; Nasai, "Nikah", 4.

[30] al-Hadid 57/27. It should be noted that certain non-Islamic religious people (priests, nuns etc.) are prohibited from marrying. It is clear that such a prohibition is against human nature, which is also the case for the prohibition of divorcing.

[31] an-Nur 24/32.

[32] Tirmidhi, "Fadailu al-jihad", 20; Nasai, "Nikah", 5.

and that having a child can be controlled by couples. However, marrying with the idea that Allah will reward the married people with paradise does not mean making unnecessary expenses and having an uncontrolled child. Wealthy people in Islamic societies help the single people marry through personal efforts and associations, which is different compared to other societies.

The following brief explanation regarding the concept of marriage is made in Hanafi fiqh books in regard to various situations such as the risk of performing adultery, opportunity to fulfill marital requirements and possibility to harm the spouse:

Obligatory Marriage: Marriage is obligatory for the one who will definitely perform adultery if one does not get married. It is a fact that marriage guards against adultery. Doing anything that guards against unlawful acts is obligatory. This provision is valid for those who can afford bride wealth and alimony and who will not oppress their spouses.

Necessary Marriage: Marriage is necessary for the one who faces the risk of performing adultery if one does not get married. The danger of performing adultery changes by the case. This provision is also valid for those who can afford bride wealth and alimony and who will not oppress their spouses.[33]

Sunnah Marriage: Marriage is a recommended sunnah for those in a normal physical and mental status. It is rewarding for people to marry for meeting the biological needs with the exemplary characteristics and recommendations of the Prophet, protecting themselves and spouses from unlawful acts and raising a Muslim generation.

Permissible Marriage: Marriage is permissible for those who are concerned about failure to fulfill the marital requirements and oppressing their spouses. Moreover, marrying for meeting the biological needs, as well as fulfilling the sunnah, is also permissible.

Abominable Marriage: Marriage is abominable for those who are in a position to oppress their spouses or treat them unfairly. Based on the unfair situation, the case here could be uncertain and close to good deeds or close to unlawful acts.

Unlawful Marriage: Marriage is unlawful for those who will certainly oppress their spouses and harm them. Oppression and harm are unlawful obstacles before the benefits expected from marriage. This is the case for the people who have a lethal and infectious diseases such as AIDS

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[33] *Al-Mawsuatu al-fiqhiyya*, "Nikah", 41/210-212.

and who could harm their spouses, injure them severely or even kill them.[34]

According to Maliki followers, marriage is also unlawful for those who have erectile disfunction even if they do not face the risk of performing adultery, who could not afford the alimony and who earn their income from unlawful acts as they could harm their spouses. Moreover, according to Shafi followers, marriage is unlawful for dissolute people who do not need marriage but spend their money excessively, and for the women who do not need marriage and cannot meet their husbands' sexual needs.[35]

4. Participation in Family Through Birth

Allah Almighty reports that all humans are created from a man and woman, and that humanity arose from their lineage.[36] Accordingly, people have had an authentic lineage since the first people. The familial connection is expressed through the concepts of zi rahim/arham or zi al-qurba/aqrabun, meaning the relation that occurs within the womb and is established between the people as a result of the divine preference. In terms of marriage, relationship emerges as people prefer one another contrary to the relationship arising from the birth. Lineage is a great blessing.[37] Children born to a family start to live in a community of relatives including their parents, siblings and other relatives. The people in this community naturally and essentially share life and help one another. Preserving the lineage-based relationships and treating them benevolently are ordered in the Quran while terminating such relationships is forbidden.[38] Based on the degree of relationship, the provisions such as the following apply among the family members: guardianship, obstacle before marriage, obligation of alimony, participation in paying surety and inheritance. All people naturally need to know about their lineage. Protection of the lineage is among the five core and irreplaceable values (zarurat al-hamsa or maqasid al-hamsa) all religions, including Islam, aim to protect for maintaining a normal life.

What makes people esteemed before the divine presence is their practices rather than their lineage. A person whose practices are weak

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[34] *Al-Mawsuatu al-fiqhiyya*, "Nikah", 41/212-216.

[35] *Al-Mawsuatu al-fiqhiyya*, "Nikah", 41/215-216.

[36] an-Nisa 4/1; al-Hujurat 49/13.

[37] al-Furqan 25/54.

[38] al-Baqarah 2/83, 177, 180, 215; al-Anfal 8/75; al-Ahzab 33/6; Muhammad 47/22; Bukhari, "Adab", 10, 13.

cannot be improved by their lineage.[39] The superior people before Allah are the ones who have the highest degree of taqwa.[40] If people do not have their own faith and practices, they will not be saved by their relatives during Judgment Day, even if they are a the Prophet's [41]children.[42]

Family membership normally starts when one is born to a family. A woman who gives birth to a child is undoubtedly a mother from religious and legal aspects. However, regarding the fatherhood of a man, different cases may occur. A man married to the mother of a child who is born to a proper marriage and family (legal husband) is accepted as the father on the conditions that the child is born within the normal pregnancy period (at least six months after the marriage) and that the child is not [43]rejected through mutual repudiation. In the event that couples get divorced through mutual repudiation, the child is deemed fatherless. The lineage cannot be rejected arbitrarily other than mutual repudiation.

A missing child whose lineage is not known (lakit or manbooz) gets assigned to the lineage of a man who claims fatherhood if the age difference between the child and man is suitable in this regard (at least 12 years). The preference here is to assign these children to someone who will look after them, instead of leaving them in that form.

Children who are born from adultery do not get assigned to the lineage of their biological fathers according to the majority of scholars.[44] Accordingly, a significant title such as fatherhood, which is a great blessing, is believed to be obtained through lawful ways rather than unlawful acts such as adultery. Moreover, being assigned to the lineage of a father who performs adultery would be a greater negativity than being fatherless for the children. If lineage could be proved through adultery; performing marriage, being born to a proper marriage and prohibiting adultery would not be meaningful.

5. Adoption

There was a procedure of adoption (tabanni) during the pre-Islamic period. The missing children whose lineages were not known were

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[39] Abu Dawud, "Ilim", 1; Tirmidi, "Quran", 10.

[40] al-Hujurat 49/13.

[41] Bukhari, "Wasaya", 11.

[42] al-Mumtahina 60/3.

[43] The topic of mutual repudiation will be reviewed under the topic of cases terminating the marriage.

[44] The greatest evidence in this regard is as follows: "*A child lawfully belongs to the man married to a woman. The men performing adultery (biological fathers) only deserve penalties.*" Bukhari," Husumat", 6, "Hudud", 23, "Ahqam", 29; Muslim, "Rada"', 36, 37; Abu Dawud, "Talaq", 34; Tirmidhi, "Wasaya", 5; Ibn Majah, "Nikah", 59.

adopted, and the men and women who looked after them were deemed as their parents. The Prophet had an adopted child named Zayd. Although Zayd was known to be Kharisah's son, he was mentioned as Muhammad's Zayd, rather than Kharisah's Zayd.

The following verses explain the subject of adoption: *"Allah has not made for a man two hearts in his interior. And He has not made your wives whom you declare unlawful your mothers. And he has not made your adopted sons your [true] sons. That is [merely] your saying by your mouths, but Allah says the truth and He guides to the [right] way. Call them by [the names of] their fathers; it is more just in the sight of Allah. But if you do not know their fathers - then they are [still] your brothers in religion and those entrusted to you. And there is no blame upon you for that in which you have erred but [only for] what your hearts intended. And ever is Allah Forgiving and Merciful."*[45]

As understood from the verse, the concept of adoption prohibited by Islam is changing children's lineage and including them in a different lineage as biological children. However, adoption in the sense of protecting and raising missing children or orphans is a humanitarian and Islamic duty. Looking after a child who is from a different lineage does not create provisions such as privacy, prohibition of marriage and inheritance between the parents and that child, which is not the case for biological children. Accordingly, when adopted children from different lineage grow up, they should be careful about privacy and seclusion as they are regarded as foreigners for the fostering parents. When these children reach marriage age, there is no obstacle for the fostering father to marry the adopted girl or fostering mother to marry the adopted boy. As people considered the adopted children as their biological children during the period of ignorance, they regarded the act of marrying them as forbidden. Regarding the issue of obstacles before marriage, as adopted children are not considered as biological children in Islam, their spouses are not also regarded as children-in-law. Upon Allah's order, the Prophet abolished this practice and married Zaynap who previously got divorced from Zayd.[46] The fostering family may grant money or goods for the adopted children when they are alive. After their death, they can bequeath one-third of their goods to these children.

If the children adopted are younger than 24 months (or 30 months according to Abu Hanifa), fostering women are recommended to breastfeed the children (even a couple of drops of milk are sufficient for Hanafi followers) This activity established the milk kinship between the

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[45] al-Ahzab 33/4-5.

[46] al-Ahzab 33/37.

children and their fostering mothers and fathers. Therefore, parents could be more comfortable in terms of certain issues such as privacy and seclusion.

6. Pre-MarriageMeeting

The Prophet suggested people to see one another before marrying, stating that such a meeting is the most appropriate occasion for a happy marriage.[47] Accordingly, people are encouraged to meet considering the privacy and seclusion limits with the thought that they are still foreigners to one another[48]. Limbs of a woman other than her hands, face and feet are regarded private based on the common belief.

Proposing to a woman is called "hitbah" in Arabic resources. The Prophet banned Muslims from proposing to another person without receiving a response from an already-proposed person.[49] It is clear that such a series of proposals would create problems.

Procedures such as engagement or henna nights seen in certain cultures are not binding and do not substitute marriage. These are not reviewed in the fiqh discipline. Accordingly, the afore-noted procedures can be legally terminated by sides with explicit or unexplained reasons. The fiqh discipline has examined the topic of gifts or pre-paid bride wealth when the engagement is terminated. Certain modern scholars consider the decision of indemnity payment by the erroneous side as lawful when economic damage arises after the termination of the engagement.

7. Spousal Selection

Certain characteristics, particularly religiousness and benevolent morals, are mentioned in hadiths and fiqh books as the personal qualities to look for when selecting a spouse. It is clear that the inclusion of these characteristics in religious sources will serve for positive purposes such as showing the ideal manner to the youth and helping young people consider marriage as a means to positively change their and their spouses' lives.

The characteristics to search for in a woman considered as a potential spouse are as follows: The Prophet ordered the following in a hadith : "*A woman is generally married for these four elements: Her goods, nobility (lineage), beauty and religion. Choose the religious one so that you can*

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[47] Muslim," Nikah", 74, 75; Nasai, "Nikah", 17; Tirmidhi, "Nikah", 5.

[48] "*Whoever among you believes in Allah and Judgment Day shall not be alone with a foreign woman because if you do so, the third person will be the devil.*" Bukhari, "Nikah", 111, 112; Muslim, "Hajj", 424.

[49] Bukhari, "Buyyu'" 64, 70; Muslim," Nikah", 51-56.

have farms (meaning you can have blessings and peace)".[50] Another hadith in this regard is as follows: "*The world means a creation to be utilized (meta'); The greatest creature on this world is the benevolent women.*"[51] "*Make efforts to marry a religious woman who is grateful to Allah and mentions and calls the titles of Allah. Such a woman helps you be rewarded in the eternal world.*"[52] According to different hadiths, Muslims are recommended to prefer virgin[53] and fertile[54] women. All of the Prophet's wives other than Aisha were a widow before marrying him.[55] According to certain fiqh books, marrying a woman whose father is unknown and who was born out of adultery, raised in a malevolent environment or performed adultery before is abominable.[56] The concept of "mukhsan=being virtuous" is particularly emphasized for both genders in verses.[57]

The characteristics to search for in a man considered as a potential spouse are as follows: As mentioned in a hadith, the Prophet (p.b.u.h.) ordered the following: "*If somebody whose religious and ethical characteristics are approved by you demand your permission to marry your daughter, give your permission. Otherwise, disorder and corruption emerge on this world. They said: 'O Messenger of Allah! Should we marry them even if they had deficiencies in their goods or were not socially equivalent to us? The Prophet said: "If somebody whose religious and ethical characteristics are approved by you demand your permission to marry your daughter, give your permission!" The Prophet repeated this statement three times.*"[58] This hadith stresses that religiousness and morals should be preferred for the man to marry.

8. Equivalence in Marriage

Woman's status is accepted as the focal point in fiqh books, and social equivalence between the man and woman is mentioned in these books. Two main thoughts have been stated in this regard:

According to the ideas noted by few scholars, there are no hadiths or verses regarding the equivalence to be sought. Certain scholars such as Hasan al-Basri, as-Sawri and al-Qarhi objected the topic of equivalence,

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[50] Bukhari, "Nikah", 15; Muslim, "Rada", 53.

[51] Muslim, "Rada", 64.

[52] Ibn Majah, "Nikah", 5.

[53] Bukhari, "Buyyu'", 34; Muslim, "Rada", 55; Ibn Majah," Nikah", 7.

[54] Abu Dawud, "Nikah", 3; Ibn Majah, "Nikah", 1. "*Marry the fertile woman who can love her husband because I will boast with the population of my ummah during Judgment Day.*" This narrative is believed to be weak.

[55] Bukhari, "Nikah", 9.

[56] Wahba az-Zukhaili, *al-Fiqhu al-Islami wa Adillatuhu* (Damascus: 1405/1985), 7/13.

[57] an-Nisa 4/24-25; al-Maidah 5/5.

[58] Ibn Majah, "Nikah", 46; Tirmidhi," Nikah", 3.

and they said no criterion other than faith should be sought. Moreover, many marriages performed during the era of the Prophet indicate that the topic of social equivalence was only sought in the subject of faith and that the local perception of equivalence was terminated. The marriage between Bilal al-Habashi, a black slave, and a Qurayshi woman, or between Abu Tayba and Zayd are the examples.

Most scholars attributed importance to equivalence but they regarded this as a necessity rather than obligation. Accordingly, a woman should marry a socially equivalent man or somebody with a superior status. Considering the equivalence as a necessity rather than obligation means that marriages that do not arise from equivalence can be undoubtedly accepted as proper. Hanafi followers come to mind first in terms of compliance to equivalence, and in the event that there is no equivalence in regard to the date of accepting Islam, freedom, lineage, goods and occupation which are accepted as an obligation; Hanafis assign the right to demand the termination of marriage in a court to the custodian of women. Distortion of equivalence following the marriage does not cause problems for the validity of marriage.

It is clear that the previous points regarding equality in the fiqh books are the cultural provisions that can be changed based on the social structure, that women can marry with male peers only upon the recommendation of their friends or relatives considering certain points such as the high levels of freedom, respect to different preferences and adaptation to different cultures in present times, that nothing is binding in this regard, and that the last word can be stated by the women. Accordingly, it is fair to state that anything other than being a Muslim (women of ahl al-kitab are exception) is not regarded as an equivalence-based obligation.

9. Obstacles in Marriage

In the Islamic law, the obstacles in marriage are divided into two as continuous obstacles that last for a lifetime and temporary obstacles that may disappear when the conditions change. Some of them are directly understood from verses and[59] hadiths[60], while some are based on scholars' jurisprudence. There are different opinions regarding the jurisprudential points. The women with whom marrying is unlawful are called "mukharramat". The term "haram" indicates the prohibition, and the

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[59] al-Baqarah 2/221, 230, 235; an-Nisa 4/22-25; Maidah 5/5; al-Mumtahanah 60/11.
[60] For instance: "*Who are unlawful to marry due to the lineage are also unlawful through the milk kinship.*" Bukhari, "Shahadat", 7; Muslim, "Rada'", 1.

respect and tribute paid to these people. Marrying these women has certain adverse impacts such as distorting the familial relationships and creating confusions and issues within the lineage. Therefore, all religions and legal systems have people with whom marrying is forbidden despite certain differences in the details.

The continuous obstacles before marrying are based on three main reasons in Islam: lineage, milk kinship and marriage. These can be briefly explained as follows:

1. Unlawfulness due to lineage: Ancestry (mother, grandmother, father, grandfather…), children (son, daughter, grandchildren…), parents' children and their relatives (brother, sister, siblings' children…), children of the grandparents (paternal and maternal uncle and aunt).

2. Unlawfulness due to milk kinship: Ancestry based on milk kinship (milk parents, milk grandparents), children with milk kinship (milk children, milk grandchildren), relatives of milk parents through lineage and milk kinship (milk siblings and others), children of milk grandparents (milk uncles and aunts), ancestry of the spouse based on milk kinship (milk parents and grandparents of the spouse), milk children of spouse (milk children and grandchildren of the spouse), spouses of milk ancestry (spouses of milk parents and grandparents), spouses of milk children (spouses of milk children and grandchildren).

According to most of the scholars, breastfeeding should occur in the first two years (24 months) or 30 months according to Abu Hanifa. According to Hanafi and Maliki people, the amount of milk does not differ, but at least five sessions of proper breastfeeding should occur according to Shafi and Hanbali followers.

3. Unlawfulness due to marriage (hurmatu al-musakhara): Spouses of the spouse's ancestry (spouses of father and grandfather. That is, the step parents and step grandparents), spouses of spouse's children (bride and groom), ancestry of the spouse (parents of the spouse…), children of the spouse (step children). In order for the step daughter to be unlawful for marrying, one should also perform sexual intercourse with the mother of the step daughter. According to Hanafis, a marriage cannot happen between a man who performed adultery with a woman or touched that woman or even saw her genital organ and children and ancestry of that woman. Similarly, that woman cannot marry the ancestry and children of that man. Adultery constitutes an obstacle in marriage, which is also accepted by Hanbali people.

The temporary obstacles in marriage can be briefly explained as follows: Presence of a woman who is married to a man or within the waiting period to remarry after divorce or who was divorced by her previous husband by saying talaq three times, religious differences (non-Muslim men or women, except the women of ahl al-kitab), fifth marriage performed by the same man (there is a limitation of four wives for a man), woman who was divorced through mutual repudiation (according to certain scholars, this creates an eternal obstacle in marriage with the previous husband), presence of two relative women as wives (two sisters or their aunt cannot be married by the same man. Two women who have lineage or milk kinship cannot be married by the same man even if one of them is regarded as a man), presence of a biological daughter who was born out of adultery (according to Hanafi and Hanbali followers), and marriage when wearing an ihram (for those other than Hanafis).

10. Elements and Conditions of Marriage

According to Hanafis, the elements of marriage are necessity and acceptance. For other sects, the elements of marriage are as follows: Siyga (necessity and acceptance), woman (wife), man (husband), custodian of the woman, no obstacles in marriage between the people. For Shafi people, presence of two male witnesses is another elements. According to certain Maliki people, declaration and bride wealth are among these elements. The marriage becomes invalid when one of the elements is not present.[61]

The conditions of marrying varies by sects. For instance, Hanafi people review the conditions of marriage under four groups, which are briefly as follows:

1. Conditions for establishment (conclusion): These conditions indicate parties' qualification to marry, proposing and accepting the proposal in the appropriate manner. If these conditions are met, the marriage becomes valid. The contrary is an invalid marriage. The sides can be represented by proxy in the marriage ceremonies. Marriage can be performed verbally or in writing.

2. Conditions for validity: These conditions indicate the absence of any obstacles in marriage between the people, proposing or accepting the proposal in a continuous manner, and presence of witnesses, approval and preference (regarding the partner in this regard). If these conditions are met, the marriage becomes valid; otherwise, it becomes peccable. The disorder turns into validity if terminated earlier. The periodic (muwaqqat)

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[61] See: *Al-Mawsuatu al-fiqhiyya*, "Nikah", 41/233 and the rest, 301; Saffet Köse, "Aile Hukuku" *İslam Hukuku El Kitabı*, (Ankara: Grafiker Yayınları, 2018) 287 and the rest.

marriage is not regarded permissible as it is deemed contrary to the essence of marriage. The mu'tah marriage performed upon a payment made to women is considered permissible only by the Ja'fari branch of Shiite sect. According to Hanafi people, witnesses should be two men or women. In most cases, both witnesses should be male and fair. A marriage performed before the minimum number of witnesses is not regarded as confidential but according to Maliki people, declaration is another condition, and a marriage deliberately kept as confidential is deemed void. The official marriage procedure performed today is recorded with the signatures of couples, thereby preventing people from keeping the marriage confidential.

3. Conditions for validity: The marriage conducted by an incompetent person is subject to the permission of the custodian, while the marriage performed by the unauthorized third persons is subject to the permission/acceptance by the couples. If the marriage is subject to permission, it becomes valid. Otherwise, it is suspended.

4. Conditions of obligation: These conditions indicate the absence of authority for the custodians or people who conduct the marriage procedure to terminate the marriage contract in certain cases. This sort of marriage is called requisite. If the marriage is not requisite, it is not considered obligatory and can be terminated by one side.

For instance, according to Hanafi people, marriage occurs when an adult man and woman state that they accept one another as spouses before the presence of two witnesses (proposal-acceptance). Nobody to conduct this process is needed by them. Moreover, this procedure does not need to be performed before a religious scholar or government official. However, official confirmation is clearly considered important in the modern days as women are generally victimized within the marriages that are not registered officially, verbal marriages are abused, and solving such victimization incidents is challenging for the governments. No expense is needed to perform the marriage but the Prophet recommended people with good economic status to offer food to the guests of a marriage ceremony.[62] Organizing appropriate amusement programs, particularly those between women, is also permissible.[63]

For Islam, marriage should be performed easily and economically in the shortest period of time, and people should start their marital relationship as soon as possible. As noted by the Prophet: "*The most benevolent form of marriage is the one that has been made in the easiest manner*".[64]

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[62] Bukhari, "Nikah", 68, 69; Muslim, "Nikah" 87.

[63] Tirmidhi, "Nikah", 6; Nasai, "Nikah", 72; Ibn Majah,"Nikah", 21.

[64] Abu Dawud, "Nikah", 31.

It is a fact that modern families perform or demand certain acts that complicate and delay the marriage procedure such as taking a blood test, taking certain classes and certificates, planting trees or providing the money for this process, performing the marriage only during the working hours, or making an appointment for marriage at a later period. Marriage processes can be performed online in the near future.

11. Results of the Void Marriage Act

A void marriage whose elements and conditions are fully met naturally and obligatorily yield the following results:

Spouses can perform sexual actions lawfully within Islamic limits. There is no privacy between the spouses. Sodomy or sexual intercourse when women are on period or puerperal, or wear ihram is not lawful.

Before the sexual act, women deserve the pre-determined bride wealth which means goods or interests with financial value. If bride wealth is not determined in advance, a model bride wealth figure (mahr al-misil) is accepted. This model figure is determined considering the bride's relatives and female neighbors with similar characteristics. The bride wealth can be provided in advance or in a deferred manner. It should be completely paid or provided in the event that sexual relationship, proper sexuality or death (of one of wives) occur. Half of the pre-determined bride wealth is paid for the women who are divorced without having sexual intercourse.[65] If divorcing occurs before the sexual relationship or intercourse and if a bride wealth figure is not predetermined, a model bride wealth figure is not paid. Instead, a gift such as a dress is presented to placate the woman (mut'atu at-talaq).[66] According to Hanafi people, the minimum amount of bride wealth is 10 dirham, which used to be enough for buying two sheep. The upper threshold of bride wealth is not predetermined. It is left for customs and mutual agreement. Bride wealth is not a price of anything. Instead, it is the indicator of respect to women and a gift of husband (nikhla) presented to satisfy women upon Allah's order (farizah). Women may demand no bride wealth or give a certain or total amount of bride wealth to their husbands.[67] The Prophet prohibited marriage procedures without bride wealth[68]. He recommended husbands to give a bride wealth, or even a metal ring, to their wives or teach the Quran surahs they know to their wives if they do not have any goods, and

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[65] al-Baqarah 2/237.

[66] al-Baqarah 2/236.

[67] an-Nisa 4/4, 24.

[68] Bukhari, "Nikah", 29.

he told women to [69]facilitate the bride wealth process.[70] Women who receive the total amount or first installment of bride wealth are supposed to reside in their husbands' houses. Women may not go to their husbands' houses without receiving the bride wealth.

Women have the right to demand alimony from their husbands throughout their marriages. Alimony means the monetary sum paid to meet certain needs such as eating, drinking, dressing or sheltering. The alimony of the children is also born by their fathers.[71] However, upon their decision, women can spend money for their husbands, houses or children (like a son-in-law living in the house of wife's parents). Islamic law does not obligate anything for the sides in the event that sides agree in terms of alimony or do not need to apply to a court.

Women cannot be forced to work and they cannot work without the permission of their husbands. The women who work without their husbands' permission cannot demand alimony.

The lineage occurs by marriage between the ancestry and children of spouses which is an obstacle for marriage between these people (hurmat al-musakhara).

The lineage of children who are born to a marriage belongs to the paternal side unless children are rejected. No doubt arises in regard to the maternal lineage of children as the women who give birth are always clear as mothers.

Inheritance-related issues emerge between the wives of a man in time. A polygamous man should establish justice between his wives.

A woman's goods belong to her husband and vice versa. That is, the regime of separation between the goods is fundamental in marriage. Thus, marriage cannot be performed with an approach to share the goods of one side or to receive alimony for a lifetime after ensuring divorce in any way following the marriage. Divorce cases cannot be heard for a long period of time due to the issue of sharing goods.

12. Rights and Responsibilities of Husbands and Wives Against Each Other

Spouses are ordered to behave benevolently to one another (maroof) with feelings based on[72] love and[73] mercy. The Prophet said "*The most*

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[69] Muslim, "Nikah", 76.

[70] Abu Dawud, "Nikah", 30, 31.

[71] al-Baqarah 2/233.

[72] ar-Rum 30/21.

benevolent ones among you are the ones who show the most benevolent behaviors toward their wives"[74]. Another hadith in this regard is as follows: "*The most benevolent ones among you are the ones who show the most benevolent behaviors toward their wives. The most benevolent one toward one's family is me*".[75] There are many hadiths indicating that spouses should behave well. This study will share some of these hadiths.

During the farewell sermon, the Prophet stated the following: "*My followers! I recommend you to treat women well. You shall fulfill my will. Women are to be managed and protected by you. You cannot oppress your women as long as they clearly had not performed an immoral act. If they do such acts, leave them alone in their beds and strike them in a manner to not hurt them. If they obey you, do not do anything that may hurt them. Please be aware that women also have rights over you just like you do over them. Your rights include telling them to protect your bed from foreigners and not host anybody that you do not like in your house. Their rights over you are to have their biological and essential needs such as clothing or eating met by you*."[76] In another hadith, the Prophet explains women's rights over their husbands as follows: "*You should offer what you eat and present the clothes as quality as yours. Besides, you should not hit their faces, see them as ugly and leave them except going somewhere.*"[77]

There are certain narratives indicating the kindness, charm and elegance of women for men are as follows: "*I recommend you to treat the women well. You shall fulfill my will. Remember that women are created from your ribs. The curviest rib is on the upper side. You would break the curvy bone if you try to flatten it. That bone would stay curvy if you leave it like that. So, keep my recommendation about women.*"[78] Another narrative is as follows: "*Women are like the ribs. You would break them if you try to change them. If you try to utilize them, do it without changing them.*"[79]

The following narratives about hitting women were narrated from the Prophet: "*I heard one of you attempted to beat his wife, treating her like a slave. Remember you still go to the same bed with them at nights!*"[80] The Prophet never beat a slave, slapped his wives or hit anybody with his hands during his lifetime. This is reported by Aisha, his wife for ten years.[81] "*According to what was narrated from Iyas ibn Abdallah ibn Abu Zubab (r.a.), the Prophet said:*

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[73] an-Nisa 4/19.

[74] Tirmidhi, "Rada", 11.

[75] Ibn Majah, "Nikah", 50.

[76] Tirmidhi, "Rada'", 11. These hadiths are like the interpretation of Nisa 4/34. There are similar narratives with similar statements.

[77] Abu Dawud, "Nikah", 42.

[78] Bukhari, "Anbiyah", 1.

[79] Bukhari, "Nikah", 79

[80] Muslim, "Jannah", 49.

[81] Ibn Majah, "Nikah", 51.

"Do not beat women". Umar visited the Prophet and said: "Women do not obey their husbands these days". Consequently, the Prophet enabled men to beat their wives. Then, many women visited the wives of the Prophet (p.b.u.h.) and complained about their husbands. Upon hearing these, the Prophet said: "Many women visit my family and mention their complaints. Whoever beat their wives are not benevolent."[82]

"Do not bear any grudge against your wives. You may like another characteristic of them if you dislike one."[83]

The Prophet was once asked: "which woman is benevolent?". The Prophet said: *"The women who make her husbands happy upon being seen by them, who fulfill what their husbands want, and who protect themselves and their goods when husbands are not home." The Prophet then read an-Nisa 4/34."*[84]

Certain hadiths about women are as follows: *"You often curse and neglect your husbands' benevolent acts."*[85] *"Women who have satisfied their men until the last breast will be rewarded with paradise."*[86] *"If women pray five times a day, fast during Ramadan, protect their honor and obey their husbands, they are told «to enter paradise from whatever door they choose!»."*[87] The limit of obeying is as follows: *"People are not obeyed wherever Allah is objected; obeying occurs where legitimacy is present."*[88]

Islam does not obligate people to form a single type of family. Flexibility based on a mutual content is reflected in Islam. The rights and duties of spouses may differ based on conditions, customs and consent. For instance, Islam does not forbid certain practices such as a move by the groom to the bride's house or expenses being undertaken by women. When the Prophet married Hatijah, he moved to her house.

13. Responsibilities of Parents Toward Their Children

The main responsibilities of parents toward their children are based on raising a benevolent person in accordance with the reason why humans are[89] created. The tafsir authorities who explained the verse *"O you who have believed! protect yourselves and your families from a Fire whose fuel is people*

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[82] Abu Dawud, "Nikah", 42. Also see: Ibn Majah, "Nikah", 51.

[83] Muslim, "Rada`", 61.

[84] Nasai, "Nikah", 14; Ibn Majah, "Nikah", 5; Abu Dawud, "Zakat", 32.

[85] Bukhari, "Hayiz", 6.

[86] Tirmidhi, "Rada" 10.

[87] Ahmad ibn Hanbal, *Musnad*, 1/191, (No. 1661).

[88] Bukhari, "Ahad", 1.

[89] az-Zariyah 51/56.

and stones..."[90] stated that people could protect themselves and their families by abandoning their sins and performing prayers (and charity works).[91] Those who will upset both themselves and their families on Judgement Day were noted as the people who will be disappointed.[92] Love for children and relatives should not prevent the duties of obeying Allah and the Prophet, and performing jihad.[93]

The Quran ordered the Prophet the following in this regard: "*And enjoin prayer upon your family [and people] and be steadfast therein*".[94] The Prophet mentions the responsibilities of spouses as follows: "*You are all shepherds and responsible for the flock that you herd. The president of a government is a shepherd and responsible for his/her flock. A man is the shepherd of his family and responsible for his flock. A woman is the shepherd of her husband and house, and responsible for her flock. A servant is the shepherd of his/her master's goods. That master is responsible for his/her flock.* "*That is, you are all shepherds and responsible for the flock that you herd.*"[95]

Children's rights start with the one to select a benevolent future mother (meaning partner here). Upon the delivery, a beautiful name should be given to the child. The Prophet changed the names that had inappropriate meanings and that could blemish one's reputation.[96] Children should be raised to have benevolent morals,[97] offered lawful foods, presented proper examples in terms of speaking and behaving, prevented from doing malevolent acts and encouraged to be benevolent, promoted to perform prayers, particularly the daily prayer,[98] and trained for the life by teaching them or raising them to have a profession based on the conditions of the time.

No discrimination is made between the children in the topics such as the division of property or showing interest without the presence of a valid reason. The Prophet (p.b.u.h.) asked Nouman ibn Bashir, who wanted to grant some of his goods to one of his sons and asked for the testimony of the Prophet, whether he gave the same amount of goods to his other children. Upon hearing that he did not give the equal amounts to others, he did not give testimony and told him to ask for someone else's testimony.

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[90] at-Tahrim 66/6.

[91] Zamahshari. *al-Kashshaf*, (Beirut, 1407 h.), 4/568.

[92] az-Zumar 39/15-16.

[93] at-Tawbah 9/24.

[94] at-Taha 20/132.

[95] Bukhari, "Juma", 11, "Istikraz", 20, "Nikah" 81, 90, "Ahqam", 1; Muslim, "Imarat", 20.

[96] Abu Dawud, "Adab", 61; Muwatta'," Isti'zan", 24.

[97] "*Whoever has three daughters, raises and shows mercy to them, and teaches morals to them would be necessarily rewarded with paradise.*" Abu Dawud, "Adap", 120, 121.

[98] Abu Dawud, "Salat", 25, 26. For more details on Luqman's instructions about prayers and other points, see: Luqman 31/17.

He rejected Nouman saying "take what you give to this son of yours back and treat your children equally fairly. Do not ask my testimony for your injustice". Then, Nouman stopped what he planned to do.[99] Some of the scholars who presented their ideas on this hadith claimed that treating equally is appropriate while discriminating is abominable, and some stated that equality is necessary while discrimination is unlawful. The issue of distributing goods to children with or without gender-based discrimination, which is the case in inheritance-related topics, is still controversial. The dominant belief is to provide an equal amount of goods to children.[100] The idea that the prohibition of discrimination between the children is valid under normal conditions and that different actions could be taken with valid reasons based on the needs is deemed to be appropriate.[101]

The issue of whether fathers are obliged to have their children get married has been controversial. Hanafi and Shafi followers state that fathers cannot be obligated while Hanbali followers say fathers have to have their children get married if they bear the alimony of their children.[102] It is fair to state that the verdict here may vary based on the case, and that fathers can necessarily or appropriately have their children get married based on the children's need to marry. Having female children get married is particularly important for people like Shafi followers who believe female children can only get married upon their fathers' blessings. The purpose in having children get married should be understood as the basic needs such as bride wealth or sheltering, rather than organizing a wedding. Assistance and guidance from parents for their children in selecting appropriate partners is a nice gesture.

The guardianship indicating the authority over children's personality and goods is undertaken by their father while hadanah (care) indicating the interest and care toward the children is born by the mother. When parents are absent, these duties are undertaken by the closest relatives as reflected by fiqh books. A judge can assign an appropriate person when necessary.

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[99] Bukhari, "Hiba", 10-12; Muslim, "Hibat", 9, 13, 19. Wording-based differences are present in narratives.

[100] Ibn Qudaymah, *al-Mughni*, XIII, 6/256-259.

[101] Sheikhizada Damad Efendi, *Majmau al-anhur fi sharḥi Multaḳa al-abhur* (Istanbul: nd.), 2/610.

[102] Ibn Qudaymah. *al-Mughni*, 11/380.

14. Responsibilities of Children Toward Their Parents

The Quran and sunnah order people to threat parents well, to be grateful to them, to avoid hurting them, and to show mercy to them particularly during their senior years. One shall not even utter a humph while meeting their legit needs and demands.[103] Showing aggression to parents is regarded to be among the major sins.[104] However, parents are not obeyed in unlawful cases such as being called to polytheism or blasphemy, or to deviate from justice and to give false testimony.[105] Allah indicates that parents and their children will not be able to help one another in terms of faithlessness and sins on Judgment Day.[106]

According to certain scholars, if parents need to marry one another but cannot afford to do so, this responsibility is undertaken by their children.

15. Responsibilities Toward Relatives

Kinship ties are among the blessings granted by Allah Almighty. One is ordered to take care and be helpful and merciful to one's relatives regardless of their degrees.[107] Allah's orders include maintaining contact with relatives. Moreover, people are told that terminating contact with relatives may prevent one from being rewarded with paradise.[108] According to the recommendations, even those who stopped visiting their relatives should be visited.[109] Visits to relatives are noted to increase blessings,[110] and helping relatives is reported to increase good deeds two times over.[111] In addition, people are told to take care of their neighbors and[112] orphaned relatives.[113] In Islamic law, relatives can be the heirs of one another based on the degree of closeness.[114]

Warning the relatives in religious topics is another duty.[115] One should not deviate from the justice for one's relatives and give false

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[103] an-Nisa 4/36; al-An'am 6/151; al-Isra 17/23-24; al-Ankabut 29/8; Luqman 31/14-15; al-Ahqaf 46/15-18; Bukhari, "Adab", 1; Muslim, "Iman", 137.

[104] Bukhari, "Adab", 1; Muslim,"Iman", 143, 144.

[105] an-Nisa 4/135; at-Tawbah 9/23, 24, 114; al-Mumtahanah 60/4.

[106] Luqman 31/33.

[107] al-Baqarah 2/215; an-Nisa 4/, 1, 8, 36; ar-Rad 13/21, 25; an-Nur 24/22; Muhammad 47/22.

[108] Bukhari, "Adab", 11; Muslim, "Birr", 18, 19.

[109] Bukhari, "Adab", 13.

[110] Bukhari, "Adab", 12; Muslim, "Birr", 20, 21.

[111] Nasai, "Zakat", 82; Tirmidhi, "Zakat", 26.

[112] an-Nisa 4/36.

[113] al-Balad 90/14-16.

[114] al-Anfal 8/75. The inheritance between family members will be separately mentioned later.

[115] ash-Shuara 26/214.

testimony.[116] Nobody can undertake the sins of another person even if they are relatives.[117] Love for parents, children and relatives should not prevent the duties of obeying Allah and the Prophet, and performing jihad.[118]

16. Polygamy and Justice

Polygamy (taaddud al-zawjat) was common in the pre-Islamic Arabic society and other societies, and the number of women to marry was not limited. Islam reduced the number to four and brought the condition of establishing justice among them. The men who are concerned with establishing justice among their wives should marry one woman or handmaid.[119] The Quran indicates the following in terms of the justice between the wives: *And you will never be able to be equal [in feeling] between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging*."[120]

After organizing his wives and the nights to spend with each of his wives, the Prophet stated the following: "*O Allah! This organization (of my wives) is what I could do. Do not reprimand me for what I cannot do that you can. Aisha said: What he meant with the statement 'for what I cannot' indicated his spiritual acts*."[121] This hadith indicates that the justice to be established between the wives actually meant the financial justice and that love could not be distributed equally. The Prophet occasionally stayed with his other wives on the days that were planned to be spent with another wife, with the consent of the latter.[122] He stayed with his new wives for seven days if they were a virgin, and for three days if they were a widow.[123] Jealousy emerged among the wives of the Prophet due to night stays and relevant issues.[124] The unfair husband is warned as follows: "*Men who show attention to one of his two wives while neglecting the other reach Judgment Day with half of their bodies paralyzed (or bent)*."[125]

Women have the right to reject polygamy. They can even mention the condition for accepting a marriage proposal that their husbands will

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[116] an-Nisa 4/135; al-An'am 6/152.

[117] al-Fatir 35/18.

[118] at-Tawbah 9/24.

[119] an-Nisa 4/3.

[120] an-Nisa 4/129.

[121] Abu Dawud, "Nikah", 39; Tirmidhi, "Nikah", 42.

[122] Bukhari, "Nikah", 98; Muslim, "Rada'", 46, 47; Abu Dawud, "Nikah", 39.

[123] Bukhari, "Nikah", 100, 101; Muslim, "Rada'", 41, 44; Abu Dawud, "Nikah", 35. The only woman who was a virgin before marrying the Prophet was Aisha.

[124] Muslim, "Rada'", 46.

[125] Ibn Majah, Nikah, 47; Abu Dawud, "Nikah", 38, 39; Tirmidhi, "Nikah", 42.

not marry another woman. If their husbands marry by accepting this condition, they have to fulfill the condition. Otherwise, they would not keep their promises, violate their wives' rights and blemish their reputation and justice. However, canonists discussed whether men needed to obtain permission from their first wives when they wanted to marry a second woman and whether their promise or condition of avoiding marrying another woman is legally binding. If the condition of avoiding marrying another woman is recorded, it can be a valid reason for judicial divorce. The Prophet and Fatima, his daughter, objected Ali who wanted to marry another woman after Fatima, upon which Ali renounced later.[126] However, after the passing of Fatima, Ali married many women. In societies where monogamy is in effect, women do not even think about mentioning the condition of avoiding another woman to their husbands. Absence of the statement regarding such a condition should not be considered as the consent of women to polygamy.

17. Sexuality and Relevant Limits Between Spouses

Two people can have sexual relationship upon a lawful and religious marriage. Women are noted to resemble farms. Accordingly, a lawful sexual relationship occurs through genital organs (farj) at normal times. Muslim people are banned from having a sexual relationship when women are on their period[127] or from sodomy[128]. Women should not give consent to their husbands' unlawful demands. Accordingly, the Prophet said: "*People are not obeyed wherever Allah is objected; obeying occurs where legitimacy is present.*"[129]

Withdrawal by men without their wives' consent is considered abominable or unlawful. However, there are narratives indicating that women should not reject their husbands' demand for sexual activity. A relevant narrative is as follows: "*If a man calls his wife to the bed (to have sexual intercourse), gets rejected by her and spends the night with his feelings hurt, angels curse the women until the morning.*"[130] Another relevant narrative is as follows: "*When a man calls his wife after feeling aroused, that woman should meet her husband's needs even if she is cooking at that moment.*"[131] Another narrative is as follows: "*A woman cannot fast beside her husband*

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[126] Bukhari, "Nikah", 109.

[127] al-Baqarah 2/222-223.

[128] Tirmidhi, "Taharat", 1084.

[129] Bukhari, "Ahad", 1.

[130] Bukhari," Badu al-halq", 7.

[131] Tirmidhi, "Rada`", 10.

without his permission. She also cannot accept a guest without her husband's consent."[132]

18. Privacy in Family

One of the important topics regarding a family is the observance of privacy among family members. Privacy is the concept indicating one's desire to hide anything from the eyes or knowledge of other people. Islam brought certain measures such as avoiding entering a house without permission,[133] covering the private parts, turning the eyes to public sights,[134] and prohibiting curiosity. It should be noted that people such as the brothers of the husband, against whom privacy is not kept, are still accepted as foreigners.[135] The particular topics between a husband and wife are their private matters that should not be shared with anybody.[136]

Privacy means any private concepts or acts against any unrelated person. Mahram (related people): They are the relatives who are unlawful to marry until the end of time. Nevertheless, not all relatives are *mahram* in this regard. People such as the brothers of the husband or sisters of the wife, with whom there is a temporary prohibition of marriage, are not *mahram.* Namahram (Foreigner): They are the people who are lawful to marry from a religious perspective. The relevant verses[137] and information in fiqh books indicate the following men as related people for women: Father, grandfather, father in law, son, her husband's son from a previous wife (stepson), brother, sons of brothers and sisters, uncles, milk brother, milk father, daughter's husband (groom)... The women who are the related people for men are as follows: Mother, grandmother, daughter, sister, aunts, daughters of brothers and sisters, milk mother, milk daughter, milk sister, mother in law, daughter of the wife (with whom sexual intercourse occurs) from her previous husband (stepdaughter), son's wife (bride), father's wife (stepmother)...

The verdicts regarding the concepts of private areas and hijab among the related people are less strict compared to the verdicts regarding the foreigners. Men's private body part is the area between the belly and kneecap. For Hanafi people, kneecap is considered private while Shafi followers think the same for belly. Keeping the body part above the belly

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[132] Bukhari, "Nikah", 84, 86.

[133] an-Nur 24/27-29; Bukhari, "Isti'zan", 13.

[134] an-Nur 24/30-31, 60; al-Ahzab 33/59.

[135] Tirmidhi, "Rada", 16.

[136] Muslim, "Nikah", 123-124; Abu Dawud, "Adab", 32; Abu Dawud, "Nikah", 50.

[137] an-Nisa 4/22-24; an-Nur 24/31.

uncovered is considered abominable unless necessary. Women's private parts against the related people for them: The parts between belly and kneecap, and their back. Head, breast and the part under the kneecap are not regarded as private. Women's private parts against foreign women: The area between the belly and kneecap, which is men's private area. There are people who consider women's privacy against non-Muslim women as the one kept against the foreign men, and some believe the privacy kept by Muslim women against other Muslim women can also be kept against non-Muslim women.

The limits regarding the private parts reflect the minimum threshold in this regard. Benevolent morals, ethics and civilization require people to be more careful and sensitive. In addition to covering bodies, the clothes preferred by women should not be transparent or too tight, and they should not reveal the organs. Women should be cautious and sensitive with their clothes next to the people who are not considered to be trustworthy even if they are relatives. Children should be trained in terms of covering their bodies and wearing hijab. According to hadiths, children should be separated from their beds when they reach the ages of seven or ten.[138]

A verse emphasizing the importance of privacy for families is as follows: *"O you who have believed! let those whom your right hands possess and those who have not [yet] reached puberty among you ask permission of you [before entering] at three times: before the dawn prayer and when you put aside your clothing [for rest] at noon and after the night prayer. [These are] three times of privacy for you. There is no blame upon you nor upon them beyond these [periods], for they continually circulate among you - some of you, among others."*[139]

The concepts of covering private parts, wearing hijab and seclusion become more important in cases where more than one family reside in a house or where there are foreign guests in the house. Another important aspect is that fostering families should treat their children as foreigners in terms of the concepts of covering private parts, wearing hijab and seclusion when these children reach the adolescence period. The subject of privacy is equally important in real life and social media.

19. Domestic Problems and Their Solutions

Faults of one side that may cause conflicts and fragment the family are called nushuz. When nushuz is performed mutually, it is called shiqaq.

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138 Abu Dawud, "Salat", 26.
139 an-Nur 23/58.

The following verse explains the actions to be taken in case of nushuz from women: *Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], beat them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand."*[140]

Accordingly, the following verse explains the actions to be taken in case of nushuz from men: *And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement between them - and settlement is best. And present in [human] souls is stinginess. But if you do good and fear Allah - then indeed Allah is ever, with what you do, Acquainted."*[141]

The following verse explains what to do in case of shiqaq: *And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things].*[142]

In cases which domestic problems cannot be solved as mentioned above and which the marriage is decided to be unbearable, men have the right to divorce from their wives while women have the right to demand a fee upon divorce or ask for judicial divorce from the court presenting a suitable reason (e.g. a sexual disorder of the spouse).

20. Cases Terminating the Marriage

Divorcing is considered lawful for the marriages which cannot be maintained despite all efforts and which can create greater harm if spouses force themselves to maintain their relationships. There is no obligation to stay married to a person for a lifetime in Islam, which is the case in Catholic marriages. The prohibition of marrying which is applied on religious men in other religions and the prohibition of divorcing are clearly against nature.

Various cases terminating the marriage in Islamic law are briefly as follows:

Talaq/Divorcing الطَّلاَقُ: It means divorcing by one side. Divorcing is occasional in Islamic law. The important point here is to marry a person

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[140] an-Nisa 4/34.

[141] an-Nisa 4/128.

[142] an-Nisa 4/35.

with the desire to maintain the marriage for a lifetime. Talaq is the last option when marriage becomes unbearable. As noted by the Prophet, *"What Allah disapproves the most among what Allah made lawful is talaq."*[143] The authority based on talaq belongs to men who have the right to divorce the same women three times. A man who divorced a woman three times cannot marry the same woman. However, if a woman marries another man in the natural flow of life and divorces him or if her husband dies, she may marry her previous husband once again.[144] Granting the authority to divorce men is socially explained with the responsibilities assigned to men in their families, which are different from what women have, and with the characteristics of men. However, men can grant their right of talaq to their wives if they desire to do so (tafwiz al-talaq). In this case, men's right to divorce their wives continues, and both sides have the right to divorce the other side.[145] In such a case, the possibility of terminating the marriage becomes greater by two times. The authority to divorce only belongs to courts in the modern western and Turkish legal systems. Spouses may demand divorcing solely from the court. Utilizing the testimony of somebody during talaq[146] was not deemed necessary contrary to the requisite and element of testimony in marriage. Accordingly, talaq seems to be easier than marrying. The most important aspect that will direct the men who have the right of talaq and women who are granted such right from their husbands to be cautious and that will prevent them from making momentary and irremediable decisions is the feeling of being responsible before Allah.

The provision of talaq varies by the case such as the changes in the marital provisions. For instance, divorcing a woman is considered to be convenient if she persists in committing great sins or demands divorcing due to shiqaq. Divorcing due to conflicts, ethical weakness or absence of love is considered permissible. However, divorcing for no apparent reason means blemishing the name of a woman and is regarded as abominable or unlawful by some scholars. Failing to perform talaq in line with the sunnah (divorcing women when they are on period or divorcing them when they perform cleaning or after having sexual intercourse with them etc.) is considered unlawful.[147]

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[143] Ibn Majah, "Nikah", 1.

[144] al-Baqarah 2/229-232; at-Talaq 65/1-2.

[145] Abdussamet Bakkaloğlu, "Tefviz", *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 2011), 40/310-311.

[146] at-Talaq 65/2-3. The concept of testimony in this verse was regarded as the evidence to retreating or divorcing following the talaq, not during the process of talaq, and the additional provision in this regard was noted to be approved.

[147] *al-Mawsua'tu al-fiqhiyya*, "Talaq", 29/8-9.

Termination الْفَسْخُ: This concept indicates the termination regarding the provisions and results of proper marriage, which was performed conveniently, for certain reasons. Termination occurs by itself or is performed upon a legal decision. Upon the presence of an obstacle between the spouses (such as the milk kinship) or abjuration, termination happens by itself. The legal decision on termination is utilized in case of a custodian's objection due to failing to marry a peer or in case of termination through the right of option in adolescence. Termination ends the marriage immediately. If the reason for termination disappears, people can marry through a new marriage. The number of rights to divorce does not change when marriage is terminated.

Judicial Divorce التَّفْرِيقُ: Judicial Divorce: This is the divorce between spouses upon the decision of a judge based on a specific reason. Women can apply to courts with a specific reason in the event that men unilaterally use their rights to divorce. Hanafi followers are the people who limit the reasons women can present to apply to a court the most. According to them; only sexual disorders, mental problems and severe medical conditions such as leprosy or vitiligo can be the reason for judicial divorce. Whether men's incompetence or negligence in providing the alimony or maintaining the living, men getting lost at a period of time, and men's malevolent treatment and conflicts could be accepted as judicial divorce is controversial. Scholars who do not consider these as a reason of judicial divorce explain that problems should be solved in different ways and that families should not be fragmented. Adultery by one of the spouses does not terminate the marriage but it can be used as a reason for divorcing by the other side. Marrying a man or woman who does not forswear and keeps on performing adultery or staying married to them is not permissible.[148]

Arbitrator: If mutual disagreement emerges between the spouses, Allah Almighty orders people to find an arbitrator form both sides and to solve the issues via these arbitrators.[149] The verse does not emphasize arbitrators' authority to divorce people. According to Hanafi and Hanbali people, they do not have such an authority. However, according to Maliki followers, they have the authority to divorce people and to grant the right to divorce upon a fee to women. As understood from a Shafi narrative, arbitrators have the authority to divorce. However, another Shafi narrative indicates that they do not have such an authority.

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[148] an-Nur 24/3.
[149] an-Nisa 4/35.

Swearing الإيلاء: It is the process of swearing by the husband who promises not to approach his wife physically for four months or longer.[150] It was considered a form of talaq during the ignorance period, but Islam limited the duration of swearing by four months with a particular provision. If a husband breaks his oath in four months, he pays atonement consequently but maintains his marriage. According to Hanafi followers, if he does not break his oath in four months, the marriage ends on its own and this is the divorcing form called talaq al-bain. According to Maliki, Shafi and Hanbali people, women should apply to a court.

Zihar الظِّهَارُ: This is a form of divorce where a husband resembles a limb of his wife to that of his mother. In this case, having sexual intercourse with her becomes unlawful. This was a form of talaq in the ignorance period. Islam brought a specific provision in this regard. Zihar is unlawful.[151] Couples do not get divorced due to zihar but a husband cannot approach his wife if he does not pay the atonement. If a husband persists in not paying the atonement, he is forced to do so by the court. Normally, one is not forced to perform prayers, but as women get harmed and blemished in such processes, forcing men is regarded suitable.

Mutual Repudiation / Mulaanah مُلاَعَنَةً/اللِّعَانُ: This is the process of divorcing following the legal actions taken by the court in the event that a husband blames his wife for performing adultery but cannot find four witnesses to prove that.[152] Blaming anybody for adultery requires the testimony of four witnesses.[153] If adultery cannot be proved by four witnesses, the blamer is punished with 80 stick strikes, and that person cannot be a witness for a lifetime.[154] Mulaanah is not a criminal but a divorce suit. Following the process of mulaanah, couples get divorced and their children are considered to be fatherless. Mulaanah is an eternal obstacle before marriage, according to Maliki, Shafi and Hanbali followers. Couples who got divorced through mulaanah cannot marry one another again. For Hanafi followers, mulaanah is just a temporary obstacle before marriage. If the husband confesses that he besmirched his wife's name, he is beaten with a stick 80 times but he can marry her again later.

Divorce Upon a Fee/Mukhalaa مُخَالَعَةً/الْخُلْعُ: This is the form of divorce where man accepts divorcing his wife upon a fee offered by the women.[155] This fee can be the return of the bride wealth or any amount of other

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[150] al-Baqarah 2/226-227.

[151] al-Mujadalah 58/1-4.

[152] an-Nur 24/6-9.

[153] an-Nur 24/2.

[154] an-Nur 24/4, 23-24.

[155] al-Baqarah 2/229.

goods. Higher amounts of such fees compared to the bride wealth are abominable for some scholars and unlawful for others.

Abjuration: Abandoning Islam terminates the Islamic marriage. Marriage with non-Muslims was prohibited for Muslims, except the honorable women in ahl al-kitab. The marriage ends right after the abjuration. There is no need for legal decision in this regard. If husband and wife abjure collectively, they do not get divorced and can maintain their marriage if they adopt Islam once again. If a Muslim woman becomes Christian or Jewish, a Christian woman adopts Judaism, or a Jewish woman becomes Christian, then their marriage continues because such a marriage is initially permitted.

Death: Death ends life and marriage. Women whose husbands have died wait for a period of delay following their previous marriages.

Although the cases terminating the marriage also end the marital relationships between spouses, the family ties with the people other than the divorced spouse continue. This is the case in the prohibition of marrying children, mother-in-law and father-in-law.

21. Results of Terminating Marriage

If marriage ends through one of the methods mentioned above, the primary results are the period of delay for women and alimony from the previous husband. The periods of delay regarding talaq and death are different. While examining the issue of alimony for the divorced couples, scholars have generally mentioned the topics of alimony for children, ancestry and grandchildren, and other relatives. If the women who divorced her husband or whose husbands died have a child or deliver a baby during the period of delay, the topics of the child's lineage, breastfeeding and child care become challenging.

Period of Delay Regarding Marriage for Women

Period of delay is the duration a woman who divorced her husband or whose husband died has to wait before marrying another man. Allah Almighty ordered people to perform talaq considering the period of delay and to wait this period carefully.[156] Marrying or proposing to a woman who waits for the period of delay is unlawful but allusions can be made.[157]

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[156] at-Talaq 65/1.

[157] al-Baqarah 2/235.

The reasons requiring women to wait for a period of delay are as follows: 1. Death of husband Experience of seclusion or sexual intercourse does not matter in this regard. 2. Divorcing following the proper marriage, seclusion or sexual intercourse. There is no need to wait for the period of delay if seclusion or sexual intercourse did not occur with the previous husband. 3. Intercourse following a peccable meaning. The period of delay is an obligation if one of the afore-noted reasons is present. A man does not wait for the period of delay.

This duration changes by women's status and reason for the period of delay. This period is affected by the duration of women's period, number of days in a month, or pregnancy. As per the verse "*Divorced women remain in waiting for three periods*"[158], normal women who are not pregnant and menstruate once a month wait for three ovulation periods according to Hanafi and Hanbali followers in regard to the disagreement on the concept of "periods" in the verse. However, according to Maliki and Shafi followers, three periods of cleanliness are expected. The period of delay is three lunar months for the women who are divorced but do not menstruate.[159] Moreover, the period of delay for women whose husbands died is four lunar months and ten days.[160] Those women mourn by staying nowhere but their houses, using no fragrance and avoiding efforts to look beautiful.[161] The period of delay for pregnant women is the end of pregnancy.[162] There are different opinions regarding the period of delay for women who do not menstruate and for those whose husband died when they were pregnant.

Alimony and Residential Rights of the Divorced Women

The alimony for the period of delay changes by the form of talaq (talaq al-rijj or talaq al-bain). The alimony of woman is born by the husband in talaq al-rijj.[163] However, if a woman is pregnant talaq al-bain, the alimony is still born by the husband in talaq al-bain.[164] If a woman is not pregnant, the alimony is born by the husband according to Hanafi followers. However, that woman does not have the right to demand alimony according to other sects. Shafi people believe that women who wait for the period of talaq al-bain only have the residential right. The main source of disagreement on this issue is the different interpretations of at-

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[158] al-Baqarah 2/228.

[159] at-Talaq 65/4.

[160] al-Baqarah 2/234.

[161] Bukhari, "Janaiz", 30; Muslim, "at-Talaq" 9; Nasai, "at-Talaq", 55.

[162] at-Talaq 65/4.

[163] at-Talaq 65/1.

[164] at-Talaq 65/6-7.

Talaq 65/7. The verses explaining the alimony for the period of delay are as follows: *"Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed (your child) for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman. Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease.*"[165]

No alimony is demanded for the period of delay arising from a husband's death. In that case, the woman is already a beneficiary of her husband's inheritance.[166]

22. Child Welfare Following the Separation of Spouses

The families are fragmented upon the divorcing of spouses but the kinship between parents, children, grandparents, grandchildren, siblings and other relatives continue to exist. The obstacles in marriage between the ancestry and children of the previous spouse also continue to be present.

The authority on the personality and goods of children is undertaken by the fathers while the marriage is maintained or when they are divorced. When the father cannot be found, the authority is passed from father to grandfather and other men in the lineage based on the degree of closeness. When there are no male relatives, the authority is passed to mother or another female relative when a mother cannot be found. A judge can assign an appropriate person when necessary.

The responsibility on the care and education of children is undertaken by the mothers while the marriage is maintained between the spouses or when they are divorced. When the mother cannot be found, it is passed to female relatives such as grandmothers, sisters, aunts or daughters of sisters. If there are no such female relatives, this responsibility is passed to father or other male relatives. A judge can assign an appropriate person when necessary. Whether mothers can be legally or morally forced to fulfill their maternal responsibility of childcare including breastfeeding has been controversial among canonists. Normally, a woman is not expected to avoid breastfeeding her child. The normal duration of breastfeeding is two years. However, upon the spouses' mutual consent,

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[165] at-Talaq 65/7.
[166] an-Nisa 4/12.

they can find a wet nurse for a certain amount of sum when a mother needs to end the breastfeeding period.[167]

Meeting Childcare Expenses

According to Hanafis, mothers cannot demand a separate fee for childcare when they are married to the children's fathers or wait for the period of delay after talaq al-rijj or talaq al-bain because the alimony to be paid by the husbands covers the childcare expenses. However, following talaq al-bain, women can demand extra fee for breastfeeding. After the period of delay, mothers can demand separate fees for breastfeeding and childcare. Allah Almighty reports the relevant divine orders in the following verse: "*And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman.*"[168] The childcare and breastfeeding fees here are different to the alimony mothers can demand.

According to many scholars, no fee should be asked for the childcare. However, women can ask for fees for actions such as washing clothes or cooking.

Childcare expenses are met by the goods of children first, if available. In the absence of such goods, these expenses are met by the fathers, and if fathers cannot be found, the alimony is met by other relatives based on the degree of closeness.

Divorced Couples' Right to See Their Children

Scholars have stated that children have the right to see their mothers or fathers everyday. According to Shafi people, children can see their parents in every few appropriate days. One of the divorced sides cannot prevent the other side from seeing the child. Based on the changing conditions, the duration and conditions of seeing the children can be organized by legal decisions.

23. Kinship Alimony

Sources of Islamic law attributed importance to the alimony and care regarding children, ancestry and other relatives. It is clear that the ideas on this topic were determined as a result of judicial opinions based on the customs of the era, meaning they are open to changes. The concept of social

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[167] al-Baqarah 2/233.
[168] at-Talaq 65/6.

state which have become popular in present days indicates in this context that many missions assigned to relatives are now undertaken by the state.

As a rule, in terms of ancestry's alimony, parents undertake the responsibility of paying the alimony if they are wealthy. If they are not wealthy, their children are responsible for caring for them. A judicial decision in this regard can be issued when necessary. According to most of the scholars, the religions of parents are not important in regard to the responsibility of children's alimony. If the number of children is more than one, the issue of whether the expenses are shared based on the inherited share or in equal amounts is controversial. If the father can work, whether he can be forced to work is also controversial. The general idea is that fathers cannot be forced to work and that they should be cared for by their children. A judicial decision is not needed for the necessity of ancestry's alimony.

Regarding the children's alimony, a father is responsible for caring for his poor and unemployed children. If their mother is wealthy, then she is also responsible in this regard. Being a student or serving at the military is accepted as the reason of unemployment. Parents of an employed child are not obliged to pay alimony. After the daughter becomes employed, the obligation for her parents to pay alimony becomes nullified. No judicial decision is needed for the necessity of children's alimony.

The main principle in terms of other relatives' (siblings etc.) alimony is the responsibility of alimony between the relatives who are accepted to be mahram. However, a judicial decision is necessary for receiving such an alimony.

24. Succession Between the Family Members

The Islamic Law of Inheritance has a particular system when compared to other systems in the world. The Islamic Law of Inheritance protects family and individuals, ensuring the balance in this regard. This law has been established upon certain hadiths and the works of scholars, with the verses an-Nisa 11, 12, 13 and 176 as the primary reference. Women were not granted a share during the ignorance period, but Islam provides a share to them, with rates changing by the case.[169]

The reasons for succession: The blood lineage consists of marriage and custodianship (agreement of muwalat).

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[169] an-Nisa 4/7, 32-33.

Successors of blood lineage are divided into three as ashabu al-faraiz, asabah and zawi al-arkham.

Ashabu al-faraiz means those who have a certain share. Their shares are primarily determined. Wife, husband, father, mother, daughter, daughter of son, sister, sister from the same father, siblings from the same mother, paternal grandfather and grandmothers from both sides. Their shares are divided as 1/2, 1/3, 1/4, 1/6, 2/3 or 1/8, based on the cases regarding other successors. These cases are called "forty situations".

Asabah: They get the sum remaining from ashabu al-faraiz. In the absence of ashabu al-faraiz, they get the entire inheritance sum. Asabah is divided into two as asabah al-nasabiyya and asabah al-sababiyyah, with the former having three subgroups as binafsihi, bigairihi and maal-gair. Asabah al-sababiyyah are those who free a slave.

Zawi al-arkham: It indicates distant relatives such as daughter's children, uncles or aunts. According to Hanafi and Maliki followers, they are granted a share when there is nobody in the first group.

Those who can act as successors through a marriage are spouses.

The agreement of Muwalat is based on two people's consideration of one another as custodian, which is a reason of heirship solely for Hanafi people.

According to Hanafi and Hanbali people, successors are ordered as follows: Ashab al-faraiz, succession based on blood lineage, succession based on freedom, successors within the rejected ashab al-faraiz (except the spouses), zawi al-arkham, mawla al-muwalat, those with certain lineages specified through acknowledgement, musa lakh who have succession more than one-third, hazinah/baytu al-mal.

The conditions of succession are the passing of the testator, presence of successors, and no obstacles before the inheritance. Those who died collectively cannot be the successors of one another. The share of the child in woman's womb is reserved, and the child can have the share later following a health delivery. Killing the testator intentionally is an obstacle before succession. Whether religious differences are also obstacles have been controversial.

A testator cannot exclude any successor from the inheritance which is compulsory and automatically assigned to the name or account of a successor. The successors are responsible for the debt of the dead as much as the inherited amount. Bequests cannot be granted to successors. The bequests granted to other people cannot be more than one-third of the inherited amount. The balance between the blessings and expenses is

observed in the heritage system. The lesser amounts received by women and other successors are explained accordingly. These amounts are directly associated with the financial responsibilities of men in their societies (guardianship, paying the liabilities, participation to jihad etc.) and families (bride wealth, alimony). It is convenient for successors to share the inheritance however they like (on the condition that they are adults and ready in this regard). In the event that they cannot agree, judicial division is performed. The presence of close relatives prevents distant relatives from benefiting from the inheritance partially (hajb al-noqsan) or totally (hajb al-khirman). The lineage in Islamic law is maintained from the lineage of father. Daughters are regarded as zawi al-arkham.

Conclusion

Islam attributes great importance to family. Most of ahkam verses in the Quran are directly related to the domestic topics of marriage, divorce and inheritance, which is also the case for ahkam verses. Accordingly, the topics that are examined the most in fiqh sources are domestic subjects. Family is a significant institution that dates back to the first humans and that is reported to continue in paradise. It is established with the marriage between men and women, joined with the birth of children, and it expands with other relatives. Marriage is an easy and inexpensive act. The provisions of marriage vary by the statuses of people. Helping or getting along with one another, as well as the concepts of love and mercy are the core of family. Being a family brings certain rights and responsibilities between the spouses, parents and children, and with other relatives. The main purpose of establishing a family is fulfilling what God orders to people in accordance with the reasons behind humans' creation. Certain options such as utilizing advice or an arbitrator are mentioned to solve marital problems. Divorcing is permitted when marriage becomes unbearable. However, spouses' parental rights and responsibilities over their children still continue to exist. Islam permits conducting different actions based on sides' consents in the issues such as the authority to divorce and financial matters.

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Women in Islam: a Comparison[*]

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Abstract

Islam is a religion revealed to establish peace, love and justice among people by virtue of tawheed. Aiming to address all members of humanity, Islam does not include any superiority and privilege related to race, nobility or gender. Therefore, men and women are equal in terms of humanity, which was not the case for pre-Islamic societies. Women's status was often lower than that of men. Islam regained the rightful place for women. This study will initially mention the view of Islam to women, and then it will discuss the position of women in Ancient Greek, Roman, Judaism, Christianity and Indian cultures. The position of women in Islam and mentioned religions and cultures will also be compared.

Keywords: Islamic Civilization, Women, Islam, Greek, Rome, Judaism, Christianity, Indian.

İslâm'da Kadın: Bir Mukayese

Öz

İslâm dini, barış, adalet ve sevgiyi tevhid temelinde yükselterek insanlar arasında yerleştirmek üzere gönderilen bir dindir. İslâm, tüm insanlığa hitap eder ve ırk, asalet ve cinsiyete bağlı bir üstünlük ve ayrıcalığa yer vermez. Dolayısıyla kadın ve erkek de insanlık düzleminde denktirler. İslâm'dan önceki toplumlarda ise durum bu şekilde değildir, kadının konumu çoğu zaman erkekten aşağıdadır. Kadına hak ettiği yeri İslâm, yeniden kazandırmıştır. Bu çalışmada öncelikle İslâm'ın kadına bakışı söz konusu edilecek, ardından Eski Yunan, Roma, Yahudilik, Hıristiyanlık ve Hint kültürlerinde kadının konumuna değinilecek ve sonrasında İslâm'ın kadına bakışı daha detaylı ele alınarak kadının İslâm'daki ve mezkur din ve kültürlerdeki konumu kıyaslanacaktır.

Anahtar Kelimeler: İslâm Medeniyeti, Kadın, İslâm, Yunan, Roma, Yahudilik, Hıristiyanlık, Hint.

Introduction

As known to all, people do not have superiority over each other due to certain characteristics such as gender, lineage or status in Islam. Instead, superiority is related to the principle of performing duties and ensuring devotion however needed. In certain pre-Islamic religions and systems, certain characteristics such as

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nobility, ethnical lineage and gender were among the reasons for superiority. Therefore, being a member of a family with a lower status, coming from a lineage at a lower social position or being a female caused exposure to injustice and inequality. Women were deprived of most of their rights in the Pre-Islamic periods.

The Prophet was sent to guide people in many subjects including the protection of women's rights, stating that the pathway to paradise is directly related to the respect to mothers.

The first order of Islam and first verse in the Quran can be translated as "read", which concerned not only the Prophet but also all Muslims . In other words, people who are deemed to be responsible for fulfilling Allah's orders are not the privileged people who are members to a certain group, class or gender. All Muslims are the addressee of this order and they have to fulfil it. Islam does not confine religious education to a certain class or group, or makes a discrimination between men and women. Both men and women are supposed to undergo Islamic education. They are not superior to one another, and when one side fulfills the responsibilities, the other side still remains responsible for what they are supposed to do.

As known to all, family is like a company that is established on the love and commitment between two people. The Quran orders the following in this regard: "*And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for people who give thought.*"[1] This partnership yields certain responsibilities that should be collectively fulfilled. Individual responsibilities were determined based on the creation-related characteristics. Therefore, a relationship between a man and woman starts as how Islam orders.

This study aims to briefly examine the rights given by Islam to women, suiting their nature, and to review the pre-Islamic period to see how women, who constitute half of humanity, were honored in Islam. To perform a correct assessment, all periods should be compared in this result. For that purpose, this study aims to examine the approach of pre-Islamic religions and philosophies toward Islam in relation to a certain article, which will help people understand Islamic perception toward women. In addition, the correct aspects of certain modern misconceptions can be realized.

Islam regards women as an esteemed creature and reflects that they are the backbone of a family. During the pre-Islamic periods, women were considered despicable. They were even believed to have a lower social status and to be created solely for serving men. Islam has fought against this attitude and indicated that men and women were equal and have no difference with the following verse: The Quran stated the following in this regard: "*O mankind! Fear your Lord, who created*

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[1] ar-Rum 30/21.

you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs."[2]

Before detailing women's rights according to Islam with the aforenoted outlines, how the pre-Islamic religions and cultures considered the concept of femininity will be reviewed.

1. Women in Ancient Greece

Women in Ancient Greece were regarded as an inferior creature and deprived of all sorts of rights. They could only do housework and had no authority to make a decision in important topics. Husbands beat their wives or handed them to somebody else as a gift if they wanted to do so, and women were kept with the slaves. Female children could not have a share from an inheritance. Only male children could be a shareholder in this regard. Women were assigned a function of protecting men's deposits.[3]

Women were regarded as the cause of malevolence in this world. In a Greek myth, the case is reflected as follows: Zeus wanted to take revenge on men due to his anger toward Prometheus. Thus, he created a beautiful creature. All gods worshipped that creature with veils, flowers and a golden crown. Her name was determined to be *Pandora* meaning "gift for everyone". Zeus made this "disaster" descend on the world. Women were then the greatest enemy of men.

According to a belief, the reason for malevolence was Pandora's curiosity, rather than herself. The gods gave a chest believed to be filled with harmful contents to Pandora and told her to not open it. Pandora gave up to her curiosity and wanted to learn what was inside the chest, and one day, she opened it. The malevolence within the chest spread. Then, she closed the chest with a great fear but it was too late. Therefore, Zeus wanted to punish humanity with the presence of women.[4]

These points briefly mentioned above were myths but they reflected the general perspective of society, social perception toward the events and people, and subconscious social beliefs in this regard. Accordingly, a culture that had to be accepted by almost everybody was formed in this field.

Such an opinion and conception stay within the minds of people since childhood, so it is challenging to remove these from minds of the people. This opinion and conception will become an ancestral culture. As known to all, changing

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[2] an-Nisa 4/1.

[3] For more details in this regard, see: August Bebel, *Kadın ve Sosyalizm*, trans. Saliha Nazlı Kaya (Istanbul: İnter Yayınları, 1991), 67 – 68.

[4] Edith Hamilton, *Mitologya*, trans. Ülkü Tamer (Istanbul: Varlık Yayınları, 1968) 46-47.

cultures is not so easy.[5] However, it should be noted that this opinion and relevant conception would be passed to Christianity with certain characteristics. Accordingly, this issue will be examined under the title "Women in Christianity".

2. Women in Rome

Rome guided the legal system in many societies but Roman people were under the impact of Greek people. Then, certain Roman gods almost had the same characteristics as the Greek gods. For instance, Greek's Zeus and Jupiter of Rome resemble one another greatly. Women's status in Rome resembles their positions in Greek Society. Men were the head of the family and had limitless authorities over their wives and children. They even had the authority to kill their wives from time to time. Men could do anything based on this authority.[6] Fathers with broad authorities could include or exclude anybody in regard to their families, which was particularly the case for the female children. Girls could not have property. If they could gain anything, those goods would be added to the property of their fathers, which did not change even if girls reached adolescence or got married. Marriage was not performed through mutual consent and did not provide equal rights to genders. When a young girl gets married, she makes another contract with her husband, called the "Leadership Agreement", in one of three ways:

1. Through the presence of a religious authority in a religious ceremony.

2. Through the purchase by the husband.

3. Through a year of constant physical and spiritual relationship after marriage.

When one of these ways were used, fathers lost their authority over their daughters. The authority was passed to the husbands. Such results indicate that women were not totally authorized. The Law of Twelve Tables considers the deficiencies regarding the following as the reason of juridical disability: age, rational status, femininity. This rule was within French laws until the year 1938 because these laws were derived from Roman laws.[7]

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[5] For more details about culture, see: Ziya Kazıcı, *İslâm Medeniyeti ve Müesseseleri Tarihi* (Istanbul: İFAV Yayınları, 2018), 19-20.

[6] For more details, see: Paul Koschaker, *Roma Hususi Hukukunun Ana Hatları,* trans. Kudret Ayiter (Istanbul: Ankara Üniversitesi Hukuk Fakültesi Yayınları,1963), 77-78; Ziya Umur, *Roma Hukuku* (Istanbul: Istanbul University, Faculty of Law, 1984), 383-388.

[7] "Gender should be mentioned among the laws that reduces authorities regarding rights. Regarding the legal capacity to have rights affected by gender, particularly the capacity to act, women could not be custodians during any time in the classical period and Justinianus Era, except certain cases, if they could not have common public rights. Their legal rights to claim inheritance were limited. They could not inherit the sums that exceeded certain amounts." Umur, *Roma Hukuku*, 399-400; Also see: Mustafa Sıbaî, *İslâm'a ve Garplılara Göre Kadın*, trans. İhsan Toksarı (Istanbul: Nida Yayınevi, 1966), 35.

3. Women in Judaism

Judaism does not consider women differently compared to the pre-Islamic religions and systems. The Torah is the collection of Jewish traditions, and some of its content have been changed over time. Moreover, some even contradict one another. The following sentences seen in the translations of the Old and New Testament supervised by the German Protestant Church Commission are interesting: "The Sacred Book (The Old and New Testament = The Torah and The Bible) are not descended. The Old Testament had its final form with 39 books while the Bible with four books developed gradually in time and again took its final shape over years."[8] The issue of women in the Torah is full of contradictions. For instance, certain parts of the Torah regard women as creatures deserving proper treatment while some reflect women as malevolent and cursed creatures. Therefore, Jewish people had different beliefs toward women and displayed different treatments. Some Jewish people considered women as handmaid. They even had the right to sell the women. They could have inheritance only in the event that they had no brothers. According to Jewish beliefs that reflect women as cursed due to seducing Adam, the reason for the women to pass away during delivery was that they could not perform their duties properly. However, associating the death with the failure to perform religious duties properly is not logical from a religious perspective. However, Talmud – the greatest interpretation of the Torah – contains the following information:

"Women pass away during delivery for three crimes. Neglecting periods, making mistakes in making dough, and failing to light the Sabbath candle."[9]

Women of Jewish society, who were on their period, were totally excluded from the society. The conditions were so harsh for them that it was almost impossible for them to fulfill these conditions. Even the women who died during delivery were accused of a crime. Women whose period were over were obliged to sacrifice an animal as an atonement as they were believed to have committed a sin. The *Leviticus* in the Torah reflects the Jewish approach as follows:

"When a woman has her regular flow of blood, the impurity of her monthly period will last seven days, and anyone who touches her will be unclean till evening. Anything she lies on during her period will be unclean, and anything she sits on will be unclean. Anyone who touches her bed will be unclean; they must wash their clothes and bathe with water, and they will be unclean till evening. Anyone who touches anything she sits on will be unclean; they must wash their clothes and bathe with water, and they will be unclean till evening. If a man has sexual relations with her and her monthly flow touches him, he will be unclean for seven days; any bed he lies on will be unclean.

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[8] For more details, Hayrullah Örs, *Musa ve Yahudilik* (Istanbul: Remzi Kitabevi, 1966), 4.

[9] Örs, *Musa ve Yahudilik*, 368.

"When a woman has a discharge of blood for many days at a time other than her monthly period or has a discharge that continues beyond her period, she will be unclean as long as she has the discharge, just as in the days of her period. Any bed she lies on while her discharge continues will be unclean, as is her bed during her monthly period, and anything she sits on will be unclean, as during her period. Anyone who touches them will be unclean; they must wash their clothes and bathe with water, and they will be unclean till evening. When she is cleansed from her discharge, she must count off seven days, and after that she will be ceremonially clean. On the eighth day, she must take two doves or two young pigeons and bring them to the priest at the entrance of the meeting tent. The priest is to sacrifice one for a sin offering and the other for a burnt offering. In this way he will make atonement for her before the Lord for the uncleanness of her discharge."[10]

The menstrual cycle experienced as a natural and biological period by every healthy female after reaching adolescence was regarded as a crime in Jewish society. The atonement and amnesty of this crime occurred through sacrificing an animal with the assistance of religious people (rabbis).

According to medicine, women on their period are weak and uncomfortable. Thus, they need to rest. During this period, the blood vessels in the uterus are open and prone to infections. Sexual intercourse increases the risk for infection greatly in this period. To prevent women from getting more tired and becoming ill, Islam prohibited sexual intercourses in this period. Contrary to Jewish approaches, women are not excluded from social life, and they or what they touch are not regarded as dirty. Thus, this natural period is not regarded as a crime. Although there are more details regarding Jewish perception toward women, this study will refer to a story mentioned in the Book of Genesis in order to not change the subject. Without needing more explanations, the readers can clearly see the shocking case between a father as a Prophet and his daughters.

"Lot and his two daughters left Zoar and settled in the mountains, for he was afraid to stay in Zoar. He and his two daughters lived in a cave. One day the older daughter said to the younger, "Our father is old, and there is no man around here to give us children—as is the custom all over the earth. Let's get our father to drink wine and then sleep with him and preserve our family line through our father." That night they got their father to drink wine, and the older daughter went in and slept with him. He was not aware of it when she lay down or when she got up. The next day the older daughter said to the younger, "Last night I slept with my father. Let's get him to drink wine again tonight, and you go in and sleep with him so we can preserve our family line through our father." So they got their father to drink wine that night also, and the younger daughter went in and slept with him. Again he was not aware of it when she lay down or when she got up. So both of Lot's daughters became pregnant by their father. The older daughter had a son, and she

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[10] *Qitab al-Muqaddas* (Istanbul: Kitabı Mukaddes Şirketi, 1958), Book of Leviticus 15/ 19-30.

named him Moab. He is the father of the Moabites of today. The younger daughter also had a son, and she named him Ben-Ammi. He is the father of the Ammonites of today."[11]

What would thousands of Jewish girls who read these texts in their sacred books think every day? How are the thoughts of Jewish people who read this story about Lot – a great Prophet of Allah – and his daughters developed in regard to femininity and the domestic environment? To what point does the calumny go that Lot's daughters slept with him, because there were no men around (the author experiences difficulty authoring these words), take people?[12]

4. Women in Christianity

According to Christianity, women are the toys of the devil and made Adam commit the great sin by seducing him to eat the forbidden apple. They are the mothers of sins, corruption and misbehavior. Due to this sin, God's provisions have been covering the women. The crime continues to exist today. Women are always the source of malevolence. In the Makun meeting performed five centuries later than the birth of Jesus , the following decision was made: "women, except Mary, as she was the mother of Jesus and a semi goddess, cannot escape from hell"[13]. A similar approach was displayed in a meeting performed in 586 by French people who discussed whether women could be considered human. That question was answered in that meeting as follows:. "Women are the creatures created to serve men."[14] Regarded as toys of the devil, all women were cursed and blemished as one of them made Adam eat the forbidden fruit. The immoral acts, of the early-period Roman society experienced by the Christian religious authorities, horrified these religious people. They wanted to get away from women due to considering them as the only reason of these immoral acts. The following idea was noted in early periods:

"Women are the mothers and source of sins, corruption and misbehavior. They were the people who made men commit sin by provoking her feelings. Therefore, they are the doors of hell. They are also the source of all human calamities and problems. Even their existence is the source of embarrassment for others. Do not get carried away with the physical beauty and shy attitudes of them. They are the most modern weapons of the devil. They need to be punished as they spoiled the world and drove people into malevolence."[15]

Tertullian, one of the first Christian leaders, addressed women in his speech as follows: "You do not know that you are the daughters of Eve. Due to that great

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[11] Book of Genesis, 19/30-38.

[12] For more details, see: Ziya Kazıcı, *Yaratılış Günah ve Tövbe* (Istanbul: Çığır Yayınları, 1975), 76-82.

[13] Sibai, *Kadın*, 19.

[14] Sibai, *Kadın*, 19.

[15] Abu al-Ala Mawdudi, *Hijab*, trans. Ali Genceli (Istanbul: Hilal Yayıncılık, 1972), 30.

sin, God's provisions still cover you in this present day. The crime is still here. You are the toys of the devil. You are the ones who ate from the forbidden tree. You are the ones who opposed the divine rules… and blemished Allah's name…"[16]

Commitment of women, who were noted to be created for men only, to their husbands is like the commitment to God. For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Savior.[17]

As women are regarded as dirty, marriage was considered malevolent. Married people cannot think of anything but their wives. Marriage makes men deviate from God's path. A benevolent and clean man cannot marry and stays away from women. Qitab al-Muqaddas stated the following in this regard:

"I would like you to be free from concern. An unmarried man is concerned about the Lord's affairs—how he can please the Lord. But a married man is concerned about the affairs of this world — how he can please his wife — and his interests are divided. An unmarried woman or virgin is concerned about the Lord's affairs: Her aim is to be devoted to the Lord in both body and spirit. But a married woman is concerned about the affairs of this world—how she can please her husband. I am saying this for your own good, not to restrict you, but that you may live in a right way in undivided devotion to the Lord."[18] In a religion where avoiding marriage is regarded as the greatest sin, children are not considered valuable. The night prayer of the Catholic Church includes the following: "Ece enim, in iniquitatibus conceptus sum et in peccatis me mater mea."(I was in the womb upon sin, as my mother committed sin while getting pregnant.) Can couples commit the same sin after hearing these words in every prayer ceremony?[19]

Similarly, the following commandments given within "Corinthians 1" resulted in a conception that aimed to gradually terminate marriage. "What I mean, brothers and sisters, is that the time is short. From now on those who have wives should live as if they do not."[20] This and similar words caused great chaos among Christian people. Priests then could not marry, and those married stayed away from their wives. Some monks even punished married priests. People were banned from listening to the married priests due to their impact. Married priests were displayed on logs as the slaves of lust who submitted to "women". They should not be pitied. Moreover, Rome was hoping that married priests could be corrected without sending them away from the church. Pope Benedict VII issued a law in 1018 stating that children of church members were the permanent slaves of the church. After children, women were also blacklisted. Wives of priests were deemed equal to mistresses.

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[16] Bahiy al-Huliy, *Ailede ve Toplumda Kadın*, trans. Abdullah İşler (Ankara: Elif Matbaacılık, 1972), 9

[17] Ephesians 5/22-25.

[18] Corinthians 7/32-38.

[19] Richard Lewinshon, *Cinsî Âdetler Tarihi*, trans. Ender Gürol (Istanbul: Varlık Yayınları, 1966), 109.

[20] Corinthians 7/29.

Due to great chaos, Pope Leo IX (1048-1054) brought a new order and took a step further. It was now obligatory for priests to have a sexual diet. Resisting such an order not only meant a crime, but also atheism. The church did not have to fight to punish the atheists. Masses provoked by the monks attacked the priests who did not want to divorce their wives. A Church Assembly gathered in Rome in 1059 and prohibited listening to "Mes Ritual" from a priest aiming to blemish the married priests. A council established in Rome in 1074 regarded all sorts of activities between priests and women as adultery. All priests who lived with their wives were ordered to leave their wives. As the church did not recognize the law of divorcement, spouses in a home should sleep and eat at different places in their houses.[21]

As seen before, marriage turned into an organization that was not welcomed. The sexual relationships were deemed malevolent in Christianity, even if they were performed by married people. They even reflected this in their prayers. Marriage of priests was an obstacle before performing rituals. People rioted against these priests while escaping from them. These thoughts of Christian people in regard to the married priests also harmed domestic ties.

The institution of marriage started to lose its importance in Christianity which also did not permit divorcement. People who wanted to divorce were rejected regardless of their genders. Divorcement did not occur and those who divorced previously and married again were considered to have performed adultery. Therefore, marriage was not approached positively. People who were planning marriage did not want to do so later as they knew there would not be any chance for divorcement. When one of the spouses died, the other could marry but the Christian Church classified these marriages as "marital adultery".[22]

The Christians' perspective toward women, in regard to possessing goods, was different. Women could not have any goods after marriage in Christianity, which was also the case for the previous religions and cultures. All of the women's goods were passed to their husbands after marriage. Jean Said Makdisi, the author of *Three Generations of Arab Women* based on real experiences and sister of Edward Said, states the following when telling about her grandmother: "My grandmother was born within the Ottoman Empire. She was the daughter of a priest who came to Beirut during the early days of the 19th (XIX) century. Everybody claimed that they were innovators or imperialists. However, during those days, Muslim women had more advantages than the Christian women. They could even have their own goods. However, in Christianity, married women's goods were transferred to their husbands. Until the enactment of "The Proprietary Right" for married women in

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[21] Lewinshon, Cinsî Âdetler Tarihi, 111.

[22] For more details and references, see: Kazıcı, *Yaratılış Günah ve Tövbe*, 88-91.

1860, they could not have any goods. Muslim women were never exposed to such practices. Accordingly, they were at an advanced status."[23]

All conceptions adopted by Christians were associated with divine results. Even statuses of Christians under the Kingdom of Heaven were not guaranteed. The otherworldly awards for them were coincidental. Accordingly, women were at a much worse status as they were believed to have performed the greatest malevolence. A verse in book Matthew of the Bible states the following:

"At that time, the Kingdom of Heaven will be like ten virgins who took their lamps and went out to meet the bridegroom. Five of them were foolish and five were wise. The foolish ones took their lamps but did not take any oil with them. The wise ones, however, took oil in jars along with their lamps. The bridegroom was a long time in coming, and they all became drowsy and fell asleep. At midnight a cry rang out: "Here's the bridegroom! Come out to meet him!" Then all the virgins woke up and trimmed their lamps. The foolish ones said to the wise, "Give us some of your oil; our lamps are going out." "'No," they replied, "there may not be enough for both us and you. Go to those who sell oil and buy some for yourselves." But while they were on their way to buy the oil, the bridegroom arrived. The virgins who were ready went in with him to the wedding banquet. And the door was shut. Later the others also came. 'Lord, Lord,' they said, 'open the door for us!' But he replied: "Truly I tell you, I don't know you."[24] As understood from this story, half of Christians were not accepted to be before the throne of God. These foolish people who were deceived by the devil must have been anybody but men who were created from the form of God.

The rights and freedoms that are believed to have been granted to women in western countries are actually related to men's interests. Attitudes of western men toward women are actually a form of medieval attitude. The differences between the medieval mentality and modern ideologies are solely related to the methods arising from changes in time. Protecting women's rights was not adopted as an objective. It is clear that women have become an advertisement meta in Christian western societies. The materialist western world does not sell women like it used to do but it can drive women into any desired form for flamboyance. The examples in this regard could be seen during the industrialization period. Women who were employed in factories were to work like men despite being weaker. Moreover, their wage was lower than what was paid to men.

The west developed ways for people to use the bodily beauty of women and made women the fuel of their insatiable materialistic desires. Feminine images were used as advertisement with products, even the unrelated ones, and men's interest toward women was used. Therefore, both women and men were deviated from honor in time, and they were used as a way to make money. The need for

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[23] Ayşe Böhürler, "Büyük Annem, Annem ve Ben" *Yeni Şafak Gazetesi* (2 November 2019), 13.
[24] Matthew 26/1-12.

consumption materials was combined with the interest felt toward the women. Christian West satisfied its insatiable soul through these methods. Now, eyes of people look for an image of women beside every item.

People who consider the west as the protector of women's rights should know the following: The rights granted to western women are not a blessing of western men. European women who are thought to live a free life in this era have made great efforts to have their current rights, and they have made great self-sacrifices to have financial freedom. It is clear that they still make sacrifices. However, women have not been forced to make such efforts in Islam. The civilized (!) European legal system did not provide women's rights to them until recently. The only pathway to women's rights and freedom was related to men's will. These men could be women's fathers, husbands or custodians. In other words, European women managed to receive the rights Islam had granted to women 12 centuries prior. Besides, it was not easy for women to receive these rights. On the contrary, they had to renounce their honor and reputation. Therefore, European Christian women were forced to give up their most valuable treasure to receive their rights. European women had to shed blood, sweat and tears to achieve the rights and legal status to receive what Islam had directly and freely given to women by using violence against the European men.[25]

5. Women in India

Women's status was not very different in India. They were regarded to be related to all sorts of malevolence. Thus, there were not any creatures as evil and malevolent as them.

Women's status was not much different there. When their husbands died, women were burned alive[26] or forced to work like a slave in their husbands' house. After their husband's death, they could not marry another man. They were obliged to work in the house of their deceased husband despite being exposed to many insults, serving as a servant. They would even burn themselves to save their soul from the torture and pain of their husbands' absence.[27] The Hindu legal system has the following statement: "Patience to pain, wind, death, fire, poison, pests and hell are not worse than women." Women could be sacrificed for rain prayers to Gods' satisfaction. Moreover, they had no authority in terms of marriage and inheritance.

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[25] Muhammed Kutub, *İslâm'ın Etrafındaki Şüpheler*, trans. Ali Özek (Istanbul: Cağaloğlu Yayınevi, 1969), 146-147.

[26] The tradition of being burnt with the deceased husband was abolished by the English governor general in 1829. For more details, see: Kurban Özuğurlu, *Evlilik Raporu* (Istanbul: Altın Kitaplar, 1990), 19.

[27] Abu al-Hasan Ali Nadwi, *Müslümanların Gerilemesiyle Dünya Neler Kaybetti*, trans. İbrahim Düzen – Mustafa Topuz (Istanbul 1966), 39.

They might be forced to marry the men they did not love and could not get divorced. Women were at a lower position than men in most of religious issues.[28]

Despite the statement that it was abolished, there is a system in India called the caste system. This system has existed as a culture for centuries. It should be noted that societies can change the level of modernization in a short period of time. However, this is not the case for culture because it is not easy to change a culture that was received by people from their ancestry and that is experienced as a critical social element. Therefore, cultures that are the social lifestyles can be changed but this change would be quite challenging, lasting for centuries. It is fair to state that it cannot be altered totally, which is also the case in India in this regard. According to this cultural conception, people can only have relationships with the people from the same caste, particularly in marital relationships. A case reflected by news on 08/11/2019 indicates that the caste system still exists. According to this case, a young couple was stoned to death by their relatives in Karnataka, India, as they married out of the caste system. 29-year-old Ramesh and Gangawa who ran away together and married later came back to their village to pay a visit to their families three years later. Police officers stated that this couple was stoned to death by the brother, uncle or certain relatives of woman around the village. The brother, uncle and one of the perpetrators were injured, and an investigation was initiated. This couple, who ran away due to the disapproval by their families and who settled in Bangalore, had two children. Many couples are killed by their family members or relatives due to marrying out of the caste system. According to United Nations (UN) data, every 1000 out of 5000 honor killings performed worldwide are conducted in India." Ankara / AA.

The status of women was briefly explained in ancient religions and cultures. Women were not so different in the conceptions of Arabic people in the Ignorance Period when Islam was revealed. The newborn female children were buried alive and women had no rights. Therefore, this study does not prefer to examine the status of women back then.

6. Women in Islam

The social and legal status of women were not so bright when Islam was revealed. As it was known by everybody that female children in Mecca were buried alive in the pre-Islamic periods, not much information is needed in this regard.[29]

People who should be equal from all aspects could not be continuously exposed to the afore-noted practices. The divine justice indicated that these misconceptions should totally be removed and women's rights should be granted

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[28] Nadwi, *Dünya Neler Kaybetti*, 36; Sibai, *Kadın*, 17.

[29] For more details, see: Neşet Çağatay, *İslâm Öncesi Arap Tarihi ve Cahiliye Çağı* (Ankara: Ankara Üniversitesi İlahiyat Fakültesi Yayınları, 1982), 133-137.

back to them. As mentioned before, the Prophet who considered paradise under the feet of mothers aimed to increase women's status with these words. He ordered people to obey women who carry us in their wombs and raise us later. When asked about who deserved the most favors in this

world, he answered (p.b.u.h.):

- Your mother.

- Then?

- Your mother again.

- Then?

- Your mother again.

- Then?

- Your father.[30]

Can a greater value be granted to women? According to another hadith related to the Prophet, believers are recommended to have faith like "*the elderly women*" (Imanu al-Ajaiz). Similarly, the Quran has orders indicating respect and honor to be separately attributed to women. As noted earlier, these points are just a small part of the Islamic approach to women. Every benevolent man and woman deserves paradise.[31] The priority regarding the route to paradise or hell does not depend on gender, race, color, language or innate characteristics. The Quran reflects the wives of Noah and Lot as an example to non-believers and indicates that they will be in hell forever. Being the wives of Prophets yielded no good for them.[32] However, the benevolent wife of a Pharaoh is another example.[33] Being the wife of a man like a Pharaoh who claimed that he was a god did not result in going to hell.

The gender of a criminal does not differ in Islamic law. Whoever commits a crime is punished. The testimony of four witnesses is needed in domestic cases such as adultery. If a man states that his wife performed adultery and cannot prove this with four witnesses, he is punished with a penalty called "*hadd al-qazf*", meaning eighty stick beats.. According to a hadith in Bukhari and narrated by Ibn Abbas, Hilal ibn Umayya visited the Prophet and said his wife cheated on him with Shariq ibn Sahma. Then, the Prophet told him to find four witnesses or to get ready for hadd al-qazf if he could not find them.[34] This statement of the Prophet suits the surah an-Nur 4. Accordingly, that verse orders the following: *And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient*. It is

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[30] Bukhari, "Adab", 2; Muslim, "Birr", 1.

[31] an-Nisa 4/124.

[32] at-Tahrim 66/10.

[33] at-Tahrim 66/11.

[34] Bukhari, "Tafsiru al-Quran (Surah an-Nur)", 3.

clear that those who blemish the honorable women are punished with certain material penalties, and their testimony will not be accepted ever again. There are no better and more concrete examples in regard to protecting women's rights because those who direct such calumnies are deprived of certain rights throughout their lives. Nobody could easily do anything to be deprived of these rights.

Accordingly, a hadith in Bukhari is[35] as follows:

"According to the narration from Abu Hurayra (r.a.), one man visited the Prophet and stated the following: O Prophet! I just had a black son. I doubt my wife. Then, the Prophet asked: 'Do you have camels?' 'Yes' the man answered. Upon hearing this answer, the Prophet asked about the colors of camels. The man said his camels were red. Then the Prophet asked: "Is there a greyish camel that has black and white parts on its fur among them?" The man said yes. After the Prophet asked why there was a greyish camel among them, the man answered: "There must be one like that in its lineage." Then, the Prophet asked: Your son might resemble a black relative in your lineage."

It is clear that the Prophet told a man coming from the desert that he did not need to doubt his wife in a manner that the man could understand. Therefore, he indicated that nobody should blemish any woman's name without any evidence or witnesses.

The religions that significantly affect the formation of social movements, attitudes and cultures are also important for the formation of the ideas and approaches displayed by people who formed the society. The significant changes seen in pre- and post-Islamic attitudes and cultural sides of Muslims can only be explained through the factor of religion. The perception toward women of the Ignorance Period within the Arabic Peninsula and the women of the afore-noted societies, and the perception after the adoption of Islam are totally different.

Islam gave extended rights and authority to women not only in terms of finance but also in terms of every subject. Islam granted rights that were not provided by any religions to women in the matter of marriage which is highly important for women. The following provisions are present in fiqh: "Women's statements in marriage are respected. All women who are free and mentally healthy can marry. They can also act as a custodian and help others marry, and they can also select a custodian to help them marry. A custodian cannot force her adolescent daughter to marry."[36]

Sexual desires are human and natural, and they need to be satisfied. For Islam, these are totally normal for everybody. The continuation of a generation and humanity depends on sexual desires, on the condition that legal manners are

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[35] Bukhari, "Talaq", 26.

[36] Abdallah ibn Mahmud al-Mawsili, *al-İhtiyar* (Egypt: 1951), III/ 29.

observed. Therefore, anybody can meet such desires. Islam does not force people to seclude themselves in a monastery and abandon the worldly acts. There are actually much more details in this regard but this study could only reflect the afore-noted points within the limits.[37]

Conclusion

Islam granted many rights to women in every subject. This study examined the pre-Islamic periods for reflecting how women were treated and what sorts of rights they were granted, and for comparing this period with the Islamic period when they were granted rights per their natures as one of two genders forming humanity. It is clear that women were at a much lower position when Islam was revealed and during the pre-Islamic period. They were even not considered human and not granted many rights that were assigned to men. They were neglected in financial relationships, marriages and social lives, and their personality, ideas and rights were not respected. Islam did not separate them for any reasons such as gender, race or social status. Instead, the superiority was present in their faith. Thus, Islam saved women from their undeserved positions and granted the rights they deserved back to them.

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[37] For more details and references, see: Kazıcı, *Yaratılış, Günah ve Tövbe*, 60-117.

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The Importance of Home Architecture in terms of Family and Religious Life[*]

Erol ERKAN[**]

Abstract

People's search for sheltering resulted in homes. Home architecture carries traces of social lifestyle as well as natural opportunities. Houses force people to live a specific lifestyle. The period of modernity has created various changes in many areas, one of which is home architecture, where doubtless changes have occurred. Unlike traditional houses, modern home architecture attributes attention to the settlement of a nuclear family rather than the residence of the extended family, and to individualization rather than privacy. In addition, modern values and the consumer culture, as well as religious references in modern home architecture, are influential. Thus, a case contradicting the ontology of humans who are social subjects emerges, making people lonely and unhappy. An individualization-centered architecture can cause several obstacles before living and transferring social values and religious beliefs within the family. However, the intensity of communication and sharing within the family is important for the social values and religious beliefs becoming more rooted. Traditional Turkish houses are the means to overcome some of the negative results of modern architecture.

Keywords: Architecture, Family, Religious Life, Traditional House, Modern Housing**.**

Ev Mimarisinin Aile ve Dini Hayat Açısından Önemi

Öz

İnsanın barınma arayışı ev ile neticelenmiştir. Ev mimarisi doğal imkânlar kadar toplumun yaşam biçiminden de izler taşır. Bununla beraber evin kendisi de insanı bir hayat tarzına zorlar. Modernite ile birlikte birçok alanda değişim yaşanmıştır. Değişimin görüldüğü alanlardan biri de kuşkusuz ev mimarisidir. Bugünün ev mimarisi geleneksel evlerden farklı olarak geniş ailenin ikametinden ziyade çekirdek ailenin yerleşmesini ve mahremiyetten öte bireyselleşmeyi dikkate almaktadır. Ayrıca modern ev mimarisinde dinî referanslar bir tarafa bırakılarak modern değerler ve tüketim kültürü etkili olmaktadır. Böylelikle sosyal bir varlık olan insanın ontolojisiyle çelişkili bir durum ortaya çıkmakta, insan yalnızlaşıp, mutsuzlaşmaktadır. Öte yandan bireyselleşme merkezli bir mimari aile içerisinde sosyal değerlerin ve dinî inancın yaşanıp aktarılmasında bir takım engellere neden

olabilmektedir. Oysa toplumsal değerlerin ve dinî inancın kökleşmesi bakımından aile içi iletişimin ve paylaşımın yoğunluğu önemlidir. Modern mimarinin doğurduğu olumsuz bazı sonuçları aşmada geleneksel Türk evi bir imkân olarak belirmektedir.

Anahtar Kelimeler: Mimari, Aile, Dinî Hayat, Geleneksel Ev, Modern Konut.

Introduction

One of the main problems of modern time is solitude. Individualization, considered as one of the main elements of modernity, has made modern people lonely and caused them to be unhappy despite being social subjects. People can get lonely not only in their social lives but also within their homes. An architectural approach based on individualization has turned houses into hotel rooms, which has contributed to the development of various negative cases seen in domestic relationships, kinship-based relationships, neighboring-related ties and even religious life. This study focuses on the interaction between housing architecture and social relationships and values, and it questions the issue of keeping human relationships and religious life active from an architectural perspective.

1. Space as a Cultural Indicator

People have been in relationships with the environments they have lived in, and they have changed these places in line with their basic needs. In other words, people have made efforts to control nature and changed where they have lived based on their needs. One of the results arising from people's need to take shelter and from the relationship with space reflects houses, which are the important architectural elements indicating people's presence. The term *mimari* was derived from the stem *amr* (umr), meaning "longevity, increasing the life of an object, inhabited or developed house, or making a house inhabited and developed." Moreover, the concepts of mamur, *imare* and *umran* from the same stem are used as the antonym of the Arabic term *harab*, meaning the development of making an object developed. In addition, these terms also mean "residence and building", and they indicate the inhabitable, permanent and developed properties of a building.[1] Therefore, in its origins, the concept of architecture indicates life and human presence in its essence.

The construction of houses, which are built universally as a result of basic needs, such as taking shelter or staying safe, is affected by physical conditions. However, not only do the physical factors influence the construction, but socio-cultural factors also play a key role in this regard. In clearer terms, cultural values,

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[1] Selçuk Mülayim, "Mimârî". *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Istanbul: TDV Yayınları, 2005), 30/91.

selection, rules, norms, social relationships and symbolic meanings can be effective in the construction period regarding houses.[2] Accordingly, houses turn into cultural indicators.

Amos Rapoport defines the human-environment relationships from three integrated cultural perspectives completing one another: The first is the lifestyle of a group; the second is the cognitive schemes, symbols and meaning system consisting of symbolic codes; and third is the perspective suggesting that culture is a strategic adaptation set used to survive within the ecological resources and environments. Rapoport examines a culture in detail and divides it into various components. He also considers the relationship between culture and human behaviors as a process extending from abstract to tangible elements covering world views, beliefs, images, schemes, lifestyles and a series of attitudes.[3] It is clear that architecture is a concrete reflection of worldviews, beliefs and social values.

Privacy, relationships between men and women, extended or a nuclear family structure, social place and value of families, neighborhood relationships and religious approaches are among the social values affecting housing architecture. Houses reflect the financial and mental statuses of their constructors. Social organization, needs arising from the relationships between people, political structure, financial, technical and artistic opportunities, manufacturing manners and type of transportation determine the forms of houses and spaces. Accordingly, spaces reflect the manner of social organization, lifestyle, financial opportunities and world views.[4]

The housing architecture arising from the search for security, privacy and individuality as well as social solidarity and fear is affected by social values. Thus, human feelings, attitudes and concepts such as simplicity, modesty, embarrassment, politeness, pleasure, hope, religiousness and so on show themselves as "formal expressions". The reflections of attitudes and feelings that are the opposite of the afore-noted, such as greed, vanity, pessimism and boasting, can also be seen in housing architecture. In addition, houses can also serve as the sources of human feelings within the flow of life.[5]

A house is a cultural environment: People's lifestyles, perspective toward their environments and relationships with these environments, and their financial and spiritual values are within the context of culture. A building is the result of a socio-cultural environment. People's values, images and lifestyles are reflected in

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[2] Damla Atik – Nevnihal Erdoğan, "Geleneksel Konut Mimarlığını Etkileyen Sosyokültürel Faktörler: Edirne'de Şinasi Dörtok Evi". *Trakya University Journal of Natural Sciences* 8/1 (2007), 22.

[3] A. Rapoport, "House Form and Culture". Englewood Cliffs, N.J. Prentice-Hall, 1969 cited by Atik & Erdoğan, "Geleneksel Konut Mimarlığını Etkileyen Sosyokültürel Faktörler", 22.

[4] Yüksel Göğebakan, "Karakteristik Bir Değer Olan Geleneksel Türk Evi'nin Oluşumunu Belirleyen Unsurlar ve Bu Evlerin Genel Özellikleri". *İnönü Üniversitesi Kültür ve Sanat Dergisi* 1/1 (2015), 42.

[5] Turgut Cansever, "İslâm Mimârisi Üzerine Düşünceler". Trans.:[5] Turgut Cansever, "İslâm Mimârisi Üzerine Düşünceler". Trans.: *Divan* I/1 (1996), 119-146.Mustafa Armağan.

the buildings they construct, turning these architectural elements into cultural objects. Houses have aesthetic values as well as physical, cultural and social characteristics related to humans. This aesthetic value is directly related to culture.[6]

2. Interaction Between Beliefs and Space (House)

People do not perceive spaces as physical reality solely. Instead, they feel them, become attached to them and explain their own feelings through certain changes in these spaces. Space is among the important variables of identity. People establish relationships with spaces. Moreover, they assign meanings to them and built their own identities with these spaces. Through the spaces, people build identities as individuals, groups, communities and cultures. Accordingly, people cannot be deemed separate from their identities, which is also the case for spaces. Spaces help people meet their needs for supervision and security and express themselves.[7]

As a factor that affects human relationships and determines and shapes their identities, religion is among the socio-cultural elements affecting spatial/architectural approaches. People organize and shape their environments in line with their own world views. Accordingly, art and architecture can also be examined under the titles of ethics and religion. Therefore, an architectural approach needs to consider the integrity of subjects and objects, and the hierarchy, or power between them.[8] There is a close tie and integrity between architecture and beliefs.[9] In addition to beliefs, basic principles and concepts such as morals, aesthetics, culture and tradition should coexist within the architecture.[10]

Houses are the spaces that shape the emotions and thoughts of people through the concept or organization of families as the smallest social units. Considered as the places where benevolent, malevolent, correct and wrong actions and concepts, as well as ethics, are taught and where beliefs are practiced, houses are important objects helping people get ready for this and eternal world.[11] Houses are the locations that minimize the distance between people and where face-to-face,

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footnotes

[6] Göğebakan, "Karakteristik Bir Değer Olan Geleneksel Türk Evi'nin Oluşumunu Belirleyen Unsurlar", 44.

[7] Melek Göregenli et al., *Selçuk Kent Belleği: Dün, Bugün ve Geleceğin Zihinsel Temelleri* (Izmir: Selçuk Belediyesi Selçuk-Efes Kent Belleği Yayınları, 2013), 39, 40.

[8] Cansever, "İslâm Mimârisi Üzerine Düşünceler", 124.

[9] Murat Şentürk, "Turgut Cansever Düşüncesinde Şehrin Değişimi". *İnsan&Toplum* 4/7 (2014), 32.

[10] Faruk Turgut, "Bir Şehir Düşlemek: Turgut Cansever Mimarlığı Üzerine Bir Çözümleme". Sosyoloji Divanı 4/7 (2016), 155-170.

[11] Göğebakan, "Karakteristik Bir Değer Olan Geleneksel Türk Evi'nin Oluşumunu Belirleyen Unsurlar", 44.

sincere relationships are experienced.[12] Housing architecture should be planned, considering these points to improve domestic relationships.

Domestic communication is an important factor in terms of religious education. Family is a model for children in terms of religious values and relationships, and the religious training provided within the families affect the children deeply. However, a proper domestic relationship should be established for that purpose. The studies and observations regarding the formation of religious beliefs and attitudes agree upon the point that domestic relationship is effective the most during the early childhood years. Children's religious lives starting with the actions of imitating and identification, are developed in time based on children's personal interests and religious attitudes of the people around them, and these lives and practices become a part of their personalities.[13] Therefore, it is clear that constructing houses or residences in a manner to ensure proper domestic relationships and communication will contribute to good and well-planned religious training.

Family is a holistic system that has a meaning going beyond the unity of people. A family is a social group consisting of the interaction between the members of it. Each member of a family interacts with one another. Every people within this relationship achieve their own sense of self and personality. A healthy domestic environment and effective domestic communication are needed to raise people with a developed personality. Establishing a proper domestic relationship and helping children get ready for life and have a developed personality are directly related to communication. Domestic communication has various styles, such as visual communication, physical communication, focalized attention and discipline.[14] Application of these communication styles is directly related to the spatial designing. An architectural conception that weakens the communication between family members will make the process of developing healthy personalities challenging.

People need to consider the concept of domestic communication and other relevant needs and opportunities, and to keep in mind the system of references related to their own belief systems when developing the architecture because architecture affects and shapes the domestic life and the relationships between family members.[15] One of the main reasons behind domestic communication is to reflect what sorts of attitudes are approved and how these attitudes are displayed in certain places to the new members through the non-written records. Accordingly, efforts are made to reflect the attitudes to be gained within the

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[12] Turgut, "Bir Şehir Düşlemek", 169.

[13] Süleyman Gümrükçüoğlu, "Çocuğun Din Eğitiminde Ailenin Rolü". *Kadın Araştırmaları Dergisi* 3/1 (2017), 40.

[14] Halil Apaydın, "Aile İçi İletişim Çocuğun Dinsel Gelişimine Etkisi". *On Dokuz Mayıs Üniversitesi İlahiyat Fakültesi Dergisi* 12-13 (2012), 319-337.

[15] Cansever, "İslâm Mimârisi Üzerine Düşünceler", 119-146.

domestic environment through various phases of conditioning.[16] The recognition of these objectives requires an architecture that will enable them to have time collectively, rather than staying alone, and that will increase the common actions and concepts between them. In addition, reflecting certain emotions such as modesty, respect, politeness and simplicity as well as teaching attitudes and concepts such as morals and honor necessitates organizing the architecture of the house in line with these objectives. It is clear that housing architecture that is free from simplicity and modesty will contradict the afore-noted targets.

Humans are constantly in search of anything necessary to close the gap between love and presence and to establish a love-based relationship within their residences. Accordingly, spaces are like deposits or particular places where life gains a presence and shape. Moreover, they are the locations where people in exile achieve absolute knowledge. Investigating traces of facts and existence can be a reality through the interventions made to spaces in this regard and construction processes. The demolitions occurring in spaces will have adverse reflections and create serious issues within the human relationships and systems of values.[17]

Religions affect architectural approaches in specific ways. Architectures seen in societies with different belief systems will also be different. The plan of the house of a person with a certain religious belief is affected by the education of that person's children as well as family structure, cultural purposes, understanding of privacy and respect to older adults. Architecture is influenced by the values within the belief system of the relevant society. The worldviews and beliefs of people define and determine the aspects of their psychological attitudes reflected in their actions. Human feelings become visible in any works or objects, and thoughts or emotions gain a shape within objects, which is called art.[18]

Islamic architecture has its specific qualities. Values and concepts such as naturality, beauty, peace, knowledge, artistic blues, joy, simplicity, respect, love, sense of responsibility, modesty and hope can be seen within the architectural approach of Islam. Greed, pride, pessimism, arrogance and despair are among the concepts disapproved in Islamic architecture. Aiming to terminate all sorts of artificial, illegitimate and unethical impacts on people, Islam offers ways to develop an esteemed Muslim society. Basic Islamic principles and belief in God, creation, place of people within the creation process and existential hierarchy reflect the genetic codes of Islamic architecture. The ideological, spiritual and religious levels of existence, beliefs, information and recognition become concrete in all artistic forms. Therefore, Islamic art and architecture are the reflections of Islamic beliefs. The architecture of Islamic belief does not suggest a revolt or power symbol;

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[16] Apaydın, "Aile İçi İletişim Çocuğun Dinsel Gelişimine Etkisi", 321.

[17] Celaleddin Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü". *Düşünen Şehir 3* (2017), 33.

[18] Göğebakan, "Karakteristik Bir Değer Olan Geleneksel Türk Evi'nin Oluşumunu Belirleyen Unsurlar", 43.

instead, it serves as the means of making the world more beautiful.[19] Thus, houses should be designed as the symbols of ethics, compassion and modesty rather than flamboyance, greed and hypocrisy. Otherwise, the adverse results that will increase the distance between people and that will affect the individual, domestic and social lives will be suffered.

3. Modern Housing: Lonely People

While shaping their environments based on a certain lifestyle, people affect the cultural worlds of others in these environments through their architectural works.[20] Houses generally create value through their shapes and have reflections on the people living in these houses. Relationships of family members with one another, children, older adults and neighbors, as well as the interaction between the generations, are shaped by the lifestyles arising from the architectural objects.[21]

Architectural objects inevitably affect the life and lifestyles of people because people live with the architectural objects in their lives, even when they sleep. People may avoid artistic works such as pictures, sculptures, ceramic or tables, but they cannot abstain from architecture and its effects. Architecture shapes people's attitudes and affects people's psychological state. Houses are safe objects that protect people from environmental effects and cultural evidence as the physical records of people's activities. This quality of being a cultural indicator is among the most important factors determining the formation of housing architecture. Gardens, roads, streets, neighborhood relationships and the distance to social centers are directly and totally related to these cultural objects.[22] Changes in the cultural structure will have impact on the architecture of that culture.

Modern architecture is shaped by the rationality reflected by modernity itself.[23] With the periods of modernity, many concepts and acts have changed, and traditional buildings and relationships have gained an uncertain appearance with these changes. The urban culture based on neighborhood and kinship-related ties has been replaced with bureaucratic mechanical networks operating between administrators, officers and property owners within the concrete blocks and multi-layered buildings. In the present day, neighborhoods are not the traditional environments developed within the surrounding, sincere and cooperative relationships. Instead, they are now filled with people who live in the same apartment but do not know one another. Although people have maintained their presence within the renewed relationships and meanings that suit the social

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[19] Cansever, "İslâm Mimârisi Üzerine Düşünceler", 119-146.

[20] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 30.

[21] Şentürk, "Turgut Cansever Düşüncesinde Şehrin Değişimi", 39.

[22] Göğebakan, "Karakteristik Bir Değer Olan Geleneksel Türk Evi'nin Oluşumunu Belirleyen Unsurlar", 42.

[23] Turgut, "Bir Şehir Düşlemek", 155.

patterns under every condition, the multi-layered and concrete appearance of buildings has driven people into the tiresome periods of objectivization and loneliness rather than a stable lifestyle.[24]

Changes in houses' architecture and the formation of specific rooms affect people's relationships with others and their family members. Changes in space result in new problems. Accordingly, the congregational relationships between the family members weaken, and people become lonely in their houses. Separation of common living areas, which goes beyond the objective of protecting the privacy, and development of an architectural approach increasing individualism among family members, terminate the reasons for spending time together and weakens the unity between family members. The fact that houses are now designed for nuclear families increases the distance between generations. Experiencing and maintaining the traditional values in such environments and transferring social values become challenging in such environments. Children who become lonely will get included in different networks by benefiting from the technological advancements, and they will socialize in a different manner. These developments affect the religious life, and the religion practiced and transferred within the complicated relationships turns into a collection of information.

An architectural structure that is constructed considering the social traditions and values has been replaced with another architectural approach that is based on the spatial perception of positivist epistemology and that separates its ties from the metaphysical world. The architecture of modern houses turns the global consumer culture of houses into individualist secular spaces, paving the way for physical and spiritual damages. The spaces that people aim to shape as a message to the world and that are used to reflect the longing toward the realities of previous times have turned into standardized locations, objects of consumption and instruments of satisfaction through the indicators. Modern houses have lost their identity of being the architectural structures that establish a relationship with love and existence, and that helps people interact with other subjects and objects. Houses of modern times reflect the standardized houses of nuclear families and stereotyped relationships. [25] In addition, they indicate the ambition, chaos, aggression, personalist and contradictory attitudes of modern people as well as their deprivation of a certain conception, and their pragmatic approach that creates distances with other subjects.[26]

Traditional values, sensitive concepts, and architectural and urban quality are lost owing to a pragmatic, unconscious and unplanned approach. Deprivation of an ideology based on people and nature causes people to see new buildings that are irrelevant to nature. Another adverse side of apartments that are constructed

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[24] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 33.

[25] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 30-41

[26] Cansever, "İslâm Mimârisi Üzerine Düşünceler", 119-146.

with no relation to nature is that they may negatively affect human life and mental health in particular. Rooms that are not illuminated adequately and that have no adequate relationship with nature adversely affect people's physical and mental statuses, which is reflected in the domestic relationships and causes conflicts and tension between family members.[27]

It is difficult to say that the architectural designs of modern times reflect the human factor as a significant concept. No objects other than the insensitive and insincere walls reflect people and their experiences.[28] Modern architecture has caused people to deviate from the soil and natural environment, despite the ontological relationship between them, which has negatively affected people's psychological state.[29] Accordingly, the spatial power changing objects and subjects should be considered in housing architecture. Spaces gain meanings and are defined through people. The main actors within the spaces are people. Therefore, the structures of houses should be ecological and suit the topography. Moreover, it should provide harmony in a manner to ensure adaptation to the environment, and it should be in harmony with the presence and rights of other people. Houses reflect people's cultures, lifestyles, habits and internal world. Any contrary case will adversely affect the domestic and social life.[30] The religious life will be doubtless affected by those adverse impacts.

Religious training can be provided in a domestic environment by reflecting the entire process as a way of living and feeling, rather than as an ideology. The condition of proper religious training is the proper acts by parents who should be models for their children with their lives. What's more, the mental development of children should be considered during the early periods of development, and religious content should be taught to them through concrete examples. Family is a small social unit where religious attitudes and relationships can be seen. Religious values are learned by the children in the manner reflected within their families. The religious attitudes and statements displayed by family members keep the children in a spiritual living that directly symbolizes them. Accordingly, religious training within a domestic environment deeply affects children.[31] However, it is difficult to state that modern houses that drive people into loneliness and increase the distance between the family members are suitable for the representation of religious values.

From a religious perspective, a life that is directly affected by nature is significant. Religiousness is fueled by spiritual thoughts and religious practices. All creatures in nature bear traces of a certain ideology, presence, action and love. The

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[27] Alperen Kayserili, "Türkiye'de Modern Konut Kültürü". *Kent Çalışmaları I*, ed. Arif Keçeli-Şaban Çelikoğlu (Ankara: Detay Yayıncılık, 2014), 259.

[28] Hamdi Ergül, "Mimarlığın İhmal Edilen Sosyal ve Toplumsal Yönü". ISITES (2015), 1072.

[29] İ. Umut Kukaracı – A. Murat Aktemur, "Modernleşme Süreci İçerisinde Erzurum Konut Mimârisinin Geldiği Nokta". *Güzel Sanatlar Enstitüsü Dergisi 11* (2003), 52.

[30] Ergül, "Mimarlığın İhmal Edilen Sosyal ve Toplumsal Yönü", 1072.

[31] Apaydın, "Aile İçi İletişim Çocuğun Dinsel Gelişimine Etkisi", 319-337.

beliefs of people who begin to focus on nature with this approach become stronger, and religion is displayed by them as an effective attitude. People who realize the sunrise and sunset, the excellence of the sky and seas, the beauty of a flower blossoming during spring, the mercy of creatures, and harmony between the elements of nature will search traces of reality and take significant steps to live a lifestyle suiting this reality. Therefore, an architecture that will create a distance between people and nature will direct people to unrest and weaken the ties between love and presence.

Construction of a livable environment necessitates the consideration of physical conditions and relevant concepts while requiring people to take into account the human values, beliefs and social values. People will become unhappy and anxious if the fact that they are faithful and social subjects is ignored. It should be noted that architecture configures people's attitudes and determines the distance between the people as well as the distance between love and existence, the metaphysical world and other creatures. Housing architecture should have the themes that increase domestic communication and the number of common points between family members, help the family members spend more time together, and establish a connection between the generations rather than fragmenting the family and weakening domestic relationships, making the process of transferring social values difficult and directing people into loneliness by focusing on individualism. Accordingly, traditional Turkish houses can shed light on modern architecture.

4. Yard-Type Houses as the means of Keeping Domestic Relationships Alive

The Turkish houses that are reflected as horizontal in our urbanization literature and indicated through the traditional motives can be effectively used to improve the weak neighboring relationships and quality human life. Turkish houses are deemed as the social spaces that will save the cities from concrete structures causing architectural and cultural displeasure and from modern problem of air, environment and noise pollution, and help the children, young and older adults socialize within their neighboring relationships. These houses are the live socio-cultural reflections, rather than solely being physical shelters.[32]

Modern houses have lost their ties with nature and caused relationships that weakened human relationships and created insincere, distant and interest-based relationships. Concrete building construction and apartments as the products of this construction adversely affect people's physical and mental health and cause different diseases. However, traditional houses are present within nature, instead of objecting to nature, and they have a flamboyance-free structure while staying in harmony with nature. These houses are built while considering mental health to

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[32] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 30-41.

provide visual beauty. Traditional Turkish houses enable people to establish social relationships while making contributions to these relationships. For instance, the room of men designed at the best location of a house has the best style and is the concrete example of Turkish' people's hospitability.[33] In addition, the yards within traditional Turkish houses serve for the purpose of establishing human relationships and thus have important functions.

The manners of resting, sitting and sleeping shape the houses. Accordingly, yards are the most important locations of socialization, a location commonly used by family members, and they are the places where daily routines are performed. Rooms are private areas while yards are the shared locations within the traditional Turkish culture, which is in harmony and integrated with nature in line with the worldviews and lifestyles; the need for sleeping is generally met in rooms, but family members generally rest and have time at yards, which suits the conception of privacy. Social interactions with neighbors also take place in yards. According to the concept of privacy, yards are particularly used and adjusted for and by women.[34] They are suitable for the separation of two genders while they spend time, and they enable the residence of a crowded family. The separate rooms around yards help a few married couples coexist, paving the way for the extended family structure.[35] Contrary to these properties of traditional houses, modern houses are generally designed for nuclear families.[36] Modern houses are solely suitable for nuclear families, which create negative reflections on certain ties covering domestic relationships, kinship-based relationships, neighbor relationships, and ties with the guests.

Efforts should be made to make contributions to the identity development and socialization of people within domestic environments and to help people develop the skills of establishing relationships with others and sharing actions and concepts with them. In this case, people can accept the social values or reject socially or ethically-disapproved thoughts and behaviors more easily.[37] Accordingly, houses with yards are significant as they help establish relationships with other family members and relatives while developing or improving relationships with neighbors.

While designing houses, solutions for maintaining spiritual values should be sought, which reaches beyond the efforts to meet financial needs. Houses should be designed as the spaces where families live their own culture intensely, transfer their

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[33] Kukaracı & Aktemur, "Modernleşme Süreci İçerisinde Erzurum Konut Mimârisinin Geldiği Nokta", 47, 51.

[34] S. Gülçin Bozkurt – Hakan Altınçekiç, "Anadolu'da Geleneksel Konut ve Avluların Özellikleri ile Tarihsel Gelişiminin Safranbolu Evleri Örneğinde İrdelenmesi". *Journal of the Faculty of Forestry Istanbul University* 63/1 (2013), 79-85.

[35] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 30-41.

[36] Kayserili, "Türkiye'de Modern Konut Kültürü", 261.

[37] Apaydın, "Aile İçi İletişim Çocuğun Dinsel Gelişimine Etkisi", 319.

social values to their children easily and live a life in harmony with nature, rather than as the locations solely serving as a shelter.[38] People's approach to space in relation to presence should be based on the search for aesthetics rather than the ideology of possession and consumption. Spaces are the means of reflecting the benevolence and appropriate concepts and actions by the people who search for reality and meaning. Gaining an aesthetic value is almost impossible for the universalized, standard houses that are reduced to the level of consumption objects owing to the grounds related to reflecting the personal, national and civilized codes.[39]

Conclusion

Both physical and socio-cultural conditions are effective in the formation of a house, which is one of the basic needs of people. Thus, houses appear as a substantial epiphany of both physical opportunities and lifestyle. However, space itself may also lead to some emotions in the formation of life. Therefore, while building houses, people should pay attention to its compliance with human ontology, social values, religious references, and nature.

The architecture of houses is also changing in accordance with social changes. Change of space restructures human relations. Today's domestic architecture draws a line between classes as a status indicator and makes people lonely within the family since it includes divided rooms and less shared space. Privacy is a concept deemed important in Islam as well. However, modern residences predicate on individualization more than privacy, which decreases the time spent with family and rate of sharing. Loneliness experienced within the family causes difficulty in transmitting social values and has negative effects in terms of religious life.

Modern residences isolate individuals and weaken face-to-face, close relationships with family, and prevents considerations since it terminates one's connections with nature. People who can only track the existence of love with spiritual thoughts become lonely and unhappy when their connections with nature are broken; their search for peace turns to an everlasting journey. Besides, houses changing into an image indicator as a consumption object in a consumption society are now becoming a showcase of arrogance and flamboyance instead of modesty and simplicity that is set forth by Islam, which contradicts the moral values to be taught to the children.

An architectural style prioritizing people, social values, and beliefs is necessary for healthy social relationships, correct transmission of the social values,

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[38] Kukaracı & Aktemur, "Modernleşme Süreci İçerisinde Erzurum Konut Mimârisinin Geldiği Nokta", 52.
[39] Çelik, "Evden Konuta Meskenin Sosyolojik Dönüşümü", 33.

and deep-rooted beliefs in people. In this manner, a traditional Turkish house is an ideal type for keeping domestic relationships and relations with relatives and neighbors alive. A yard-type Turkish house both maintains an individuals' communication with nature and strengthens their connections. Therefore, it makes contributions to the considerations and it has the potential to guide modern architecture from this aspect.

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Family and Health [*]

Arif Süner[**]

Abstract

Islam aims to make people healthy both spiritually and physically while they live as a servant or caliph. In line with this goal, it leads people to live in the most appropriate way while presenting many recommendations, warnings and orders. It will be inevitable for a family to be formed by people who live in a healthy and balanced manner to be proper in every respect. In Islam, the family is accepted as the basis of society; the health of a family is critical for a healthy society. All steps to form a family are evaluated meticulously in Islam, neglecting no details. Islam teaches people, who will establish a family, the values which will be observed in the process of choosing a partner, and it directs them to these values. It provides a guide for maintaining this marital partnership that occurs after the family has been formed. Islam also gives advice for the formation and continuation of a healthy pregnancy. It reflects serious warnings and orders that reach beyond the recommendations to help people raise their children in a physically and spiritually healthy form. Islam also protects all members of a family by focusing on the health of parents.

Keywords: Family, Health, Mother, Father, Child.

Aile ve Sağlık

Öz

İslam bir kul, bir halife olarak insanın hem ruhen hem de bedenen sağlıklı olmasını hedefler. Bu hedef doğrultusunda insanı birçok tavsiyeler, ikazlar ve emirler ile en uygun şekilde yaşamaya sevk eder. Her açıdan sağlıklı ve dengeli yaşayan insanların oluşturacağı ailenin de sağlık olması kaçınılmaz olacaktır. Dinimizde aile, toplumun temel yapı taşı olarak kabul edilir ve sağlıklı bir toplum oluşması için aile sağlığına çok önem verilmektedir. Aileye giden tüm basamaklar tam bir hassasiyet içinde değerlendirilir, hiçbir detayda ihmale rastlanmaz. Aile kuracak kişilere eş seçiminde dikkat edecekleri değerleri öğretir ve onlara bu değerlere sevk eder. Aile oluştuktan sonra oluşan bu yepyeni birlikteliğin sağlam ve sağlıklı bir şekilde devamı için bir hayat rehberi sunar. Sağlıklı bir gebeliğin oluşması ve devam etmesi için tavsiyeler verir. Çocukların bedeni ve manevi olarak sağlıklı yetiştirilmeleri için, tavsiyelerin ötesine geçecek şekilde ciddi uyarılar ve emirler buyurur. Ana- baba sağlığına da yoğun bir şekilde değinerek ailenin tüm bireylerini koruyup kollar.

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The World Health Organization defines the concept of health as follows: health indicates not only the absence of diseases and injuries but also the presence of psychological and social well-being. The modern world that prioritizes physical life considers health as solely being physically-well, which is important because the mind and spirit are integral to one's body. Naturally, health arises from the well-being of these elements. Islam recognized this case 1400 years ago and mentioned the importance of mental health, also called psychological health, for the general health of a person. It also explains how to maintain health in detail. Additionally, Islam also indicates that humans are social creatures, that they need to socialize, and that establishing a healthy relationship with the environment is critical for physical and psychological health. It guides people for their own health and salvation, and it protects and cares for people. Islam particularly recommends people to avoid being selfish and to establish a family for meeting their physical and mental needs. It does not neglect the institution of family, presenting certain orders on how to maintain the well-being of a family.

This study will explain the recommendations on various topics such as the selection of spouse or health of children, mother and father, and other members of the family in detail.

1. Encouragement to Marry for a Healthy Body and Soul

Following the adolescence, testosterone in boys and estrogen in girls increase more than 100 times.[1] The amount of these hormones increases in time, causing them to be more aggressive and reckless. Accordingly, adolescents who suffer from intense changes in their moods might perform activities that may hurt themselves or others. The modern world offers adolescents morally unacceptable solutions for these issues related to these desires. Performing marriage in time as a solution to these intense hormones after ensuring physical, mental and financial sufficiency will be the most suitable solution for both the individuals and society.

Allah (j.j) orders the following in this regard: "And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for people who give thought."[2] The concept of tranquility in this verse can suggest a mental relief or a bodily relief achieved by ensuring the relaxation driven by the increased sexual hormones in the most appropriate manner possible. In this sense, the

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[1] Elizabeth J. Susman & Alan Rogol, "Pubertyand Psychological Development", *Handbook of Adolescent Psychology*, ed. Richard M. Lerner, Laurence Steinberg, 2nd ed. (Hoboken, New Jersey: John Wiley&Sons, 2004), 15-44.

[2] ar-Rum 30/21.

Prophet (p.b.u.h.) stated the following: **"Whoever can marry shall do so. Marriage keeps your eyes from unlawful acts and protects your honor in the best way."[3]**

2. Encouragement to Have Children

According to the 2013 World Cancer Report, the most frequent cancer types among women are breast, cervical and uterine cancer, respectively. It is noted that breast and uterine cancers are more frequent among women who have yet to deliver a baby. Similarly, according to the 2012 Report on the Non-Infectious Diseases in Turkey, the breast, ovary and cervical cancers are among the seven most frequent types of cancer among women in 2006. The risk factors for cervical and breast cancers include no pregnancy history and performing only a few deliveries. In addition, cervical cancer is more frequent among women whose husbands had sexual relationships with more than one woman.[2] These reports indicate that pregnancy and delivering multiple children protect women against breast and uterus cancer. A virus named human papillomavirus causes canceration on the normal body cells with its activities on the cervix. This virus is carried by a man who has performed sexual actions with more than one woman, and it is transmitted to all relevant women by that man. This issue increased the prevalence of cervical cancer in developed countries.[4]

As per Islam, having sexual intercourse with anybody other than the spouse is a major sin. Staying away from this unlawful act protects one and one's spouse from many sexually transmitted diseases (STD), including AIDS. Multiple children are critical not only for maternal health but also for the balance of growth within society. The fertility in developed countries, particularly the European counties, is quite low in modern times. With the advanced medical methods and procedures, the mean age of people reached beyond 80 years, which decreased the young population while increasing the older population. To prevent this issue, governments encourage people to marry and have multiple children. They also provide financial aids to married people, especially those who have multiple children. Nevertheless, the aging of the population cannot be prevented. Accordingly, the importance of hadith of the Prophet (p.b.u.h.) "**Marry and have children as I will boast with your population before other nations on the Judgment Day**"[5] for the health of women and society can be understood more clearly.

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[3] Abu Abdillah Muhammad ibn Ismail al-Bukhari, *al-Jamiu as-sahih*, ed. Muhammad Zuhair ibn Nasr (s.l..: Daru Tawqi an-Najat, 1422/2001), "Sawm", 10.

[4] Türkiye Kanser İstatistikleri-2009 (T.C. Sağlık Bakanlığı, Halk Sağlığı Genel Müdürlüğü, Kanser Dairesi Başkanlığı, 12 May 2020).

[5] Abu Abdillah Ahmad ibn Muhammad ibn Hanbal ash-Shaibani Ahmad ibn Hanbal, *al-Musnad*, ed. Abu Hajir Muhammad Said Basyuni (Beirut: s.n., 1405/1985), 2/ 72.

3. Breastmilk as Miraculous Food

Women have participated in working life in the last century. However, people have fed children with other forms of milk and foods without performing any research in this regard when mothers have been away. Having been deprived of breastmilk, these babies have developed different microbial disorders. Relevant studies have indicated that babies who have been solely fed with breastmilk have been healthier. These babies have become ill less frequently, and when they have developed a disease, they have recovered without any need for hospitalization. Additionally, even if they have been hospitalized, they have responded to drugs in a short period of time, and thus stayed shorty in hospitals. Babies who have never been fed with breastmilk or consumed breastmilk and supplementary foods have become ill frequently and suffered for a longer period. They have stayed longer in hospitals and underwent more intensive medication treatment. Accordingly, breastmilk has been found to be a **miraculous** food providing the substances needed by babies in the optimum amounts and quality and offering the highest number of benefits to the babies' physical states instead of acting as a mixture of nutritious substances.[6]

87% of breastmilk is water. This amount of water meets the daily water need of babies whose mothers live in deserts. There is no need to give water to babies as long as they are only fed with breastmilk. The sugar in breastmilk provided the optimum benefits to newborns. Due to the slow rate of absorption, the blood sugar level is balanced, which is critical for the development of brain tissue. In addition, it enables the reproduction of lactobacillus bifidus in the intestines, and it keeps the intestinal flora healthy. The fat in breastmilk is easily absorbed and has a high caloric value. Thanks to its high cholesterol level, the development of eyes and brain occur in optimum way. The majority of the proteins in breastmilk consist of the immunoglobulins as the defensive substances in newborns (particularly one-week-old newborns). These substances cover the baby with armor against the foreign environment. After the babies' bodies are adapted to the environment, the growth proteins in the milk increase. Minerals such as mineral salts, sodium, potassium, chlorine etc. are scarce in breastmilk. However, they are kept at such a balance that the lethal salt imbalance is not seen only among the babies fed with breastmilk.[7]

The level of all critical substances in breastmilk does not depend on the mothers' diet. Even if mothers are malnourished, the structure of milk is maintained in a manner to protect all substances needed for the development of the body. Moreover, anemia may be developed and decaying may occur on teeth if mothers are malnourished. Nevertheless, babies' development is still maintained. Babies fed with breastmilk do not need to consume any supplementary foods for

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[6] Lene Schack-Nielsen & Kim F. Michaelsen, "Breast Feeding and Future Health", *Current Opinion Clinical Nutrition Metabolic Care* 9/ 289 (2006), 96.

[7] Bernardo L. Horta & Cesar G. Victora, *Long-term effects of breastfeeding: a systematic review* (WHO Library Cataloguing-in-Publication Data, 2013), 20-25.

the first six or nine months. When they consume breastmilk for the afore-noted period, development occurs normally.[8]

Babies solely fed with breastmilk are more resistant to all microbial disorders such as diarrhea, bronchitis or meningitis. However, those who are not fed with breastmilk develop these diseases more often, and this period is more severe and longer for them. Blood of mothers contains substances called antibodies that protect them against the diseases which have already been developed by them before. These antibodies generated against bacteria, viruses and parasites are transferred to milk during the production phase, and they simply "vaccinate" children against the diseases.[9]

The first drops of milk are called colostrum, which is thicker and more yellowish. Due to these qualities, it is believed to be harmful and thus avoided. However, the protective agents in this milk are 20 times higher in number compared to the milk produced later. Colostrum covers the inner parts of babies' mouth, esophagus, stomach and intestines, neutralizing the microbes in these areas, and it makes the stomach and intestines ready for absorption. Thus, it should be given to the baby without wasting a single drop. When environmental conditions are poor, mothers' clothes, along with their hands and breasts, catch infections, meaning the children meet viruses and bacteria earlier. However, if they are breastfed, they do not become ill as mothers have developed antibodies against the microbes they have had until that period, and these antibodies are added to their milk.[10]

Breastmilk can stay fresh for 24 hours at room temperature before being stored in a refrigerator. Breastmilk purifies itself even when microbes are added externally. Moreover, breastmilk can adjust itself based on the babies' needs. With the hormonal impact, breastmilk production starts following the delivery. During the postpartum period, this production is maintained not by the hormones, but by the amount of milk sucked from each breast. Based on the rate of suction, the amount of milk produced in both breasts may differ. Therefore, the amount does not reach beyond what babies need, wasting nothing in this regard. The milk does not get scarce and leave the babies hungry. Mothers can produce milk that may be sufficient for even twins or triplets. The composition of milk differs based on the age of the baby. Colostrum is rich with energy-boosting substances, but fatty molecules increase during the last minutes of breastfeeding, which ends the feeling of hunger in babies and causes them to leave the breasts, preventing obesity. The growth hormone is secreted at nights as the growth is active during those times. The breastfeeding activity performed at night provides the building stones for the

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[8] Horta & Victora, *Long-term effects of breastfeeding*, 25-30.

[9] Horta & Victora, *Long-term effects of breastfeeding*, 27.

[10] Horta & Victora, *Long-term effects of breastfeeding*, 35-40.

growth of babies. The breastmilk provided during the day is full of substances providing the energy for the body movements and activities of organs.[11]

Baby formula has started to replace breastmilk due to various reasons in the last century. The companies manufacturing these products have become internationally-known. World Health Organization and United Nations International Children's Fund published a declaration collectively in regard to breastmilk in 1990 as babies' health were getting worse during those days. Accordingly, babies should be breastfed for at least six months, while extending this duration to two years would be better. Despite these warnings, the preference for formula is increasing. The formula prevents the development of affection between mothers and babies, causes babies to develop diseases more frequently, and results in slower mental and physical development for babies. The risk of breast and ovary cancer increases for mothers.

The current point of modern medicine in regard to the necessity and duration of breastmilk was explained in the Quran 14 centuries before. Allah Almighty orders the following verse: " **Mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period]**."[12] The Prophet (p.b.u.h.) stated the following in this regard: **"No milk can be better than breastmilk for babies**''. In other hadiths, the Prophet praised delivery and breastfeeding as follows: **"Pregnant women are regarded as those who fast, pray at night or perform jihad for the divine path. When they deliver a baby, they are rewarded with an award, the size of which cannot be known by anybody. Moreover, when they breastfeed their babies, they are rewarded for each suction of the babies, which is as great as freeing a slave from Ismael's lineage. Whenever they finish the breastfeeding process, an angel visits them and says: Start your practices once again as Allah forgave you.**"

Although the substances of breastmilk are imitated, its biological properties cannot be copied. Breastmilk is a unique food that is ready to be drunk, warm, sterile, difficult to be infected, economical, and practical to obtain.

4. Pediatric Health

Maternal health, domestic health, socio-economic status, environment and social support should be appropriate and sufficient for the healthy growth of babies. Maternal health is particularly critical for babies' health, and there is total parallelism between the health of mothers and their babies' psychological and physiological growth. The protection of maternal health is a topic that has been examined by the modern world in recent years. In this sense, governments enable

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[11] Horta & Victora, *Long-term effects of breastfeeding*, 40-42.
[12] al-Baqarah 2/233.

working mothers to have maternal leave for sixteen weeks, eight before the delivery and eight after the delivery.

Vaccines are critical for the health of children. As understood from the vaccine reports of the World Health Organization, vaccines are the most effective methods of protection against pediatric infections, which is also accepted by the modern world. However, there are concerns related to vaccines in certain geographical regions or groups. People of these regions are even against vaccines. There are doubtlessly risks regarding the vaccines[13] but the benefits of vaccines significantly overweight the harms as understood from the relevant scientific studies performed thus far.[14] According to these results and data, families should be informed through the first-degree medical institutions, and pediatric vaccines should not be neglected.

In the modern world, there is a condition called digital addiction, which may adversely impact children's psychological and physiological development. The instruments transmitting this disease in the easiest way possible are mobile phones and tablets which contain the programs and games used and played the most by children. It is noted that most of these games have violence. Violence-containing digital games reflect violence as a method to solve problems and indicate that all violent methods should be used to reach the goal, defeat others and command more people.[15] Many digital instruments cause children to be passive recipients and result in "contactless" between children and their environments. They may also cause discipline-related discussions between parents and their children.[16] The increase in the addiction to technological instruments and gaming activities causes children to have less face-to-face communication and spend less time with their peers while increasing the number of those who play games by themselves.[17] The use of digital technology may create reward deficiency syndrome, which is also the case in substance abuse. Thus, when it becomes hard for the children to access technological devices or when they are prevented, they may display rebellious attitudes.

Modern children spend too much time with digital instruments for various reasons. However, the more important one among them is the failure of families to spend time with their children. Some parents even direct their children to these instruments. The Prophet (p.b.u.h.) ordered the following in a hadith: "**Whoever**

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[13] Selim Badur, "Aşı Karşıtı Gruplar ve Aşılara Karşı Yapılan Haksız Suçlamalar", *ANKEM Dergisi*, 25, (Attachment No. 2) (2011), 82-86.

[14] Melahat Akdeniz, "Aşılar", *Klinik Tıp Aile Hekimliği Dergisi*, 8/2 (2016), 1-2.

[15] Lawrence Kutner & Cheryl Olson, *Grand Theft Childhood: The Surprising Truth About Violent Video Games and What Parents Can Do* (New York: Simon and Schuster, 2008), 52.

[16] Mehmet Toran et al., "Çocukların Dijital Oyun Kullanımına İlişkin Annelerin Görüşlerinin Değerlendirilmesi" *Kastamonu Eğitim Dergisi*, 24/5 (2016), 22–63.

[17] L. D. Rosen et al., "Media And Technology Use Predict Sill-Being Among Children, Preteens And Teenagers in Dependent of The Negative Health Impacts of Exercise and Eating Habits" *Computers in Human Behavior* 35 (2014), 364–375.

have children shall behave like a child toward them!"[18] Accordingly, he wanted people to adapt to the children's world and form common values with them. By doing so, one can prevent children from feeling alone and digital instruments from being a source of addiction for these children as they can play any games they desired. In other hadiths, the Prophet stated the following: (p.b.u.h) "Help your children be benevolent. If you wish, you can terminate the rebellious characteristics of your child (by helping them)."[19] Parents should support their children during the physical, mental, psychological and moral development periods, and they should observe and assist them closely. Such close support and assistance can prevent the children from being rebellious.

5. Health of Adult People in a Family

Another important aspect of domestic health is related to the health of fathers, mothers and adult people in a family. A family is actually a miniature group where the points regarding social health are also valid. Regarding social health, there are certain infections which are transmitted through breathing or direct contact. During the droplet infections such as colds, families should not jointly use certain objects such as a towel or water glass, and they should abstain from close interaction. The statement "**And spend in the way of Allah and do not throw [yourselves] with your [own] hands into destruction [by refraining]**" in al-Baqarah 195 can be regarded as a warning in this regard. Moreover, the Prophet (p.b.u.h.) stated the following: **"Those who are ill shall not visit the healthy ones."**[20]

Daily hygiene is a simple issue that needs to be observed by families. Oral health, which is regarded as critical for a healthy and long life by modern medicine, should not be neglected. All members of a family should regularly brush their teeth before going to bed. The importance of this case was explained by the Prophet (p.b.u.h.) as follows: **"If it were not too challenging, I would have ordered my followers to use miswaq at each prayer"** [21]. It is a well-known fact that teeth color represents the oral health of a person. The Prophet (p.b.u.h.) ordered the following to certain sahabah members whose teeth were yellow **"How could you wander around with those yellow teeth? Clean your teeth with miswaq."**[22] He aimed to ensure that people protected their lives and did not disturb others due to foul breath.

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[18] Daylami, *Kitabu al-firdaws bi-maʾsuri al-hitab*, ed. Said ibn Basyuni Zaghlul (Beirut: s.n., 1406/1986), 3/513.

[19] Haysami, 8/146.

[20] Abu al-Husein Muslim ibn Hajjaj al-Qushairi, *al-Jamiʿu as-sahih*, ed. Muhammad Fuad Abd al-Baqi (Cairo: s.n., 1374-75/1955-56), "Salam", 2218.

[21] Bukhari, "Juma", 8.

[22] Ahmad ibn Hanbal, 1/214.

Disinfection of infection sources which can be present in the external environments and common usage areas should be observed. The easiest activity in this regard is to wash hands before every meal. For that purpose, particular antiseptics are extensively advertised in modern times. However, modern medicine recommends washing hands with soap as an effective and reliable cleaning method. The Prophet (p.b.u.h.) ordered ''**The blessings of a meal arise from washing hands before and after a meal**[23] and associated the benefits of foods with blessings so that the addressee could understand. It is without a doubt that the first and most logical explanation regarding the blessings is the increase in the number of meals. However, it should be noted that the protein, fat and carbohydrate in a meal should be dissolved properly to be beneficial. These substances are absorbed from the small intestine and mix with blood. The health process of absorption depends on the health of small intestines. In the event that microorganisms on hands reach the stomach and intestines, gastrointestinal infections may emerge. The foods cannot be absorbed adequately due to these infections, which may pave the way for the emergence of other diseases. Naming the process of discharging the substances from the body owing to certain reasons, including diarrhea as unfortunate is probably a fact that can only be realized by the Prophet (p.b.u.h.). In other hadiths, the Prophet (p.b.u.h.) recommended cleaning the body and mentioned this process as an action liked by Allah.

"Allah is pure and likes cleanliness."[24]

"The Prophet's sunnah consists of five actions which arise from human nature: Circumcision, shaving body hair, cutting nails, cleaning the armpit, trimming the mustache."[25]

Modern medicine considers obesity and inactivity as the path to diseases. The chronic diseases that cause the highest mortality rate include heart failure, renal failure, respiratory failure and paralysis. The most important risk factors regarding these diseases include hypertension, diabetes, hyperlipidemia and smoking. The main reasons behind the presence of these risk factors other than smoking are primarily obesity and inactivity.[26]

According to the World Health Organization 2011 Chronic Diseases Report, mortality related to chronic diseases will increase by 15% between 2010 and 2020 (approximately 44 million deaths), becoming the cause of 70-75% of all deaths. The

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[23] Abu Isa Muhammad ibn Isa ibn Sawra at-Tirmidhi, *ash-Shamaili an-nabawiyyah* (Beirut: s.n., 1406/1985), 27.

[24] at-Tirmidhi, "Adab", 41.

[25] Al-Bukhari, Libas, 63-64.

[26] Pierre Huard, *The Management of Chronic Diseases Organizational Innovation and Efficiency* (London: İste, 2018), 3.

year 2020 indicates that 70% of all deaths arise from chronic diseases. In addition, approximately 60% of medical expenses are related to chronic diseases.[27]

To sum up, while the world looks for a solution for cancer, people are facing a greater threat than cancer itself. Although states have spent billions of dollars across the world, they cannot even slow this threat down. However, simple changes in diet, an active lifestyle, and avoiding using harmful substances such as tobacco can decrease the prevalence of diseases by 50%. All motivations provided to society and families as the building stones of societies are actually deficient. Theological motivations are not used in the modern world at the moment. However, the Prophet (p.b.u.h.) was able to change the harmful habits of Arabic society and even their strict beliefs in such a short period of time. Alcohol consumption, which captures attention among the harmful activities of the era, was ended through theological recommendations. Obesity has been regarded as a shame among the Muslims who have followed these recommendations for centuries, and these people have been sensitive in this regard.

There are many verses in the Quran and hadiths presenting such recommendations. For instance, Allah orders the following in at-Taha 81: **"Eat from the good things with which We have provided you, and do not transgress [or oppress others] therein! Lest My anger should descend upon you. And he upon whom My anger descends has certainly fallen"**. The concept of transgression here indicates going beyond the moral limits or overdoing in the actions of eating and drinking. The Prophet states the following in a hadith: **"the stomach is the house of diseases. Treatment consists of abstinence from foods."**[28] This statement has been the focal point of the modern world of medicine. Considering the importance of the issue, the Prophet (p.b.u.h.) made many speeches warning people in this regard, along with the afore-noted brief statement as a precise explanation. *"Humans cannot fill anything but their stomachs malevolently. Even a couple of bites which will enable people to live are enough. If they plan to fill their stomachs, they shall divide the portion into three: One-third for the food, one-third for the water, and one-third for the self!..."*[29] *"The following are what I fear the most for my ummah: Obesity, fondness for sleeping, laziness and weakness in faith!"*[30] **"Those liked by Allah the most are the ones who do not eat much and are not overweight."**[31]

Modern people's endless appetite and inactivity drive them to fall into the trap of obesity, which is regarded as the modern monster of the world. Islamic

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[27] Huard, *The Management*, 3.

[28] Abu Dawud Suleiman ibn al-Ash'as ibn Ishaq as-Sijistani al-Azdi, *as-Sunan*, ed. Kamal Yusuf el-Hut, (Beirut: s.n.,1409/1988), "Tib", 13.

[29] Abu Abdillah Muhammad ibn Yazid Majah al-Qazwini, ed. M. Mustafa al-Azami (Riyadh: s.n., 1403/1983), "At'imah" 50; Tirmidhi, "Zuhd", 47.

[30] Abu al-Fazl Jalal ad-Din Abd ar-Rahman ibn Abi Baqr ibn Muhammad al-Hudairi as-Suyuti, *Câmiu's-Sağîr Tercümesi* (Hadith no: 295).

[31] Suyuti, *Câmiu's-Sağîr Tercümesi* (Hadith No: 221).

societies of the current time, whose interest in the Prophet's sunnah has decreased from many aspects, are exposed to the same danger. Despite modern suggestions, obesity incidence among people, families and societies is increasing day by day. The historical facts indicate that following the sunnah of the Prophet will be the healthiest method for preventing obesity, inactivity and the use of substances, all of which are the source of chronic disorders. The lifestyle suiting sunnah and Islamic Medicine will preserve the health of modern families and societies and solve the problems that are not answered by modern medicine if we manage to maintain the sunnah.

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Marriage in the Period from Jahiliyya to Islam[*]

Ahmet ACARLIOĞLU[**]

Abstract

The family has ceased to be an irregular institution with the religion of Islam, and many legal arrangements have been made in favor of women. Before Islam, there were almost no legal and social sanctions about the concept of family in Arabic society. For this reason, the male head of the family acted irresponsibly towards family members since he did not have any concerns about accountability, which caused wounds and moral problems in the conscience of society. Arabs, who were scattered and living a nomadic life, became a regular society after Islam made arrangements for family and presented the relevant judgments. While Arab society was a congregation before Islam, it became a community later. Starting from ignorance, this study will focus on how marriages took place in the blessing of Islamic history.

Keywords: Islamic history, Marriage, Jahiliyya, the life of Mohammad, Prophet Mohammed.

Câhiliye'den İslâm'a Evlenme

Öz

Aile İslâm diniyle beraber düzensiz bir müessese olmaktan çıkmış, kadının lehine olmak üzere birçok hukuki düzenleme yapılmıştır. İslâm'dan evvel Arap toplumunda aileyle alakalı hukuki ve sosyal müeyyide ve yaptırımlar yok denecek kadar azdı. Bu sebepten aile reisi olan erkek hesap verme endişesi taşımadığından aile bireylerine karşı sorumsuzca hareket etmekteydi. Bu da toplum vicdanında yaralar açmış ve ahlâki sorunlar doğurmuştu. İslâm'ın aileyle ilgili düzenleme ve ahkamı vazetmesinden sonra dağınık olan ve göçebe bir hayat yaşayan Araplar, düzenli bir toplum haline gelmiştir. Arap toplumu öncesinde cemaat yapısı arz ederken, bir cemiyete dönüşebilmiştir. Bu çalışmada Câhiliye'den başlayarak İslâm tarihinin bidayetinde evliliklerin nasıl gerçekleştiği üzerinde durulacaktır.

Anahtar Kelimeler: İslâm Tarihi, Evlenme, Câhiliye, Siyer, Hz. Peygamber.

Introduction

Family is the basis of society and humanity. It has maintained its presence in societies which have not had strict rules of sexuality.[1] According to Islam, family is the essential unit of a society. A house where one finds peace is regarded as an armor that protects one from various sins and disorder.[2] Moreover, as Islam unites people, it attributes particular importance to family.[3] Considering the period when Islam was revealed, the institution of family was not robust. The main reason is that women and children were not respected.[4]

1. Marriage

Marriage is indicated with the verb (نكح) in Arabic. One of the meanings of this verb is "somnolence" while another one is "rain penetrating into soil".[5] The concept of marriage means the agreement to marry and a sexual relationship. Its superordinate, "ad-damm", means uniting or gathering.[6] The verb (تزوج) derived from the verb (زوج) also means marriage.[7] The concept of zawj does not completely mean couple. It indicates each person in a couple. Therefore, the concept of zawj means both husband and wife in Arabic. These meanings of zawj actually represent that a man and woman who constitute a couple are from a single lineage.[8] Hadiths of the Prophet include the concept of "nikah" meaning "marriage".[9]

The concept of marriage has different meanings in other disciplines. From a sociological point of view, marriage "is the unity of marital relationship formed by a man and woman."[10] In another description made in terms of sociology, "marriage is the social acceptance toward the efforts of a couple to meet one another's

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[1] Sulhi Dönmezer, *Toplumbilim*, (Istanbul: Beta Yayınları, 1994), 196.

[2] Mehmet Akif Aydın, "Aile", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Ankara: TDV Yayınları, 1989) 2/196-200.

[3] Aflazurrahman, *Siret Ansiklopedisi*, (Istanbul: İnkılab Yay.), 2/28.

[4] Mücteba Uğur, *Hicri Birinci Asırda İslâm Toplumu*, 147.

[5] *Mujamu al Wasit*, (Egypt: Şurûku't Devliyye Matbaası, 2004), 951.

[6] *Mujamu al Wasit*, 901.

[7] *Mujamu al Wasit*, 405.

[8] Merrly Wyn Davies, *İslami Antropolojinin Oluşturulması: Kendimizi ve Başkalarını Tanımak*, trans. Tayfun Doğukargın (Istanbul: Endülüs Yayınları, 1991), 116-117. See: Ahmet Taşğın, "Kur'an'da Aileyi Oluşturan Kelime Kadrosu Ailenin Arka Planı", *Aile Sempozyumu* (Ankara: Medeniyet Vakfı Yayınları, 2015), 65.

[9] Jean Arent Wensinck, *al-Mujamu al-Mufahras li-Alfazi al-Hadisi an-Nabawi: Abada-Hayyah = Concordance Et İndices De La Tradition Musulmane*, (Lieden: 1936), 6: 550. "**Marriage is my sunnah.** Whoever abandons my sunnah is not a follower of mine. Marry! I will boast with your population before other nations. Whoever can afford marriage shall marry. Whoever does not have a good financial status shall fast supererogatorily because fasting breaks the lust." (Tirmidhi, "Nikah", 3). As seen in these hadiths, the concept of "nikah" means marriage in other hadiths of the Prophet. For similar hadiths, see: Bukhari, "Nikah", 15; Muslim, "Rada", 53.

[10] Hüseyin Peker, "Evlilik," *Sosyal Bilimler Ansiklopedisi*, 490.

physical, socio-cultural, spiritual and emotional needs in the lawful manner".[11] According to Malinowski, "marriage is a social agreement shaped and made between a man and woman based on traditions and customs".[12]

A systematic family structure was not present in pre-Islamic Arabic society because women and female children were not granted the necessary importance and value.[13] Arabic people believe that those who do not have a relationship get closer through marriage, that enemies or rivals make peace through marriage, and that people can make friends consequently. Even if marriage occurs between a man and woman, this process also covers the families or tribes of them.[14]

Avoiding marriage and staying away from women was among the praised behaviors and called "tabattul" in pre-Islamic Arabic society. Men who were influenced by clergy and stayed away from women were called العنين (Anin). These people were believed to be spiritually superior to others, respected in society and considered to resemble the Christian priests. This was also the case for women who were called "al-Batul". Men who did not approach women and avoided marrying them were called الصارور, while the women doing the same were called الصارورة.[15]

Saad ibn Abu Waqqas, an important Sahabah figure, said "If the Prophet (p.b.u.h.) had permitted tabattul, we would have emasculated ourselves." This act would have opened the ways to clergy for many sahabah members.[16] Although there were Muslim people oriented to tabattul [17], the Prophet never permitted Muslims to prefer tabattul to prevent or neglect sexual desires. For instance, Uthman ibn Maz, a Sahabah member who was inclined to tabattul, asked for the permission of the Prophet to have his testicles removed but the Prophet rejected his demand, saying "Islam does not have tabattul and clergy",[18] and he recommended the Sahabah member to fast. While explaining the benefits of fasting in another narrative, the Prophet stated that fasting is an armor before committing sins. Ismail

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[11] Hayri Erten, "Aile Din Münasebeti (Osmanlı Ailesinden Kesitler)", *Bakü Devlet Üniversitesi İlahiyat Fakültesi Dergisi* 1/1 (March: 2004), 70.

[12] Birsen Gökçe, "Evlilik Kurumuna Sosyolojik Bir Yaklaşım" *Aile Yazıları-4*, (Ankara: Tcbaak, 1990), 382.

[13] Uğur, "Asr-ı Saadet'te Sosyal Hayat", 147.

[14] As-Sayyid Mahmud Shuqri Alusi al-Baghdadi.*Bulughu al Arab fi Ma'rifati Ahwali al Arab*. ed. Mahmut Behcet Eleseriy. (Beirut: Daru al-Qutubu al-Ilmiyyah, nd.), 2/6.

[15] Jawaad Ali, *al-Mufassal fi Tarihi al Arab Qable al Islam* (Baghdad: Baghdad University. 1413/1992), 4/562.

[16] Muhammad ibn Sad ibn Mani' Zukhri ibn Sad, *Qitabu at-Tabaqati al-Qabir*, ed. Dr. Ali Muhammed Ömer (Cairo: Mektebe Hancı, 2001/1421), 3: 366; Abu al Fadl Ahmad ibn Ali ibn Muhammad ibn Ahmad ibn Hajar al Asqalani, *Sahâbe-i Kiram Ansiklopedisi*, trans. Naim Erdoğan (Istanbul: İz Yayınları, 2010), 3/400.

[17] As a Sufism concept, tabattul means "terminating, abandoning". It also means "directing all interest to Allah, abandoning every worldly concept and devoting oneself to worshipping". See: İlhan Ayverdi, *Büyük Misalli Türkçe Sözlük* (Istanbul: Kubbealtı Yayınları, 2011), 3106.

[18] Jawad Ali, *al-Mufassal*, 4/633.

ibn Abdallah stated that "tabattul" is "the avoidance of one from approaching one's wife".[19]

In one of the hadiths regarding marriage, the Prophet said: "Marriage is my sunnah. Whoever abandons my sunnah is not a follower of mine. Marry as I will boast with your population before other nations.[20] The Sahabah members who made a decision not to marry a woman and to stay away from them were warned by the Prophet not to do so.[21]

The main objective of Islam is to help one achieve peace and happiness in this and eternal world. Presence of a benevolent spouse and children will make a Muslim happy in both worlds according to Islamic criteria. The Prophet gave his recommendations to his followers with this statement: "Maintaining honor, using fragrance and miswaq, and marrying are my important sunnah."[22]

1.1. Asking Fathers' Permission to Marry Their Daughters

Although there were many forms of marriage in pre-Islamic Arabic society, the most common one was to ask the permission of a woman's family to marry her. How this tradition and relevant customs were maintained in pre-Islamic Arabic society and how they were performed after the introduction of Islam will be detailed in this section.

The Arabic concept الخطبة (al-Hitbah) meaning the afore-mentioned title is reflected with a Turkish term "söz" or "nişan", both of which mean engagement. During this process, the custodian of the groom visited the custodian of the bride and asked for his/her permission. The custodian could be fathers, uncles or a relative if fathers were not present.[23]

If the female side approved this marriage, the custodian mentioned his approval and engagement occurs. The custodian recommended the male side to get along with the bride and prayed as follows: "May Allah make your marriage simple and peaceful, grant you male children, and increase your number and strength." If the male side was not a relative and there was a possibility for both sides to be enemies in the future, the female side would say the following: "May your marriage be challenging. May Allah prevent you from having children. You are not relatives

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[19] Ibn Sa'd, Tabakat, 3/367.

[20] Abu Muhammad Abdallah ibn Abd ar-Rahman ibn Fadl ibn Bakhram ad Darimi, *Sunanu ad-Darimi* (Istanbul: Çağrı Yayınları, t.y.), "Nikâh", 3.

[21] Ibn Sa'd, *Tabakat*, 1/320.

[22] Abu Isa Muhammad ibn Isa ibn Sawra at-Tirmidhi, *Jamiu at-Tirmidhi* (İstanbul, Çağrı Yayınları, nd.), "Nikâh", 15 (6, 69), "Nikah", 1; Nasai, *as-Sunanu al-mujtabah* (Istanbul: Çağrı Yayınları, nd.), "Ishratu an Nisa", 1.

[23] Jawad Ali, *al-Mufassal*, 4: 643.

and give birth to enemies." The bride wealth would be determined during this process.[24]

One of the most proper examples to this pre-Islamic tradition is the Prophet's act of asking permission to marry Hatijah. According to narratives, Hamza and Abu Talib – Prophet's uncles – accompanied him as his custodians. As Huwayleed, Hatijah's father, passed away, the permission was granted by Amr ibn Asad, her uncle . Moreover, Mudar's important figures were also there.[25] The speech of asking permission was made by Abu Talib. During this speech, Abu Talib emphasized that both families were equal in terms of nobility. He noted that Muhammad might not be wealthy but he was one of a kind in terms of honor, nobility, merit and wisdom in Quraysh.[26]

After the introduction of Islam, marriages have been initiated after asking for the blessings and permission of fathers. Although the practices that did not suit the spirit of Islam were abolished, the customs related to asking fathers' permission to marry their daughters stayed almost the same as marriage is a marital institution rather than being religious. The Prophet did not marry for a certain period following the passing of Hatijah, his wife, but he later decided to marry another woman after the encouragement of his followers. To match the date of marriage he performed with Sawda after Hatijah, the Prophet decided to ask for permission to marry Aisha, Abu Baqr's daughter . However, before this occasion, Aisha was engaged to Jubair, son of Mutim ibn Adiy. [27] When the Prophet said he wanted to marry Aisha, Abu Baqr asked how this could be a reality because he and the Prophet were like brothers. For Abu Baqr, such a marriage could not occur. However, the Prophet said: "We are brothers from a religious perspective, so there is no obstacle before such a marriage between me and your daughter." [28]

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24 M. Şemsettin Günaltay, *İslâm Öncesi Araplar ve Dinleri*, sad. Mehmet Mahfuz Söylemez - Mustafa Hizmetli (Ankara: Ankara Okulu, 2013), 124.

25 Tabari noted that Hatijah's father was also there. See: Ibn Jarir at-Tabari, *Tarihi ar-Rusul wa al-Muluq*, ed. Muhammad Abu al-Fadl Ibrahim, (Egypt: Daru al-Marifah, ed.), 2/282.

26 Abu Muhammad Jamal ad-Din Abd al-Maliq ibn Hisham, *as-Siratu an-Nabawiyyah*, ed. Umar Abd as-Salam Tadmiri, (Tripoli-Damascus: Daru-Qitabi al-Arabi, 1990), 1/215; Tabari, *Tarih*, 2/282; Sihabu ad-Din Ahmad ibn Abd al-Wahhab Nuwairi, *Nihaya-tu al ʾArab*, ed. Mufid Qumayha - Hasan Nuruddin (Beirut: Daru al-Qutubi al-Ilmiyyah, 2004), 16/70; Abu al Abbas Muhammad ibn Yazid al-Mubarrad, *al-Qamil*, ed. Muhammad Ahmad az-Zali (Beirut: Muassastu ar-Risalah, 1997), 2/1362; Abu Jafar Muhammad ibn Khabib, *Qitabu al Muhabbar*, ed. Ilze lihtein (s.n.: Daru al Afaq al-Jadidah, nd.), 77; Aisha Abd ar-Rahman bt. Shati, *Resûlullah (sav)'in Hanımları (Annelerimiz)*, trans. İsmail Kaya (Konya: Uysal Kitabevi, 1987), 36.

27 According to the narrative by ibn Saad, Abu Baqr became very happy later. However, he did not say yes as he promised Mutim ibn Adiy before, saying "let me break my promise first". Ibn Sa'd, *Tabakat*, 10/58-59; Ibnu al Jawzi, *Muntazam*, **3**/17; Shamsu ad Din Abu Abdallah Muhammad ibn Ahmad ibn Uthman ibn Kaymaz az-Zahabi, *Tarihu al Islam wa Wafayatu al Mashahiri wa al Aʾlam*, ed. Umar Abd as-Salam at-Tadmuri (Beirut: Daru al-Qitabi al-Arabiyyah 1993), 6/234.

28 Ibn Jarir at-Tabari, *Tarihi ar-Rusul wa al-Muluq*, 2: 412; Abu Abdallah al-Haqim an-Nisaburi, *al-Mustadraq ʾala as-sahihayn*, ed. Mustafa Abd al-Qadir Ata (Beirut: Daru al-Qitab, 1990), 2/181 (2704).

As Abu Baqr promised beforehand, he wanted to have time to understand what Mutim aimed. Then, he visited Mutim ibn Adiy. Mutim's wife said: "O, Quhafa's son! You would probably deviate our son from his current religion and direct him to your own religion if we performed the marriage between our son and your daughter." Upon hearing these words, Abu Baqr neglected her and asked Mut'im ibn Adiy: "What is the matter with her?" Mutim said: "She said what you heard." Hearing these words, Abu Baqr thanked Allah who left no obstacles before breaking the promise.[29]

1.2. Equivalence in Marriage

The concept of "qufuwwat" means equivalence or similarity.[30] In pre-Islamic Arabic societies, male and female sides were expected to be equivalent from different aspects. Honorable families wanted the other sides as honorable and noble as them. Anybody from the public would abstain from asking the permission to marry the daughter of a noble family.[31] Al-Kharis ibn Qaab was the master of Muzhij. He told people "to consider equivalence before marriage, to marry the daughters of benevolent people as their characteristics were convenient, and to know that their children from these women would also be benevolent". Muzhij also stated that children of non-equivalent parents would be idiots. As a reflection of this understanding, the children of noble and ordinary people would not be deemed equivalent, which has reached the present day.[32]

Families would stipulate that the person to marry their daughters should be an Arab with a proper profession and title and equivalent honorable reputation.[33] Noble people would not marry the daughters of people such as carpenters, blacksmiths or jewelers who performed manual labor as these professions were accepted as the occupations of slaves. For instance, Numan ibn Munzir were despised as her mother was the daughter of a Jewish jeweler. Son of one from Mawali would only marry the daughter of another person from Mawali; it was not possible for them to marry the daughter of a noble and free person. Moreover, the beauty of a girl was determined by examining her family.[34] If a family gave their permission to a non-equivalent person to marry their daughter or asked for such a permission, they would be condemned.[35]

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[29] Tabari, *Tarih*, 2/412. See: Ziya Kazıcı, *Hz. Muhammed'in Aile Hayatı ve Eşleri* (Istanbul: Çamlıca Yayınları, 2012), 138.

[30] *Misalli Sözlük*, 1844.

[31] Jawad Ali, *al-Mufassal*, 4/639.

[32] Jawad Ali, *al-Mufassal*, 4/543.

[33] Jawad Ali, *al-Mufassal*, 4/369.

[34] Jawad Ali, *al-Mufassal*, 4/640.

[35] Jawad Ali, *al-Mufassal*, 4/564.

Arabic people despised Ajam people who were not Arabic in the pre-Islamic period. For Arabic people, being an Arab was sufficient to be superior although they were poor and their quality of life was quite poor and simple. Those who would give their permission to Ajam people to marry their daughters would be condemned. The contempt was also shown to the children arising from this marriage, meaning they would be neglected and deemed valueless.

Mudar and Khuda tribes, which were among the Arabic people of Ignorance Period, would bury their children alive. The most severe cases arose from the Tamim tribe. Nevertheless, they did not permit their daughters to marry the sons of those who were not equivalent to them. For instance, Numan ibn Munzir wanted the permission to marry one of the daughters of a Iranian family but got rejected later due to inequality between them.

After detailing the concept of equivalence in the pre-Islamic Arabic society, this study will examine the approaches brought by Islam – the religion abolishing many customs of the Ignorance Period – to the concept of equivalence. Equivalence in marriage is the significant similarity between a man and woman from certain aspects. According to the public idea, equivalence is a must in marriage, and stipulation of this is important for maintaining a proper marriage.[36] The more common aspects the two sides have and the more equivalent characteristics they have, the more proper their marriages will be.[37] The Prophet ordered the following in a narrative conveyed from Aisha: "Be selective in terms of your spouses and marry your peers."[38]

The Prophet reported that Islam nullified the contempt showed by the people of the Ignorance Period with the following statement: "O people! Allah ended the contempt you have been displaying since the Ignorance Period."[39] The Prophet stressed the importance of equivalence with the following statement: "Protect your sperm and have children with whomever you are equivalent to."[40] Islam recommends people to help young people marry when it is time, regardless of their gender. However, the point to observe here is to look for the equivalent person and to let the children marry later. Giving permission to anybody who asks first to marry or helping a man marry the first woman he sees is against Islam.

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[36] Muhammad Khalaf, *Nizam al-Usra,* 108.

[37] Bekir Sağlam, "Ailede Huzurun Esasları", *Aile Sempozyumu* (Ankara: Medeniyet Vakfı, 2015), 153.

[38] Ibn Majah, "Nikah", 46.

[39] Suleiman ibn Ahmad ibn Ayyub ibn Matir al-Lahmi Abu al Qasim at-Tabarani, *al-Mu'jamu al Qabir,* ed. Hamdi ibn Abd al-Majid as-Salafi (Cairo: Maqtabatu ibn Taymiyyah, nd.), 3/359.

[40] Abu al-Fida Ismail ibn Muhammad Ajluni, *Qashfu al-hafa wa Muzilu al-ilbas amma ishtaharah min al-Ahadis (ala Alsinati an-Nas),* ed. Ahmad Kalash, (s.n.: Maqtabatu at-Turasi al-Islami), 1/301.

1.3. Consent in Marriage

Marriage is one of the most important agreement forms as it combines two people, personalities and souls. Islam stipulates the consents of man and woman for marriage and set the conditions for that purpose with mutual will, proposal and acceptance before the marriage.[41] According to what canonist agree, a man and woman in the adolescence can marry upon their consent. Their custodians cannot force them to marry. As an indication of the importance attributed to family and women, Islam granted the freedom to select the spouse not only to men, but also to women. Islam even performed positive discrimination to women who are more vulnerable and weaker compared to men, and made women's consent more important and prioritized. Men could prevent the oppression which they might receive thanks to their nature, but women could not. Thus, Islam granted the right and freedom to select the men they preferred to women.[42]

To show that they are willing, single daughters keep their silence before their custodians, while revealing to the relatives that they are eager. However, widows clearly state when they want to marry. Crying or smiling is accepted as a sign or willingness.[43] Regarding the willingness of widows in terms of marriage, according to a hadith narrated by ibn Abbas, the Prophet stated that the willingness of widows was more important than their custodians' permission[44]. Custodians' permission is valid for single people. There is no need for a widow to ask for the permission of her custodian. The Prophet said the following: "There is no obligation for a widow to ask the permission of her custodian."[45] Hansa bt. Hizam was obliged to marry by her father despite being a widow, but when she complained to the Prophet about this issue, the marriage was nullified.[46] The Prophet clarified the issue as follows: "The permission of a single woman's father is asked but a widow is more authorized in selecting a spouse than her custodian."[47]

In the pre-Islamic period, fathers or relatives as custodians (brother or uncle) had the right to[48] give permission for the marriage of women. Fathers could forcibly make their daughters marry after the custodians' permission was received. During the Ignorance Period, marriage traditionally occurred through the instructions of parents, and daughters could not oppose their parents.[49] In this case,

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[41] Muhammad Husein Abu Yahya, *Nizamu al Usra fi al Islam* (Amman: nd.), 106.

[42] Muhammad Khalaf, *Nizamu al Usra*, 108.

[43] Karaman, *İslam Hukuku*, 1/304; Muhammad Khalaf, *Nizamu al Usra,* 59.

[44] Muslim, "Nikah", 66 (1421); Muwatta, "Nikah", 4 (2, 524); Tirmidhi, "Nikah", 12 (1108); Abu Dawud, "Nikah", 26.

[45] Nasai, "Nikah", 31-32.

[46] Bukhari, "Nikah", 42, "Iqrah", 3; Nasai, "Nikah", 35. See: Karaman, *İslâm Hukuku*, 1/303-304

[47] Muwatta, "Nikah", 2; Bukhari, "Hiyal", 11; Tirmidhi, "Nikah", 18; Darimi, "Nikah", 13.

[48] Ibn Habib, *Muhabbar*, 310.

[49] Jawad Ali, *al-Mufassal*, 5: 527.

certain honorable families enabled their daughters to marry after receiving their consent.[50]

Hind bt Utbah is a proper example in this regard. Hind bt. Utbah ibn Rabi was one of the most beautiful and smartest women from Quraysh. Before Abu Sufian, she was married to Hafs ibn al-Mughirah ibn Abdallah ibn Umar ibn Mahzoom. Then, she was married to al-Faqih ibn Hafs.[51] Hind was later asked for permission to marry by Abu Sufian and Suhayl ibn Amr. Utbah, her father, told her about their characteristics and left the authority to select one among them. Upon hearing her father, Hind requested her father to give permission to Abu Sufyan ibn Harb.[52]

Within pre-Islamic Arabic society, although a woman did not have the right to reject the selection of her custodian, she could let a part of her hair free on one of her shoulders and wear kohl on her eye on the other side. By doing so, she could show that she was not willing. Women who wanted to marry would hop on one of their feet and say "I have been looking for the ways to marry all day!" By doing so, they could marry easily in the near future according to the belief.[53]

Although the concept of consent is important in marital relationships, the marriages performed without taking the permission of women were common in Arabic society. A girl visited the Prophet one day and said: "O Prophet! My father made me marry the son of his brother to increase his reputation." Upon hearing this, the Prophet left the choice to the girl. She said: "I will approve what my father did but I wanted to make sure that fathers know they do not have a word in this regard".[54] The examples of girls who were forced to marry the men they did not want are not limited with the afore-noted. One of them is Hansa bt. Hizam. Her father made her marry a man she did not want. Then, she mentioned the issue to the Prophet and nullified the marriage.[55]

1.4. Bride Wealth

In pre-Islamic Arabic societies, bride wealth was determined even before the ceremony of asking for permission. Bride wealth was also called "sadaq". This term can be read in different forms such as الصدقة، الصدُقة، الصُدُقة، الصَداق. Bride wealth was deemed as the right of women among the Arabic people. The fathers or custodians of the women would receive this money to meet the marital needs and wedding expenses. Considering this as a right, fathers would spare no sum for their

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[50] Jawad Ali, *al-Mufassal*, 4: 636.

[51] Zahabi, *Tarih*, 3/298.

[52] Ibn Sad, *Tabakat*, 10/223; Balazuri, *Ansab*, 5/13.

[53] Alusi, *Bulughul Arab*, 2/330.

[54] Nasai, "Nikah", 36, (6, 87); Ibnu Majah, "Nikah", 12 (1874).

[55] Bukhari, "Nikah", 42, "Ikrah", 3.

daughters. This was also called الحلوان. Another term reflecting the money received as bride wealth was النافجة. Accordingly, when one had a newborn girl, people said "May your efforts with your daughter be mubaraq!" to that person.[56]

Although the concepts of bride wealth and "sadaq" were thought to mean the same in the Period of Ignorance, Jawad Ali stated that the terms الصَداق and المهر had different meanings. Accordingly, the money granted to the bride was called "sadaq" while the money provided to the mother or father of the bride was called bride wealth.[57] "Sadaq" was also the name of the goods donated to get closer to the Gods. This would be spent on the poor, just as it was given to them personally. In addition, the money granted to women during the marriage was also called bride wealth.[58]

Bride wealth was stipulated for the well-being of marriage in the pre-Islamic period, and marriage was legitimized in this way. Married men had to pay the bride wealth. Men would pay the sum to women's fathers or their custodians. If they did not do so, they would be in debt. In addition, if they died without paying this sum, it would be a shame for them and this sum would be obtained from their lineage. If they did not have a lineage, the sum would be undertaken by their relatives who were asked to pay. However, if women died when men were alive, the bride wealth was obtained from their lineage. If it could not be received from their lineage, their families were asked to pay the bride wealth.[59]

If marriage occurred without bride wealth, this relationship was called adultery, vulgarism or impudence. Bride wealth is a sign of honor and nobility between them. The higher the amount of the bride wealth, the more honorable and noble the women were believed to be. If the woman to marry was a prisoner, no bride wealth was paid as she was deemed property of the man as captivity terminated the virtue of marriage.[60]

After the introduction of Islam, most of the canonists stated that bride wealth was not a condition or element for the well-being of marriage. Accordingly, it is just a result of marriage which is also the case for the concept of alimony. The Prophet enabled Zul Bijadain Abdallah to marry without determining the bride wealth.[61] Participating in the Battle of Khaybar, Zul Bijadain wanted authorities to grant the sum that he deserved from the booty to her wife as bride wealth before dying a martyr, and he paid the bride wealth accordingly.[62]

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[56] Tabari, *Tafsir*, 7/557; Jawad Ali, *al-Mufassal*, 7/532.

[57] Jawad Ali, *al-Mufasal*, 4/644, 5/529-531.

[58] Jawad Ali, *al-Mufasal*, 5/316.

[59] Jawad Ali, *al-Mufasal*, 5/316; Cin, *Evlenme*, 124.

[60] Jawad Ali, *al-Mufassal*, 5/529.

[61] Ibn Sa'd, *Tabakat*, 5/141.

[62] Ibn Sa'd, *Tabakat*, 5/141.

A man's responsibility in the marriage process is to pay the promised bride wealth. In a narrative conveyed by Zahabi, the Prophet emphasized the importance of bride wealth with the following statement: "Whoever marries a woman without intending to pay the bride wealth would perform adultery, and whoever asks to borrow money without intending to pay it back is a thief."[63]

There is wisdom behind the necessity of bride wealth for men. First and foremost, a man is the head and authority of a family.[64] The bride wealth paid by a man strengthens his position in the family. Bride wealth is a gift and indication of the value attributed to a woman. It is critical for strengthening and maintaining the ties between spouses.

Bride wealth is paid to the brides in Islam. In the event that their husband dies, bride wealth can be lawfully used by women, and if women have yet to receive the bride wealth, they can receive the sum from their husbands' relatives.[65] Bride wealth is also an insurance that can be used by women when they end their marriages since their relationships do not progress as how they like.[66] Women do not have to prepare dowry in return for the bride wealth paid to them. Moreover, they can renounce a certain part or the entire bride wealth if they want. Moreover, the bride wealth granted to women are not to be taken back under any conditions.[67]

With the revelation of Islam, Muslim families were tested. There were Muslim people whose wives were not Muslim or abandoned Islam.[68] As per al-Mumtahinah 60/11, the Prophet returned the bride wealth paid by certain sahabah members to their wives from war booty. These women included the following: Ummu al Haqam bt. Abi Sufyan (wife of Iyaz ibn Ganm ibn Shaddad al-Fikhri), Garibah Fatimah bt. Abi Umayyah ibn al-Mughirah al-Mahzumi (wife of Umar ibn Hattab), Buru' bt. Utba ibn Rabia (wife of Shammas ibn Uthman al-Mahzumi), Hind Amrah bt. Abdiluzza ibn Nadlah (wife of Huzaa'dan Amr ibn Abdiamr Zish Shimalain), and Hind bt. Abi Jahl (wife Hisham ibn As ibn Wail as-Sahmi).[69]

1.5. Types of Marriage

During the pre-Islamic period, there were different forms of marriages and relationships compared to current times. Before explaining the marital changes that occurred after the introduction of Islam, this study will detail the types of marriage in the Ignorance Period.

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[63] Zahabi, *Tarih*, 10, 418.

[64] an-Nisa, 4/34.

[65] Karaman, *İslam Hukûku*, 1/340; Muhammad Khalaf, *Nizamu al Usra,* 119.

[66] Saim Savaş, *Fetva ve Şeriye Sicillerine Göre Ailenin Teşekkülü ve Dağılması, Sosyo Kültürel Değişme Sürecinde Türk Ailesi,* (Ankara: AAKBY, 1999), 140.

[67] Al-Baqarah, 2/229. See: Bukhari, "Nikah", 36-37.

[68] al-Mumtahina 60/11.

[69] Ibn Habib, *Muhabbar*, 432-435.

Most of the marriages occurred in the ordinary manners among the Arabs in the pre-Islamic period; one would ask the permission of the bride's family and the bride wealth was determined later. According to a narrative made by Urwah ibn Zubair in regard to these forms of marriage, Aisha stated the following: "There were four types of marriages in the Ignorance Period. One of them was the ordinary marriage legitimized by Islam and performed by everybody. One would ask the permission to marry from the bride's father or custodian, pay the bride wealth and marry her later.[70] This marital relationship was initiated with a proposal and followed by acceptance, engagement and marriage. This marriage was called زواج البعلة. This form was common among Bedouins as well as Khadaris. Other marriage types to be mentioned later were performed less commonly.[71]

1.5.1. Istibda Marriage

There were different sorts of relationships that were not deemed marriage and mentioned as so between the Arabic people. One of them was Istibda Marriage (نكاح الاستبضاع).[72] After menstruation, some men told their wives the following: "Go and ask that men to make you pregnant." They would send their wives to the leaders of tribes who were generous and brave. Then, the women would have sexual intercourse with them until becoming pregnant. In this period, husbands of these wives would stay away from them. The purpose here was to gain a noble and brave child from the lineage of the tribal leader. This marriage form was also called "Nikahu al-Istihza".[73]

1.5.2. Arranged Marriage

One of the forms of marriage was arranged marriage. In this form, two men agreed to divorce their wives and married the previous wife of the other side.[74] Bride wealth was not paid in this form.[75] One of the remarkable examples to this marriage form occurred in the pre-Islamic period. Hind (Mutajarridah) bt. al-Munzir ibn al-Aswad al-Qalbiyyah was married to the son of her uncle. His name was al-Aswad ibn al-Munzir ibn Kharisah al-Qalbi, whom was also named Hulm.

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[70] Bukhari, "Nikah", 36; Abu Dawud, "Talaq", 33 (3272); as-Sayyid Mahmud Shuqri Alusi al-Baghdadi, *Bulughu al Arab fi Ma'rifati Ahwali al Arab,* ed. Mahmut Behcet Eleseriy (Beirut: Daru al-Qutubi al-Ilmiyyah, nd.), 2/3. The other three forms of marriage mentioned in the hadith were provided under the relevant titles not to distort the flow of the text.

[71] Jawad Ali, *al-Mufassal*, 5/533.

[72] Jawad Ali, *al-Mufassal*, 4/635.

[73] Jawad Ali, *al-Mufassal*, 5/538; Alusi, *Bulughu al Arab*, 2/5; Bukhari, "Nikah", 36; Abu Dawud, "Talaq", 33 (3272); Günaltay, *İslam Öncesi Araplar ve Dinleri*, 127.

[74] Günaltay, *İslam Öncesi Araplar ve Dinleri*, 127.

[75] Jawad Ali, *al-Mufassal*, 5/535.

She was one of the most beautiful women of the era. Munzir ibn Munzir fell in love with her when he saw her for the first time. He once sat down with Hulm as two friends to have a drink. Mutajaridah was also next to Hulm. Munzir said to Hulm the following: "Is there any chance that you'll divorce your wife and marry mine?" Hulm said: "Yes, I can do that." Although Hulm divorced his wife, Munzir did not keep his promise. Moreover, he managed to marry Mutajaridah with whom he fell in love through trickery.[76]

1.5.3. Shighar Marriage

The most important item of expense for the pre-Islamic Arabic society was bride wealth. There was a form of marriage made not to pay the bride wealth and to prevent people from considering the relationship as adultery, which was called shighar الشغار. If the concept of الشغار is read without the letter ش, it means the process where a man marries the wife of a friend or a girl from his friend's lineage without paying a bride wealth.[77]

One who intended to perform a shighar marriage directly mentioned the term in one's proposal and said "Enable me to marry your daughter". This statement would cover any woman from whom the permission of the custodian was asked. These forms of marriage were also called arranged marriage noted above. The most important factor in this form of marriage was the financial statuses of people. Those who performed this marriage were generally poor and culturally-weak Bedouins.[78]

For the Arabic people of the pre-Islamic period, this marriage had no issues in its essence because bride wealth was not paid to the bride. Instead, it was granted to the father or custodian. Shighar marriage had its exceptions but the bride was generally permitted to do so by a custodian rather than her father.[79] However, in certain cases, men would permit the marriage of their daughters without bride wealth.[80] This form of marriage was prohibited with an-Nisa 4/4, and the Prophet said the following: "Islam does not permit jalab, janab and shighar marriage. Whoever seizes one's goods is not a follower of mine"[81].

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[76] Isfahani, *Aghani,* 21/5.

[77] *Mu'jamu al Wasit*, 486.

[78] Jawad Ali, *al-Mufassal*, 5/538.

[79] Jawad Ali, *al-Mufassal*, 5/533; Alusi, *Bulughu al Arab*, 2, 5.

[80] Jawad Ali, *al-Mufassal*, 5/535.

[81] Abu Dawud, "Nikah", 14,15; Ibn Majah, "Nikah", 16.

1.5.4. Sawahibu ar-Rayat

Although this was described as a form of marriage during the Ignorance Period, it is rather a form of adultery. The name was derived from the practice of hanging a flag on the door to indicate that the place was an adultery house. This form of marriage was called "baghy". Women who performed these actions were prostitutes; they would have sexual intercourse with more than one man in the same place or at different times.

Examples of these houses were common in the pre-Islamic Arabic societies. Certain polytheists from the rich made their handmaidens do this activity. They included Ummu Mahdun, handmaiden of as-Saib ibn Abi as-Saib al-Mahzumi; Ummu Gaiz, Safwan ibn Umayya's handmaiden; Hayyah bt. Qibtiyyah, as ibn Wail's handmaiden; Jalalah, Suhail ibn Amr's handmaiden; Maria, ibni Maliq ibn Amsala's handmaiden; Sharifa, Zama ibn al-Aswad's handmaiden; Qarinah, Hisham ibn Rabia's handmaiden, and many more. It is clear that these polytheists considered making their handmaidens perform adultery as a form of earning income in the pre-Islamic period.[82]

Another form of adultery resembling sawahibu ar-rayat was called joint marriage. Eight out of ten men would visit a woman and had physical contact with her. If she would get pregnant from one of these men, she would select one among them as the father. She would call these men and determine one as the father of the child. If the selected man would deny it, the case would be reflected to "qaifs" who had significant functions in pre-Islamic Arabic society and made assumptions and interpretations regarding human physiognomy. Whoever resembled the child was selected as the father by Qaif. In such a case, the father could not deny the child. There were many children born in this manner during the Ignorance Period.[83]

1.5.5. Maqt Marriage

One of the most malevolent forms of marriage in the pre-Islamic period was Maqt Marriage. This marriage was also called نكاح الضيزان (Nikahu ad-Dîzan). When a man died, the oldest son who inherited his father's goods and rights would claim the continuation of his father's paternal relationship over his step mother by throwing his clothes on her.[84] A man who married his step mother through Maqt Marriage was called ضيزان dizan. Moreover, the children born from this relationship was named "maqti" or "maqit".

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[82] Wahidi, *Asbabu an Nuzul*, 235.

[83] Bukhari, "Nikah", 36; Abu Dawud, "Talaq", 33 (3272); Alusi, *Bulughu al Arab*, 2/5; Jawad Ali, *al-Mufassal*, 5/538-540; Günaltay, *İslam Öncesi Araplar ve Dinleri*, 127.

[84] Jawad Ali, *al-Mufassal*, 5/533.

"When the father or addressee of a man died, the choice of marrying the wife of the deceased belonged to that man (oldest son). That man could marry her whenever he wanted, or enable her to marry somebody else to receive her bride wealth. He could keep that woman next to him until the moment of death." In such a case, there was only one option for the women, which was escaping. In the process of chasing, she could escape from her step son if she managed to take shelter in her family's house before the son threw another cloth.[85]

If the sons of the deceased men were too young to marry, the women were told to wait until they grew up, and the oldest sons would marry the wives of the deceased men. If the oldest did not want to do so, a desiring brother would marry. If the deceased men did not have a son, his brother or relative from the asabah or a close friend called khamimi would act as a successor to the women.

As mentioned in the section of bride wealth, a person who married a woman would pay a certain sum called bride wealth to the father or custodian of the bride. This sum was accepted as a sale price in that society. Having been deemed as the property of their husbands, the women would be inherited to the sons of men. The sons would marry the women owing to the bride wealth paid by their fathers, or they would collect the bride wealth from them and enabled them to marry other men. Another way of freedom for women was to pay the sum determined by the men.[86]

This tradition was ended with the following verse:[87] *"O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good"*[88].

According to what Isfahani conveyed in Aghani, Zaid ibn Amr's mother was Jaida bt. Khalid. She gave birth to Hattab, Umar's father. After Nufail passed away, Amr – Nufail's son – married her and Jaida gave birth to Zaid. This was a pre-Islamic marriage.[89] The mother of Aws ibn Sabit, who was the brother of Hassan ibn Sabit – the poet of the Prophet – was Suhta bt. Kharisah ibn Lawzan ibn Abduwud from Bani Sa'idah. After the passing of her husband, she married Aws ibn Sabit, her husband's son.[90] Numan ibn Munzir, a well-known figure in the

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[85] Jawad Ali, *al-Mufassal*, 5/534.

[86] Bukhari, "Tafsir Abu Dawud", "Nikah", 4, "Iqrah", 5; Abu Dawud, "Nikah", 23; Jawad Ali, *al-Mufassal*, 5/533-535; Tabari, *Tafsir*, 8/106; Alusi, *Bulughu al Arab*, 2/55; Günaltay, *İslam Öncesi Araplar ve Dinleri*, 119; Ramazan Altıntaş, *Bütün Yönleriyle Câhiliyye* (Konya: Ribat Yayınları, t.y.), 207-208; Ateş, "Asr-ı Saadet'te Dinler ve Gelenekler", 57.

[87] Bukhari, "Tafsir", "Nisa", 6, "Iqrah" 5; Abu Dawud, "Nikah", 23.

[88] an-Nisa, 4/19.

[89] Isfahani, *Aghani*, 3/84; Ibn Qutaybah, *Ma'arif*, 179.

[90] Ibn Sa'd, *Tabakat*, 3/467.

Sahabah al-Qiram, married to the wife of his deceased father.[91] After the death of his father, Mazin ibn Fazara's son named Samiy ibn Mazin married Nasira bt. Jusham ibn Muawiyyah ibn Baqr ibn Hawazin, who was his father's wife.[92]

Maqr marriage was so ordinary among pre-Islamic Arabic society that fathers told their wives to marry their sons after their death as the last will. Asim ibn Ubaid ibn Salabah told her wife to marry Qudamah, his son, after his death as his last wish.[93] This sort of marriage was common in society. Barrah bt. Mur, Tamim ibn Murun's sister, was married to Huzayma ibn Mudriqa ibn Ilyas ibn Mudar. After his death, she married Qinanah ibn Huzayma, his son, and had two children named Nadr and Abdumanat ibn Qinanah. Najiyah bt. Jurm ibn Rayyan was from the Qudaa tribe. She was married to Samah ibn Luay. After the passing of her husband, she married al-Kharis ibn Samah, his son.[94]

Maqt marriage was clearly a form of oppression applied to women when they were deemed physically weak. Women's obligation to marry a man who was called as son by them before was totally insulting. Islam could not stay indifferent to such a malevolent tradition. After Asha, Qays' father, passed away, Qays wanted to marry his father's wife though he did not want to marry anyone. Upon this, the woman visited the Prophet and complained about the case. Then, the following verse was revealed: *"O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good"*[95].[96] According to Muqatil, this verse was revealed upon the case of Muhsin ibn Abi Qays ibn al-Aslat who was from the lineage of Bani Kharis ibn Hazraj. This verse was also revealed for Aswad ibn Khalaf al-Huzai and his wife Khabibah bt. Abi Talha, Mahzur ibn Yasar al-Fazari and his wife Maliqah bt. Harijah ibn Yasar al-Mari. They married the wives of their fathers. A man from Ansar intended to be a successor to his close friend upon his passing. He wanted to throw his clothes on the wife of his deceased friend regardless of whether she wanted. However, the woman managed to take shelter in her family's house. Then, they complained to the Prophet about this case, after which this verse was revealed.[97] An-Nisa 4/22[98], another relevant verse in this regard, was revealed about Hisn ibn Qays. His name is also believed to be Qays ibn Qays. He wanted to marry, Qabisha bt. Man, the

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[91] Isfahani, *Aghani*, 21/5.

[92] Balazuri, *Ansab*, 13/176.

[93] Balazuri, *Ansab*, 12/187.

[94] Alusi, *Bulughul Arab*, 2/52.

[95] an-Nisa, 4/19.

[96] Tabari, *Tafsir*, 8/106; Wahidi, *Asbabu an Nuzul*, 107; Ali Osman Ateş, "Asr-ı Saadet'te Dinler ve Gelenekler", *Bütün Yönleriyle Asr-ı Saadette İslâm*, ed. Vecdi Akyüz (Istanbul: Ensar Yayınları, 2007), 2/57.

[97] Muqatil, *Tafsir*, 1/364.

[98] *"And do not marry those [women] whom your fathers married, except what has already occurred. Indeed, it was an immorality and hateful [to Allah] and was evil as a way."*

wife of his deceased father. This verse is also believed to have been revealed about al-Aswad ibn Khalaf and Safwan ibn Umayya.

Qabisha, the woman whom Hisn wanted to marry, visited the Prophet and said: "My husband passed away. His son wanted to marry me. However, he neither approached me nor met my needs. It has been a long time.". The Prophet told her to go home and wait for the decision of Allah. After she left, other women came with the same or similar cases. They also complained about maqt marriage. These included even women who married their sons 'uncles' sons, who inherited them after their husband's deaths. Then this verse was revealed.[99]

Although Jawad Ali stated in *al-Mufassal* that those who married through maqt marriage got divorced after the revelation of this verse, such information was not found anywhere else. The verse has the statement "*except what has already occurred…*" which indicates that Islam did not oblige those certain people to divorce. Regarding the punishment for those who aimed to perform maqt marriage after this verse, it was stated that they would be sentenced to death and that their goods would be seized and granted to baytu al-mal.[100]

1.5.6. Muta Marriage

The concept of muta means the benefits from a hunt or meal, or performing umrah along with pilgrimage. Muta marriage means benefiting from a woman without any intentions to maintain the marriage.[101] From a terminological perspective, muta means the temporary agreement of marriage between a man and woman who have no problems and objections in this regard for a certain sum.[102]

As one can remember from the subject of bride wealth, if sides get divorced without any physical contact after their marriages, men are recommended to give gifts to women to keep them happy, which is called muta in Quran. This term is used to tell men to keep the women happy or to care them from various aspects.[103]

The concepts of proposal and acceptance indicating mutual consent were present in pre-Islamic Arabic society, but the permissions of the custodians were not needed. The women would stay in their tribes while the men would be granted a spear and tent. As long as the men stayed in this tent, the marriage continued. When women wanted to end this relationship, they would invert the door of the tent, indicating the termination of the marriage.

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[99] Wahidi, *Asbabu an Nuzul*, 137; Günaltay, *Nizamu al Usra*, 125-7.

[100] Jawad Ali, *al-Mufassal*, 5/535.

[101] *Mu'jamu al Wasit*, 852; Alusi, *Bulughu al-Arab*, 2/5.

[102] Osman Kaşıkçı, "Mut'a Nikâhı", *Türk Hukuk Tarihi Araştırmaları*, 3 (2007 Bahar), 43; Muhammed Hüseyin, *Nizamu al-Usra*, 110.

[103] Ragib al-Isfahani, *Mufradat*, 463.

The concepts of proposal and acceptance were present in muta marriage. They were also maintained in Islam until they were banned. Divorcing was not performed in these marriages as the marriage ended following the pre-determined period.[104] These marriages also did not have the ceremonies of sadaq, asking family's permission, engagement and bride wealth.

People did not aim to have children in these marriages; they only wanted to satisfy their selves for a temporary period of time. These marriages were performed by those who were in foreign countries and places, away from their families, due to certain reason such as migration, campaigns or wars. As long as marriage continued, the married man would not have a problem with the tribe of the wife. If children were born from these marriages, they would be cared by the mothers and called with reference to their mothers, and inheritance was not mentioned in this regard.[105]

This form of marriage was performed in the early periods of Islam. Accordingly, in a relevant narrative, Abdallah ibn Masud (r.a.) stated the following: "We were on a military campaign with the Prophet, and our families were not beside us. We asked "Shall we have our testicles removed?" He did not permit this. But he let us perform muta marriage. One of use would marry a woman for a temporary period in return for a dress."[106] Accordingly, Islam permitted muta marriage for a certain period. Abdallah ibn Abbas stated that muta marriage was performed in the Prophetic era.[107]

How, where, when and by whom muta marriage was prohibited despite being performed for a certain period after Islam were mentioned in different narratives and ideas. Ali ibn Abi Talib stated the following in this regard: "The Prophet prohibited marrying a woman temporarily and eating the meat of a domestic donkey on the day of Khaybar."[108] Another relevant narrative was conveyed by Salamah ibnu al-Aqwa: "The Prophet (p.b.u.h.) permitted muta marriage during the year of Awtas Campaign, but he later prohibited this."[109] According to another narrative, the Prophet prohibited muta marriage on the day Mecca was conquered.[110]

After the permission of the Prophet, Sabrah ibn Mabadh al-Juhani performed a muta marriage with a woman and lived with her for a couple of days. Following this relationship, the Prophet gave the following speech between Kaaba and Hajaru al-Aswad: "O people! I permitted you to perform muta marriage.

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[104] Muhammad Khalaf, *Nizamu al-Usra*, 79.

[105] Jawad Ali, *al-Mufassal*, 5/535; Günaltay, *İslam Öncesi Araplar ve Dinleri*, 125-7; Ateş, "Asr-ı Saadet'te Dinler ve Gelenekler", 2: 60.

[106] Bukhari, "Tafsir", "Maidah", 9, "Nikah", 6-8; Muslim, "Nikah", 38 (1404).

[107] Muslim, "Nikah", 27.

[108] Ibn al-Hisham, *Siyar*, 3/280; Waqidi, *Maghazi*, 2/661; Abu Dawud, "Nikah", 13; Nasai, "Nikah", 71.

[109] Bukhari, "Nikah", 31; Muslim, "Nikah", 18, (1405).

[110] Waqidi, *al-Maghazi*, 2/661.

However, Allah prohibited this marriage until the Day of Judgment. Whoever had a muta marriage with a woman shall let her free and you shall not take anything from what they gave to these women."[111]

1.5.7. Fraternal Polyandry

One of the forms of marriages performed in Arabic society during the pre-Islamic period is called "fraternal polyandry" or "joint marriage". This marriage indicates a marital relationship between a foreign woman and brothers from the same mother.[112] Sociologists indicate the reason behind these marriages as burying the girls alive and limited number of female people. This was also performed in non-Arabic societies.[113]

The partnership here was deemed to resemble the financial partnership. When one of the brothers wanted to have physical contact with the woman, he would hang his walking stick on the door. Then, other brothers would not get close to the room. The woman would spend the night with the oldest brother. If woman got pregnant from this relationship, she would call the brothers and say the name of the father by her will. In the families where joint marriage was performed, men also had sexual relationship with their mothers. However, when they did this with a foreign woman, it would be deemed adultery.[114] Such marriages were believed to have been performed to prevent the fragmentation of the family fortune in Yemen.[115]

Conclusion

The pre-Islamic period shaped the traditions, customs and habits of Arabic society. The women who were raised in a society which despised women and did not even grant the right to live due to ignorance (the latter is valid for certain Arabic societies) continued to suffer psychologically even when they got married. After the introduction of Islam, the concept of family and domestic life were cleared of irregularity, idleness and idols, which laid the base of Islamic society and Muslim families. The duties and responsibilities of men whose domestic authorities were limitless were specified, and these authorities were recorded.

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[111] Muslim, "Nikah", 19-22-24; Ibn Majah, "Nikah", 44; Darimi, "Nikah", 16.

[112] According to a study conducted by Murdock on primitive tribes, 193 tribes had polygamy while 3 had polyandry. These numbers indicate that these sorts of marriages were quite rare before. (Nihat Nirun, *Sistematik Sosyoloji Yönünden Aile ve Kültür*, (Ankara: Atatürk Kültür Merkezi Yayını, 1994), 22.)

[113] Jawad Ali, *al-Mufassal*, **5:** 541-542; Günaltay, *İslam Öncesi Araplar ve Dinleri*, 127.

[114] Alusi, *Bulughu al-Arab*, 2: 52.

[115] Alusi, *Bulughu al-Arab*, 2: 52.

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The Dilemmas Of The Modern Family And The Islamic Family[*]

Cuma KARAN[**]

Abstract

The family, which is one of the institutions influenced by modern life, struggles with many problems especially in the geography where western culture is dominant. The decrease in populations that are the future of societies creates great concerns for the future. The measures taken in this regard are not effective enough to change the result. Differentiated gay marriages that are called new relationships, absence of children in heterosexual marriages, or termination of these marriages after a short period of time are among the most important social problems. Accordingly, children who grow up without parents are deprived of parental education. Consequently, other problems such as addictions, inclination to commit crime and cultural degenerations arise. Members of a disintegrated family are doomed to live and die alone.

The current situation of the modern families adversely affects the traditional Muslim families from time to time. Established on the axis of the Islamic belief, the principles that the Islamic families consider as a basis for these modern family dilemmas provide a solution to modern family problems. This study was based on this axis.

Keywords: Modernity, Modern Family, Marriage, Divorce, Muslim Family, Extended Family.

Modern Ailenin Çıkmazları ve İslam Ailesi

Öz

Modern yaşamın etkilediği kurumlardan biri olan aile özellikle Batı kültürünün egemen olduğu coğrafyada birçok problemle boğuşmaktadır. Toplumların geleceği olan nüfusun düşmesi gelecek adına büyük bir endişeye sebebiyet vermektedir. Bunun için alınan önlemler ise sonucu değiştirmeye yetmemiştir. Bir yandan farklılaşan yeni beraberlikler denilen eşcinsel evlilikler, diğer yandan normal evliliklerde ailelerin çocuk yapmamaları veya kısa süre sonra bu evliliklerin bozulması toplumsal hayatın en önemli problemlerindendir. Buna bağlı olarak ebeveyn sahibi olmayan çocuklar ebeveyn terbiyesinden uzak kalarak büyümeleri değişik suçlara meyil, kültürel kopma ve bağımlılık gibi başka problemleri de beraberinde getirmektedir. Dağılan aile bireyleri yalnız yaşamaya ve tek başına ölüme mahkûm olmaktadır.

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Modern aile anlayışının geldiği bu durum karşısında Müslüman aile de bu durumdan zaman zaman olumsuz etkilenmektedir. Bu durumda modern aile çıkmazlarına karşı tek reçete İslam inancı ekseninde kurulan İslam ailesi modelidir. Onun kabul ettiği esaslar günümüz aile problemlerine karşı bizlere çareler sunmaktadır.

Anahtar Kelimeler: Modernite, Modern Aile, Evlilik, Boşanma, İslam Ailesi, Geniş Aile.

Introduction

The concept of family is as ancient as the history of humanity, it is one of the concepts that are discussed the most in the modern world. Family is a sacred institution in all religions. Although it is the smallest social group where people are born, raised and developed, it still has a great role in shaping society. Family in Islam is important for maintaining the religion and generation.

With the objective of noting the obligations and reminding the facts, this study reviews the impact of modern conceptions on the institution of family and the points arising from the modern families that are created through these modern conceptions under certain titles. In addition, the impact of these conceptions on Islamic society will be examined, and Islam's measures against these misconceptions will be mentioned.

Considering the fact that Islamic family structure is occasionally affected by certain adverse aspects of traditions, the concept of "Islamic Family" was used in naming the family structure guided by the Quran and the Prophet, instead of the concept of "Muslim Family".

1. Modern/Modernity

The term "modern" has been derived from the Latin word "modernus" that has been formed from another Latin term "modo" meaning "right now".[1] As seen in many social concepts and theories, modernity cannot be limited to the context of a single word. This term called "neuzit" by German historians can be specified with the cultural and social transformations that happened between the 15th and 20th centuries.[2] During this period, two revolutions that affected the concept of modernity the most and that gave a shape to this concept occurred: The French Revolution and Industrial Revolution.[3] The institution of classical family that was

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[1] Yaşar Erjem - Sezgin Kızılçelik, *Açıklamalı Sosyoloji Sözlüğü* (İzmir: Saray Kitabevleri, 1996), 385.

[2] Ahmet Çiğdem, *Bir İmkân Olarak Modernite: Weber ve Habermas* (İstanbul: İletişim Yayınları, 2004), 72. For more details, see: Lawrence E. Cahoone, *Modernliğin Çıkmazları,* trans. A. Demirhan (İstanbul: İnsan Yayınları, 2001).

[3] See: Pelin Önder Erol, "Modernite Projesinin Kökenleri, Dinamikleri ve Sonu", *Sosyoloji Dergisi* 33 (2016), 51.

built on traditions and beliefs was shaken by these two revolutions, and it got close to termination in western society.

A broad concept of institution such as family[4] cannot be limited under certain titles. However, "the types of family can be ordered as pre-industrial family structure, industrial family structure and post-industrial family structure, the last of which can be divided into groups as the one that breaks up within itself, one that is fragmented, and the one that is not complete. What is meant by the family structure that breaks up within itself is the type that solely consists of spouses who do not have a strong relationship. The fragmented family structure is the type that emerges after one member of a nuclear family is lost. Within this structure, one of the spouses maintains the family (with the children). The third is the uncomplete family structure which reflects the nuclear family form that has never been formed. Accordingly, the family structure with illegitimate children is an example."[5]

2. The Concept of Family

It is challenging to make a universal and unchangeable definition of a broad concept and institution such as family because the concept of family has been changed and transformed throughout history which is also the case for the social structure. Therefore, different philosophers have used various criteria to determine the bounds of family.

Definitions or descriptions of family include the following: "After settling on territories, siblings formed families by living with their fathers, sons or grandchildren from the same or vertical generations.[6] "Groups that are formed by a lineage, belief/religion or a house, city, country or a profession"[7].

The sociological definition of family is as follows: "Family is the group of people that have a kinship and bond between one another and adult members are to care the young members. Kinship is established through marriage and blood relationship."[8]

3. Difficulties for Modern Family

The importance of determining certain problems and difficulties regarding the modern family structure that have captured our attention in recent periods and

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[4] See: Halide Özüdoğru Erdoğan, "Toplumsal Bir Kurum Olarak Aile", *Kutlu Doğum Haftası Hz. Peygamber ve İnsan Yetiştirme Düzenimiz Sempozyumu*, ed. Yüksel Salman (Istanbul: DİB Yayınları 2015), 617-626.

[5] Mustafa Aydın, *Kurumlar Sosyolojisi* (Ankara: Vadi Yayınları, 2000), 44-45; For more details, see: Emre Kongar, *İzmir'de Kentsel Aile* (Ankara: Sosyal Bilimler Derneği Yayınları, 1972), 22-23.

[6] Mustafa Aydın, *Kurumlar Sosyolojisi*, 35-36.

[7] Muhammad ibn Muqarram ibn Manzur "Aile ", *Lisanu al-Arab* (Beirut: Daru as-Sadir 1992), 1/163.

[8] Anthony Giddens, *Sosyoloji*, trans. Heyet, (Istanbul, Kırmızı Yayınları, 2012), 246-247.

that have affected the family structure of Islamic geography has increased significantly. It is a fact that each problem to be mentioned here should be examined in detail.[9]

3. 1. Increase in Domestic Violence and Divorcing

The most important dilemma regarding the concept of family in the modern period is the inability to prevent *domestic violence* despite all the deterrent laws and law enforcement officers, and the inability to end the divorces. The most interesting aspect in this regard is the direct relationship between the violence and rate of divorce, and level of development. The rate of violence and divorce in Scandinavian countries, that are among the most developed countries in the world is, 60%. After the 1960s, this rate significantly increased in most of the developed countries. During the 1980s, half of the marriages in the United States resulted in divorce.[10]

The mean rate of divorce in the member countries of the European Union is 40% while this rate is 75% in Belgium according to the data of Eurostat – the European Union Statistical Institute. Regarding these statistics, Belgium is followed by Estonia with 70% and Czech Republic with 67%.[11]

Considering the increase in the development status from the eastern and western locations of Turkey, the situation is not so different in the country. The Turkish city with the highest rough divorce rate in 2019 was İzmir (2.95‰), followed by Antalya (2.88 in a thousand) and Muğla (2.71 in a thousand). The Turkish city with the lowest rough divorce rate was Hakkari (‰0.25), followed by Siirt and Muş (‰0.33). The rate of divorce has increased in line with the increase in the educational degrees, economic status and wealth of people.[12]

Similarly, according to the official data, the most common reason for divorce in Turkey was violence (17.2%), after cheating, in 2006.[13] This result can be interpreted as an impact of modern life on the Muslim family structure.

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[9] For instance, certain familial statistics from Switzerland, which is a highly-developed country, is known for its modern quality of life, will be presented.

[10] Zahir Kızmaz, "Gelişmekte Olan Ülkelerde Suç: Suç Oranlarının Artışı Üzerine Sosyolojik Bir Çözümleme", *Mukaddime* 5 (2012), 61.

[11] See: İhsan Çapcıoğlu, "Sekülerleşen Toplumda Bireyselleşen Aile", *Turkish Studies* 13/2 (2018), 28.

[12] Türkiye İstatistik Kurumu (TÜİK) , ''Evlenme ve Boşanma İstatistikleri'' (2 February 2020); For more details on the causes on divorce in Turkey and for an assessment in this regard, see: Neşide Yıldırım, "Türkiye'de Boşanma Sebepleri", *Bilig Dergisi,* 28 (2004), 59-81.

[13] Türkiye İstatistik Kurumu (TÜİK), ''*Türkiye'de Boşanma Sebepleri*'' (13 February 2020).

3. 2. Relationships Threatening the Family Institution

The relationship that suits humans' nature, that is in accordance with one's honor, and that is necessary to ensure the continuation of future generations is the one which is established between a man and woman under a certain agreement to live the rest of their lives together. One of the most important functions of marriage is to give birth to a baby and raise the baby later. However, homosexual marriages, also called LGBT marriages, which do not coincide with the concept of family, which is overwhelmed by the conceptions of modern life, which are not in accordance with the traditional nature of humans and which are prohibited in all religions, are increasing[14] day by day and they are legally recognized these days. Certain European countries institutionalize these marriages. Certain researchers criticize these new family types with the belief that they will terminate the traditional family structure and values, and that they will fragment classical families completely in time."[15]

A survey performed in ten European countries indicated the rate of people who are not interested in the opposite gender and who define themselves a LGBT member as 10%.[16] One of the interesting results of this study is that the inclination to be a LGBT member was higher among those who were aged between 50 and 65 years compared to the young people. Such characteristics of those aged people, who are closer to death, remarkably reflect the gaps within their spiritual worlds. In addition, the higher rate of women who will give birth to children within these inclinations, is another issue that should be examined separately.

3. 3. Fulfillment of Family Function by Other Institutions

Settlement of aged parents in senior centers and children in day-care centers, and the entire day spent by married couples in working places adversely affect the institution of family, almost making it fully unfunctional. The modern family has assigned its specific duties to private or public institutions, deviating the institution of family from its essence and from the identity of being a shelter and solidarity area against external factors. Consequently, the obligation of parents to be at the working place all day makes it necessary for their children to be raised in child care houses called nurseries, which makes the presence of a generation that is deprived of the merciful education of parents and is raised with the initiative of different caregivers inevitable. To provide more details, the "oral fixation"[17] syndrome among 0-2-year-old children who have not been cared for by their mothers adequately adversely affects these children for a lifetime and causes many psycho-social problems, particularly substance addiction.[18] Accordingly, Allah orders the

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[14] LGBT; the acronym of Lesbian, Gay, Bisexual and Transgender.
[15] Çapcıoğlu , "Sekülerleşen Toplumda Bireyselleşen Aile", 26.
[16] Zeıt Online (ZO*), ''So Homosexuell ist Europa''* (08 February 2020)
[17] See: Cemil Paslı (CP), ''*Travma Geçiren Çocuklar*'' (12 February 2020)
[18] Cemil Paslı, *Ailede Huzur İçin 9 Dokuz ''S''* (Konya: Çim-ke Yayınları, 2015), 167.

people in three different verses of the Quran that ''mothers should breastfeed their children for at least 24 months'', should be considered.[19] Opening senior centers for elderly people or assigning the operation of these centers to companies terminates the responsibilities of children to care for heir parents during their senior years which actually determines the future for every married couple. The phrase in the Quran "...*as they brought me up [when I was] small*"[20] reflects how children are to treat their parents after getting old, as their parents raised them when they were younger. Moreover, the Prophet clearly emphasizes the importance of obeying parents.[21] People who make efforts to meet the expenses related to care centers for their children in their youth live a life without ever fully feeling their love toward their children, and they are obliged to live in senior centers without their grandchildren around during the period when they live their life as retired people. The concerns in our lives that make us anxious are based on dissatisfaction arising from deficits in love and respect.

3. 4. Children Living Without a Role Model

The rate of illegitimate children has been increasing in the modern world, particularly in the developing countries, which consequently creates many different issues. For instance, children's socialization is adversely affected due to losing their healthy and reliable family environment. Children raised by a single parent or in fragmented families experience severe problems regarding socialization. One of the factors driving people to commit crime is this inadequate socialization during childhood.[22] Although mothers undertake the care of their children after a divorce or during a non-marital relationship, the gap which arises from the fathers' position as a role model cannot be filled. Mothers are the most important role models during the first two years of a child, while fathers undertake this position for the socialization of the child during the older ages.[23] A problematic generation and a chaotic, uncontrolled future is inevitable in the world formed by the children who are raised in the modern virtual world with the imaginary figures' impact and without their own fathers.

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[19] al-Baqarah 2/233, al-Luqman 31/14, al-Ahqaf 46/15.

[20] al-Isra 17/24.

[21] Muslim, "Birr", 3. For more details, see: Mehmet Emin Çiftçi, "Üsve-i Hasane Olarak Hz. Peygamber (sav) ve Ailesi", *II. Uluslararası Mevlid-i Nebi Sempozyumu Tebliğler Kitabı*, ed. Abdullah Kartal (Şanlıurfa: 2019), 408.

[22] Kızmaz, ''Gelişmekte Olan Ülkelerde Suç'', 59; Paslı, *Ailede Huzur İçin 9 Dokuz ''S''*, 167.

[23] Emine Akyüz, "Boşanmanın Çocuk Üzerindeki Etkisi", *Ankara Üniversitesi Eğitim Bilimleri Fakültesi Dergisi 10/1-2* (1978). 1.

3. 5. Loss of the Concept of Extended Family in Time

According to the 2005 data of Switzerland's governmental statistics, the fall of the rate indicating the extended families in the country between 1930-2000 clearly shows that the concept of modern family has also been adversely affected and that the concept of family has lost its place in society.[24] As reflected in the table below, the rate of houses, where only a single person lived, were 8.5% in 1930, and it rose to 14.2% in 1960 and to 36.0% in 2000. According to the same table, the rate of houses, where five or more than five people lived was 32.4% in 1930, and it fell to 21.2% in 1960 and 6.3% in 2000. However, the rate of living alone increased to 36.0%. Accordingly, it is fair to state that every one of three people lived without a family.

Figure 1: Family Members' Rate of Living Collectively by Years
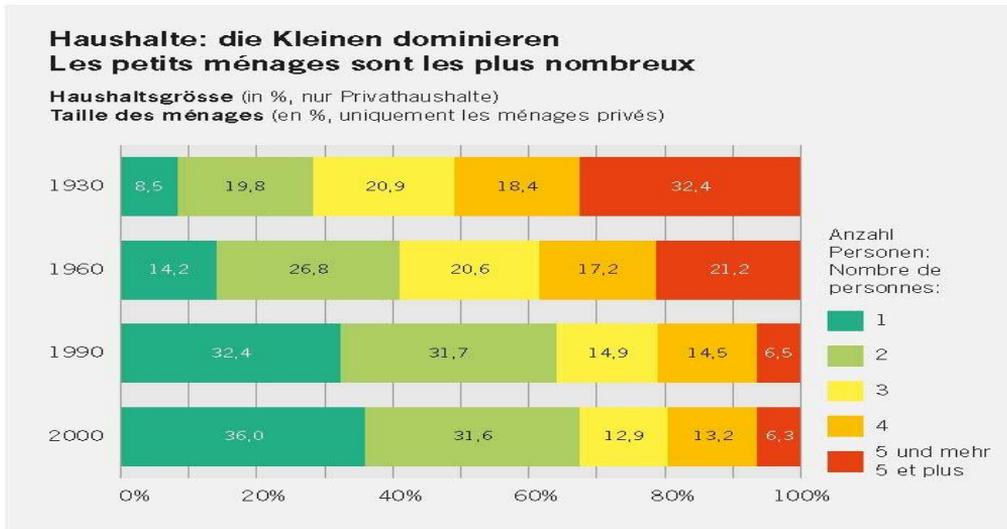
3. 6. Emergence of Unclear Roles with the Gender Equality

The greatest strike from modern life to the institution of family is the responsibility of every family member for every duty in a house, while neglecting different roles in a family and different duties assigned to these roles, which is actually against social life and life itself. The ability of every family member to perform any job in a house or equal responsibility for all duties in a house is against the natural, biological and psychological structure of humans. Neglecting people's roles arising from their nature created an identity-related crisis, which resulted in unclear roles without an identity. As the feminist ideology that has made efforts to protect the rights of women who have worked for the lowest rate[25] have related the

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[24] Shweizeriche Eidgennossenscahft (SE), ''*Statistisches Jahrbuch Der Shweiz 2005*'' (8 February 2020).

[25] Female and child workers worked under poor conditions for half of what men earned in the 19th century. See: Ahmet Tabakoğlu, "Batı Ailesi ve Kadın" *Sosyal Hayatta Kadın* (Istanbul: Ensar Neşriyat, 2005), 190.

absolute freedom and happiness to financial freedom[26], it has driven women to look for jobs and income once again. Despite the weak bodies of women, feminism has raced women with men, even making women a competitor to men although it was supposed to help women. This problematic circle "caused a transformation from the extended to nuclear families in the domestic structure of industrial society, and it increased the notion of gender equality and changed the domestic roles of family members. Genders' efforts to become equal on the legal and social grounds made it difficult to assign a fixed role and function to a family. Thus, the modern family structure has gained a specific form, feeding the domestic fragmentation tragedy."[27]

3. 7. Increase in Relationships Without Children

The decrease of population in the modern world results from the population/birth ratio formed by married couples who do not have children, which is not the case for undeveloped countries. The incentives offered by the states that aim to prevent this decrease are among the actions taken. Another factor supporting couples in having a child is the Christian belief that delivering a baby is an honorable act, even if this is not a direct factor. God revealed the punishment of eating the forbidden fruit in paradise to women as follows "*Bearing too much pain by delivering a baby and showing interest of men and being controlled by them*".[28] The religious doctrine these people have does not have anything opposing what Islam orders or offer anything worldly in this regard.

According to the governmental statistics in the Europe of the modern world, along with the decreases in the number of marriages that form the concept of family, the process of having a child is also delayed. The rate of marriage was 7.6‰ in Switzerland in 1970 but it fell to ‰5.5 in 2003. Similarly, the population rate stayed the same after 1960. According to the population statistics from 2003, the number of children of every 100 women between 15-49 years should have been 210, but it was 139. According to the statistics of the same country, the rate of delivery was 2.4% in 1950 and 1.4% in 2003.[29] Despite all the measures, the decrease in population could not be prevented.[30]

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[26] During the industrial capitalism, women started to take part in the working life as a branch of proletariat, which was one of the main reasons for the emergence of the feminist movement. See: Tabakoğlu, ''Batı Ailesi ve Kadın'', 194.

[27] Yasin Aktay, "Modern Dünyada ailenin Dönüşümü ve Muhtemel Geleceği Üzerine Mülahazalar ve Geleneğe Dayalı Problemler", *Küreselleşen Dünyada Aile 2009 Yılı Kutlu Doğum Sempozyumu Tebliğ ve Müzakereleri, (*Ankara: Türkiye Diyanet Vakfı Yayınları, 2010), 178; This issue was mentioned by certain authors in Germany. See: Eva Herman, *Das Eva-Prinzip*, (München: Goldmann verlağ, 2007).

[28] Qitab al-Muqaddas, (10 February 2019), *Yaratılış* 3/16.

[29] SE ''*Statistisches Jahrbuch Der Shweiz 2005*''.

[30] SE ''*Statistisches Jahrbuch Der Shweiz 2005*''.

Figure 2: Rates of Childbirth by Years

Durchschnittliche Zahl der Kinder je Frau / Nombre moyen d'enfants par femme
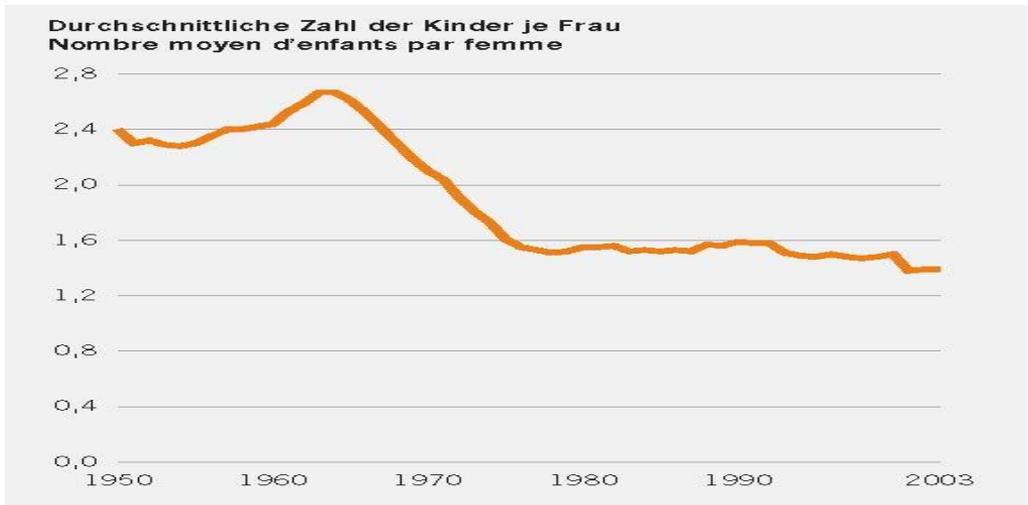
3. 8. Popularization of Unmarried Ties

In modern societies, unmarried partnerships increase and interest in marriage decreases day by day. According to a study conducted in Switzerland in 1994, the rate of unmarried partnerships was higher among the young population. Of the women aged between 19 and 24 years in that study, 25% lived a non-marital life as a common-law/mistress, while 15% were married, and 60% lived alone or with their families. Moreover, the rate of married people between the ages of 40 and 49 years was 75%, while 5% of the remaining lived as a mistress.. After these non-marital relationships result in pregnancy or childbirth, couples marry.[31] It is fair to state that gender quality and problems in sharing goods have played a role in reducing the rate of marriages. The recent Turkish domestic laws suggest that arranged marriage has increased in place of civil marriages as women or men are made a shareholder following marriage in the relevant laws.

3. 9. Living Without a Family and in the Streets

Due to the absence of rooted relationships arising from marriage, people are deprived of an institution where they can have the sense of belonging, and they are forced to live in the streets. This picture is present in almost every region of Europe. Not only such a life indicates the concept of placelessness, but it also reflects the presence of a group called *unbekannt, which* does not have an identity. Seeing these people that do not have a place or identity in a subway and bus stations is quite ordinary in the modern world. For such people, governments have certain practices such as performing medical checks at certain intervals and delivering food at

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[31] SE *''Statistisches Jahrbuch Der Shweiz 2005''.*

certain urban locations, or letting these people live in wrecks or overlooking the use of drugs by addicted people.

3. 10. Increase in Crime Rates After the Fragmentation of Families and Absence of any Certainties

There is a direct relationship between the weakened extended families that were the keys to the social control and increase in crime rates. The fragmentation of families significantly increases the crime rates in the modern world. Accordingly, Hirschi stated the following: *"the stronger relationships people have with the traditional concepts such as family, school, religion and friends; the less probable it is for them to commit crimes. Similarly, as the relationships with these traditional concepts are weakened, the probability to commit crimes increases."*[32]

As the ties and values that united societies were weakened, it became difficult to talk about the concepts of social individual and society. Modern people are opposing the sacred concepts these days. The discipline of sociology considers the scientific approach, which regards the religions as a rival, as a guide. Accordingly, people have defined all religious thoughts and experiences as primitive. However, what makes people humans and separates them from other creatures is their commitment to the provisions in the world of values. The inevitable result for all institutions in places where there are no hierarchical structures includes chaos, anarchy, unhappiness and unrest. As two people cannot live together in such a case, the process of marrying or maintaining a marriage does not have any meaning.[33]

3. 11. Short Duration of Marriages as Domestic Environment Loses its Peace

The meaning of living is being terminated every passing day in Europe – the center of modern life – and even people end their lives through euthanasia.[34] Although such tragedies have different reasons, the probability for people to commit suicide has been increasing due to depression, stress and loss of hopes as a result of a life directing people to live alone.

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[32] Kızmaz, ''Gelişmekte Olan Ülkelerde Suç'', 64.

[33] Salim Öğüt, "Nisa Suresinin 34. Ayeti Bağlamında Aile Kurumunun İki Temeli: İnfak ve İtaat", *İslam Hukuku Araştırmaları Dergisi* 11 (2008), 42, 45.

[34] For more details on the increase in the euthanasia cases, see: Time Turk (TT), ''*Hollanda'da Ötenazi Vakaları Artıyor''*, (Date Accessed: 2 February 2020). The Swiss Organization of EXIT-Deutsche Schweiz calling themselves "the organization of committing physician-assisted suicide" had more than 90,000 members in 2015, which reached to 120,000 in the present time. EXIT Deutsche Schweiz (EDS), ''Our Society'', (Date Accessed: 2 February 2020). For more details, see: Muhammad Sulu, "Ötanazi Üzerine", *Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmalar Dergisi* 22/2 (2014), 551-575.

The rate of marriages have been decreasing in the modern world, and the marriages are only maintained for five to nine years.[35] With the increase in financial freedom, the rate of living alone as virgins or widows has increased among women. The rate of widowers was 8.9% while the rate of widows was 36.1%. The impact of modern life on families is that it presents the option of living separately to men and women who are two main actors of a family. These separated couples make efforts to end their loneliness with animals, particularly dogs, that they look after in their homes. There was even some news indicating that some people passed what they had to these animals before their death.[36]

Figure 3: Rate of Living Collectively by Ages

Fig. **1.4**

Einpersonenhaushalte 2000
Personnes vivant seules, en 2000

	Frauen / Femmes		Männer / Hommes	
	abs.	%	abs.	%
Total	632 246	100,0	488 632	100,0
Alter / Age				
< 40	170 321	26,9	233 340	47,8
40–64	184 760	29,2	179 323	36,7
> 64	277 165	43,8	75 969	15,5
Zivilstand / Etat civil				
Ledig / Célibataires	253 503	40,1	284 727	58,3
Verheiratet / Marié(e)s	39 938	6,3	68 652	14,0
Verwitwet / Veufs/veuves	228 060	36,1	43 720	8,9
Geschieden / Divorcé(e)s	110 745	17,5	91 533	18,7

3.12. Termination of Domestic Values

Every section of life has a discipline. Even the smallest organizations have an order, system, harmony and relevant principles. Even the smallest associations or a sports club in a neighborhood have principles, so an important institution like a family should have values and principles. However, the greatest danger reflected by modern life on the institution of family is that modern life neglects the principles that should exist for families. Francis Fukayama, the author of *The End of History and the Last Man*, explains the reasons of increased crime rates in developed countries with the modernization and dramatic changes seen in the field of values. According to him, this process is a great social breakdown.[37] Expecting an

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[35] SE ''*Statistisches Jahrbuch Der Shweiz 2005*''.

[36] National Post (NP), ''*Lifestyles of the rich and furry*'', (Date Accessed: 2 February 2020)

[37] For more details, see: Kızmaz, ''Gelişmekte Olan Ülkelerde Suç'', 58.

institution whose values have been terminated to generate values and expecting the individuals of that institution to have values is not so easy.

3. 13. End of Cultural Trends and Loss of Domestic Control over People

The most important and definitive element that separates a society from another is doubtless culture. Culture is the most important factor that keeps societies' connections with their past alive, making them rooted, that passes these connections to the future, and that maintains its presence later. Cultural transfer and heritage do not depend on written laws and rules; instead, these two concepts are related to voluntariness and spirituality. Grandparents who cannot hug and raise their grandchildren who do not respect their grandparents, and parents who do not spare any love, time and money for their children cannot pass their heritage to their children.

Thus, the field that is affected by the weakened domestic structure the first is the cultural area that serves as the foundation of a society. Destruction of cultural area with the concept of modern family terminates the ties of a cultural country with its values. Weakened domestic ties result in social fragmentation.[38]

The greatest reflection of modern life including many concepts such as individualism, freedom or lack of inspection is the end of domestic discipline with the end of domestic control. People without discipline, particularly young people, can fall into the trap of many actions and organizations that promote drugs, crimes and actions that do not suit the benevolence, and that threaten the society. It is a fact that these undisciplined young people are also a great problem for the governments.

4. Islamic Family

What is meant by Islamic family is a faithful family that is formed in accordance with the revelations and the Prophet's experiences and warnings. Being considered the main source of Islam, the Quran indicated the concept of family with the terms al[39], ahl[40], zurriyat[41] and uthra,[42] [43] emphasized the humanity family

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[38] Nedim Öz, "Modern-Seküler Süreçte Ailenin Çözülmesi", *Kilis 7 Aralık Üniversitesi İlahiyat Fakültesi Dergisi* 6/11 (December 2019), 796.

[39] Ali 'Imran 3/33. One of the longest surahs in the Quran is Ali 'Imran meaning family. The concept of "Al" meant the groups formed by grandparents, sons, grandchildren and their children in a house or tent among the Arabic people of the pre-Islamic period. Accordingly, the tents and flocks of Ali Sufian (Sufian family) and Ali Abi Talib (Abi Talib family) were joint. See: Şemseddin Günaltay, "Kable'l İslam Araplarda İctimâî Aile", *Dâru'l Fûn'un İlahiyât Mecmu'ası* 1/4 (1926), 74.

[40] al-Hud 11/46.

[41] Ali 'Imran 3/33, 34.

[42] al-Insan 76/28.

that is created as couples from the same essence[44], mentioned Adam and Eve as the first two people and first couple forming a family, and introduced the concept of family in detail directly through the lives of Prophets[45]. Family in Islam is not only formed by two genders as couples. It is also a great institution which is formed by a couple and shaped by the legal relation between this couple and their parents and siblings. Marriage of two different people established a new relationship with the parents, parents-in-law, sister and brother-in-law and aunt of the other side, all of whom also become a part of the family.[46]

The domestic concept of "ahl" in the Quran was used to reflect different meanings. For instance, the concept of family was defined as the group of believers in its widest sense with the following verse regarding Noah's son ; "*O Noah, indeed he is not of your family; indeed, he is [one whose] work was other than righteous, so ask Me not for that about which you have no knowledge.*"[47] Moreover, the concept of "family" in a the Quran's verse "*O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones*"[48] reflect one's spouses and children who are under the responsibility of one.

Accordingly, there are points to consider for the formation of an Islamic family that represents a unity with the differences within itself. It provides good deeds, while resulting in responsibilities, dependencies, different situations and rights. Therefore, the presence and formation of a family indicate a process and collection of different parts.

5. Formation and Maintenance of Islamic Family

One of the strongest aspects of Islam is doubtless the institution of family. The domestic life of the Prophet is a model for Muslims, indicating that past experiences or any potential issues can be overcame. He provided the broadest aspects regarding domestic matters with the following statements: "*Men are the shepherds and responsible for their families. Women are the shepherds of their husbands'*

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[43] For more details, see: Sıtkı Kaya, *"Hz. Âdem, Hz. Nuh ve Hz. İbrahim Kıssalarında Aile"* (Samsun*: Ondokuz Mayıs University, Institute of Social Sciences,* Master's Thesis, 2019), 6-10.

[44] al-Nisa 4/1.

[45] at-Tahrim 66/10; al-Hud 11/42-47; al-An'am 6/74; al-Maryam 19/42-48; al-Anbiya 21/52; ash-Shu'ara 26/70; al-Saffat 37/85, Ibrahim 14/39.

[46] These people with whom marriage is unlawful are forbidden in Islam and Judaism. For the people with whom marriage is forbidden, see: Book of Leviticus, 18 and 20; for more details about the place of family in Judaism, see: Hakkı Şah Yasdıman, "Yahudi Dininde Ailenin Yeri" *Dokuz Eylül Üniversitesi, İlahiyat Fakültesi Dergisi 13*-14 (2001), 241-266.

[47] al-Hud 11/46.

[48] at-Tahrim 66/6.

house and responsible for their families. You are all shepherds and responsible for what you herd."[49]

Islam does not consider family as a total religious institution like Christianity does. Instead, it defines family as a sacred and legal organization based on concrete principles. Islam regards the institution of family as the ground stone of society and as the most important organization for the peaceful coexistence of Muslims, protection against malevolent acts, and maintenance of a healthy generation. The domestic structure of Islam is patriarchal which is also the case for many other societies. However, this patriarchy was different among Jews, Romans and Arabic people, indicating a conditional guardianship with the conception of "head of family". This patriarchy is related to the principles of maintaining the domestic integrity. Men of Islamic families maintain their families through the division of labor. The governess and teacher at home is the mother. Women, among the people and things one cannot have one's eyes on, are regarded as the goods of men along with the houses, slaves, handmaidens, oxen and donkeys in the ten commandments.[50] However, Islam considers women "not as men's property but as people with the same rights."[51] Although "Islamic family" has lost its authenticity from time to time due to the traditional impacts, it has not created a prejudice against the basic domestic principles of Islam.

6. Promotion of Marriage

Marriage in Islam is an obligatory process for the psychological and biological needs of one and for the future of society. For the organization of this marriage, Islam provides certain suggestions regarding the facilitation and promotion of marriage: *"And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for people who give thought."*[52] Another verse suggests the following: "*And marry the unmarried among you and the righteous among your male slaves and female slaves.*"[53] Accordingly, the Prophet states the following : *"You shall marry and have children, as I will boast with your population before other nations on Judgment Day"*.[54] Therefore, marriage is not an ordinary pleasure and feeling for the

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[49] Abu Abdillah Muhammad ibn Ismail al-Bukhari, *al-Jamiu as-Sahih* (Cairo: al-Matbaatu as-Salafiyyah, 1400), ''Juma'', 11; ''Ahqam'', 1; Abu al-Husein Muslim ibn Hajjaj, *al-Jamiu as-Sahih* (Beirut: Daru al-Marifah, 1997), ''Imarat'', 20.

[50] Çıkış 20/17.

[51], Suleiman ibn al-Ash'as ibn Ishaq as-Sijistani al-Azdi Abu Dawud , *Sunanu Abi Dawud*, (Beirut: Daru al-Qitabi al-Arabi, nd.), ''Taharat'', 94, Abu Isa Muhammad ibn Isa ibn Sawrah Tirmidhi , *Sunan* (Istanbul: al-Maqtabatu al-Islamiyyah, nd.), ''Taharat'', 82; For more details, see: Cerrahoğlu, "Sekülerleşen Toplumda Bireyselleşen Aile", 17; Mehmet Akif Aydın, "Aile", *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 1989), 2/196-200.

[52] ar-Rum 30/21.

[53] an-Nur 24/32.

[54] Ibn Majah, ''Nikah'', 1; Baykhaqi, VII/81.

institution of family. Instead, it is a religious and social obligation, which is also the case in Judaism as an Abrahamic religion. The authors of "Talmud" that interpreted the statements in the Old Testament noted the following; *"Men who do not have a wife are deprived of happiness, benevolence, an armor that will protect them, peace... and the Torah. A man without a wife is not complete."*[55] Moreover, the Torah states the following: *"Loneliness is not good for humans"*[56]. The Prophet condemned those who avoided marrying, saying that *those people deviated from his path*[57] and that *marriage is the sunnah of all prophets and a great action*.''[58] People who get married to protect their honor are heralded by the Prophet stating that *They will be certainly helped by Allah*[59]. He also stated that *this world solely consists of efforts to live and that benevolent women are the best blessings of this world"*[60].

6. 1. Determination of Candidates and Marriage

Global society has been under the impact of two extreme sides called overstatement and understatement regarding the perceptions of modern families and traditional families. People used to marry one another upon the decisions of their parents, who neglected their wills, without seeing or getting to know each other. However, the Prophet asked Mughirah ibn Shu'bah who stated that he would marry a woman whether or not he saw her, and he received a negative answer: By telling him *"to see her…"*[61], he wanted him to meet with her. Regarding the formation of modern marriages and families, candidates generally neglect their parents, meet within the online environments, maintain secret relationships and finally establish a family following expensive and flamboyant weddings. However, the divorce cases of modern times are among the subjects that are heard the most in courts. These temporary and sensual relationships that generally begin with temporary desires yield these sorrowful results. In the modern world where a man or woman who has no friends is excluded by the people around them, the importance of marriage that results in establishing family and the relevant criteria in selecting the partner have yet to be recognized. Young people's inclination to have "more than one partner" and associating this inclination to "being skillful(!)"is another desperate aspect.

As seen in all fields of social life, people should focus on personality and characteristics as well as religiousness while selecting a partner. The most proper

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[55] *Yevamoth*, 62/b. For more details, see: Ömer Faruk Harman, "Semavi Dinlerde Aile", *Aile Sempozyumu Tebliğler* (Ankara: Medeniyet Vakfı Yayınları, 2015), 37-51.

[56] Qitab al-Muqaddas, (2 February 2020), Taqwin, 2/18.

[57] Bukhari, ''Nikah'', 1.

[58] Tirmidhi, ''Nikah'', 1.

[59] Nasai, ''Nikah'' 1.; ''Jihad'', 12.

[60] Muslim, ''Rada'', 17/59.

[61] Abu Abdillah Muhammad ibn Yazid ibni Majah al-Qazwini, *Sunan* (Beirut: Daru al-Marifah, 1997), ''Nikah'', 9.

domestic life can be maintained by a partner with similar characteristics to the self. Most new marriages distorted after a certain period of time are based on disharmony and carelessness.

An honorable young person should not neglect the following criterion of the Prophet during the pre and post-marital periods: *"Women are married for four characteristics: Goods, nobility, beauty and religion. You shall choose the religious one to be happy."*[62] The equivalence between the people to marry one another is regarded as the most important criteria, and religiousness is regarded as the most important aspect of equivalence in this regard. "*How happy is the man who found an honorable woman and aimed to be religious in order to be happy in the eternal world?"*[63]

Islam applies certain rules and disciplines for the activities and routines of people to meet their natural needs. These rules, whose first step is to find a benevolent partner, are initially related to marriage. İslam starts marriage with the agreement called *"misaqan ghaliza"*[64] that has the most severe conditions. This agreement stipulates certain conditions to be fulfilled by both parties for the validity of the agreement, and candidates start their marital relationship by performing the marital agreement legally and religiously before witnesses. A relationship that is concealed, and thus not known by anybody, cannot be accepted. The results of such a relationship are born by both sides and witnesses. In other words, marriage means responsibility that starts with a certain agreement. It is not related to feelings, and it is not arbitrary and momentary.

6. 2. Extended Families with Elderly People

Families that are established with the marriage agreement are not solely formed by the relationship between two people. Marriages also turn two different families into one family.[65] These differences form families on strong grounds. The families with strong bonds are protected from occasional problems. Parents' presence with the newly-married couples is an opportunity for more blessings and a great chance for the bride and groom to gain experience. The following verse in the Quran reflects certain aspects of extended families: "*Whether one or both of them reach old age [while] with you, say not to them [so much as], "uff," and do not repel them but speak to them a noble word. And lower to them the wing of humility out of mercy and say, "My Lord! Have mercy upon them as they brought me up [when I was] small.*[66]"

The people who will pass the ethical and moral principles that are deemed important by extended Islamic families to the new generations are doubtless the

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[62] Ibni Majah, ''Nikah'', 6.

[63] Said Nursi, *Lem'alar* (Istanbul: Zehra Yayıncılık, 2019), 186.

[64] an-Nisa 4/21.

[65] Fahrettin Atar, "Nikâh", *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 2007), 33/112-117.

[66] al-Isra 17/23.

elderly of these families. The term harvest is reflected as "khars" in the Quran,[67] which also means "culture". Accordingly, the concepts of "harvest" and "culture" are indicated with the term "khars", which is interesting.[68] Those who will spread this culture and pass down to the new generations are parents, grandparents and other people who are the senior members of a family. The ties between the new generation, lineage and history are fragmented if cultural values are not passed. Therefore, it becomes inevitable for the new generation to lose the characteristics of their lineage and become degenerated. The concept of "degeneration" is used in this case to mean corruption or losing the essence.[69] With the transformation of traditional families supported by Islam into the modern family conception, many problems such as cultural disconnection occur. This transformation also paves the way for certain changes in religious life.[70]

One of the major functions of extended families is that they solve domestic issues without too much hassle and with the lowest rate of impairment. Domestic problems are normal and expected in the course of life. In such cases, what should be done was reported by Allah. In the event that a domestic problem occurs, families should find an esteemed arbitrator to solve their issues as an act of extended families as Allah orders, instead of applying to a court or law enforcement unit[71]. This was regarded as one of the basic criteria for forming an Islamic family.[72] For instance, the Prophet's close friend and her father had domestic problems with Aisha called Abu Baqr and she asked for help in this regard.[73]

6. 3. The Basics Considered to Protect Islamic Families

The most important points to be considered in forming an Islamic family can be clearly found in the Quran, one of the main religious references, and in the Prophet's statements and acts. These points can be briefly reflected as follows.

6. 3. 1. Affection and Mercy

Affection and love are two important blessings needed to start and maintain the families established through marriages. Love and affection derived from the

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[67] al-Baqarah 2/205.

[68] Al-Maani (EM), ''Aranan: ''حرث''(Date Accessed: 8 February 2020).

[69] Lexico (L),'' Aranan: Dejenerasyon'', (Date Accessed: 8 February 2020).

[70] For more details, see: Ali Akdoğan, "Geleneksel Geniş Aileden Modern Çekirdek Aileye Geçişte Dini Hayattaki Değişim, " *Harran Üniversitesi İlahiyat Fakültesi Dergisi* 3 (2002), 27-72.

[71] See: Fatma Açık, *Aile Hukukunda Tahkim Müessesi ve Hakemin Boşama Yetkisi*, (Konya; *Selçuk University*, Institute of Social Sciences, Master's Thesis, 2006), 34-40.

[72] See: an-Nisa, 4/35. Açık, "Aile Hukukunda Tahkim Müessesesi ve Hakemin Boşama Yetkisi''.

[73] Muhammad ibn Saad ibn Mani al-Hashimi al-Basri, Ibn Saad, *Qitabu at Tabaqati al Qabir*, ed. Ali Muhammad Umar (Egypt: 2001), 10/ 79.

term "khabba" mean seed here.[74] The specific characteristics of a seed are that it develops in time, turning into a tree or branch, and that it yields fruit. According to the marriage historian John Boswell, "marriage was not an act of organizing properties in Medieval Europe or an interest-based relationship."[75] Instead, it was the indication of love between two different genders as a result of affection and the clear sign of divine presence.[76] Thus, the families established through affection should continue in this manner, not only during the wedding anniversaries but also during the entire marriage. Aisha was asked how much the Prophet loved her and replied "like an inextricable knot". When Aisha asked *"how is the know between us?"*, the Prophet answered *"just like the first day Aisha"*[77], indication the affection between them.

Nobody can be totally perfect and pretty because such a depiction can only be real in paradise. Thus, the Prophet stated the following in accordance with his exemplary statements and life: *"Nobody should bear grudge against their wives. If they dislike a certain characteristic, they can find another that they can like."*[78] Accordingly, one should look for the ways to be happy in one's marriage. A behavior of our spouses that we do not like can be an attitude that is longed by others.

"Affection is like a yeast whose single drop can ferment an entire sea, like a cream that can heal the deepest wounds with scabs, or like a word that can be the key to a series of disorganized souls. It is the ultimate formula that can improve all sorts of domestic attitudes like water that keeps plants alive. Affection is like a clothing that can be worn by anybody who sincerely intends to wear it."[79]

Mercy is present in the essence of all creatures but it is rather a basic need for humans because people who occasionally display anger and violence can stop themselves only through mercy. Accordingly, the Prophet stated the following to Aqra' ibn Khabis who was surprised seeing the Prophet had kissed her grandchild; *"Those who do not show mercy are not shown mercy"*[80]. According to this hadith, mercy is a feeling and characteristic behavior that can yield a certain result. Mercy can be seen more in families as the centers of social life, and it can prevent many adverse and negative acts. Therefore, one of the important factors that families are established upon is mercy. The best statement in this regard was made by the

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[74] Although there were interpretations between the linguists, the meaning reflected here was utilized. See: Al-Maani (EM), ''Aranan: ''حب''. (Date Accessed: 05.02.2020).

[75] Giddens, Sosyoloji, 250.

[76] ar-Rum 30/21.

[77] For more details, see: Ömer Sabuncu, *Hz. Âişe Bint Ebi Bekir* (Istanbul: Siyer Yayınları, 2019), 61-64.

[78] Müslim, ''Rada'', 61.

[79] Mahmut Öztürk, "Aile Kurumunun Devamını Sağlayan Temel İlkeler*", II. Uluslararası Mevlid-i Nebi Sempozyumu Tebliğler Kitabı*, ed. Abdullah Kartal (Şanlıurfa, 2019), 425.

[80] Bukhari, ''Tawhid'' 2.; ''Adab'' 18; Muslim, ''Fadail'', 66; Tirmidhi, ''Birr'', 16. See: Ömer Sabuncu, "Câhiliyeden İslâm'a Çocuklarla Ebeveynlerinin İlişkileri Açısından Değişim", *II. Uluslararası Mevlid-i Nebi Sempozyumu Tebliğler Kitabı*, ed. Abdullah Kartal (Şanlıurfa, 2019), 299.

Prophet who expressed himself as *"the Prophet of Mercy"*[81]: *"In terms of loving each other and showing mercy and affection to one another, believers are like the organs of a body that cause insomnia and high fever when one of the organs has a disease.''*[82] This mercy is valid not only for the spouses but also for the other members of the family. Upon hearing somebody who stated that they had never kissed their children, the Prophet stated the following: *"What can I do if Allah removed mercy out of your heart?"*[83]

Islam equips people with mercy toward spouses and children. Violence does not occur in a family that is equipped with these feelings. It is fair to state that law enforcement precautions and laws[84] are not adequate to solve domestic problems – one of the great issues of modern time – which can be understood from the increasing rate of violence. Mercy cannot be replaced by any authority. "Women's statements" are prioritized to protect and preserve women in domestic violence, but the penalty of men's suspension from home may pave the way for other crimes and victimization.[85] A man who does not have his share from mercy cannot stop himself from applying violence to women while women cannot stop themselves from besmirching.

6. 3. 2. Faith and Justice

In Islamic families, women and men consider themselves as the deposit of Allah. They consider commitment to protecting the deposit as *honor/law*, and they comply with this in the maximum manner. The following statement of the Prophet in the Final Sermon briefly explain the issue: *"O people, treat women as the deposit of Allah Almighty!*[86] Regarding women as the deposit of Allah, men should be faithful to the deposit not by considering this act as a blessing but by regarding it as a divine order. Another warning of the same sermon is the notice regarding the "unfaithfulness" that is the main reason for divorces and domestic violence. The Prophet assigned the obligatory duty of protecting women as Allah's deposit to men while telling women *"to protect their beds from strangers and protect the house from anybody whom are not liked or approved of by their husbands*.''[87] One of the important reasons for modern divorce is the negligence toward this point, impairment of faithfulness and reflection of this impairment to the institution of family. According

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[81] Muslim, ''Fażāʾil'', 126; Tirmidhi, "Daʿawat'', 118.

[82] Muslim, ''Birr'', 66; Bukhari, ''Adab'', 26.

[83] Bukhari, ''Adab'', 18; Muslim, ''Faza'il'', 164.

[84] For more details about the protection of women, see: the Law on Protection of Family and Prevention of Violence (LPFPV) Official Gazette 28239 (8 March 2018), Law No. 6284.

[85] For another relevant reference, see: Doğru Haber (DH), ''Kadının Beyanının Esas Alınması''(Date Accessed: 4 February 2020.)

[86] Ibn Hisham, *as-Siratu an-Nabawiyyah*, ed. Mustafa Saka et al., (Beirut: s.n, 1955), 4/298; Muslim, ''Haj'', 19.

[87] Muslim, ''Haj'', 19.

to 2005 TUIK data of Turkey, the reasons for divorce included "cheating" (20.5%) or "being cheated on" (10.7%).[88]

Nursi, a recent scholar, explains domestic happiness briefly with the following statement: " It is both a small world or a small paradise for somebody. The quality of life of a family continues through mutual safety and trust, respect, and affection between men and women."[89]

According to Umar, justice is not solely the basis of property; it is also the basis of society, government and Islamic family with extended functions. When this basis is shaken, both family and society vanish. Treating the spouse fairly and displaying kinship-based attitude to other members of the family, including the children, should be present within Islamic families. The antonym of justice is oppression. In places where oppression is present and dominant, peace as well as happiness and blessings cannot exist. Accordingly, the Prophet reminded people of their responsibilities in terms of domestic relationships as follows: **"*The most benevolent one among you are the ones who are the most benevolent and merciful toward their families. I am the one who is the most benevolent toward his wives. The ones that treat their wives malevolently are the worst among you.*"[90] The following verse about the concept of justice reflects the topic more clearly: *"O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination..."*[91] The warnings in this verse similarly reflect the points to be considered in the domestic environment: *"Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded.''*[92]

6. 3. 3. Contentment and Patience

When problems occur, the verse ; *"They are clothing for you and you are clothing for them."*[93] should be considered and problems should not be revealed or focused. The Prophet recommended the following when Umar asked "What sorts of goods should we acquire to meet our needs?": *"The most benevolent good is a tongue that often mentions Allah, a heart that often extends its gratitude to Allah, and a faithful woman that helps her husband in regard to religious issues.*"[94]

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[88] Türkiye İstatistik Kurumu (TUİK), Türkiye'de Boşanma Sebepleri, (2005).

[89] Nursi, *Lem'alar*, 238.

[90] Ibni Majah, ''Nikah'', 50.

[91] an-Nur 24/105. For another verse on justice, see: an-Nisa 4/152.

[92] an-Nahl 16/90.

[93] al-Baqarah 2/187.

[94] Abu Isa Muhammad ibn Isa ibn Sawrah Tirmidhi, Tafsiru al-Quran, *place of editing: (Beirut: Daru al-Marifah, 1998)*, 48; Ibn al-Majah, ''Nikah'', 5.

Contentment and gratitude are two important points regarding the domestic environment. The greatest adverse impact created by the secular world and capitalism on the modern family is the perception toward the life as unhappy and unlivable with greedy attitudes and approaches, rather than contenting the self with what is possessed. Accordingly, people's efforts to earn money day and night with the belief that they will be happy are futile and ineffective. The idea that wealth does not provide happiness comes from the wealthy societies that have high divorce rates is a great evidence in this regard. The Islamic families find the greatest wealth in economy and contentment. Contentment and economy is the key to gratitude while gratitude is the key to happiness. The following verse in the Quran reflects certain aspects of extended families: *"'If you are grateful, I will surely increase you [in favor];"*[95]

Patience is a remedy to many problems and one of the basic needs of an Islamic family. Life is not a trip that is taken on a straight road without any obstacles or slopes. It has ups and downs that can be overcome through patience and toleration. The greatest example in this regard can be seen in the life of the Prophet who is "uswatun hasanatun"[96]. However, we do not generally mention the natural or human problems the Prophet experienced with his wives due to our respect to them. Accordingly, we believe that he never had problems in his marital relationships. Such a belief is contrary to the divine creation, conception of examination and the Prophet's exemplary life . The Prophet could not meet certain worldly needs of his wives due to financial issues, which created domestic problems. In such cases, instead of applying violence or insults, he suspended his relationship with his wives through *passive resistance in an active issue mentality*, avoiding talking to them for a month, and he enabled them to think over these issues.[97] Similarly, Hafsa who was an intemperate person, and Aisha who was a jealous person showed patience to these issues and reflected how an Islamic family should be under every condition and situation with their lives.[98]

6. 3. 4. Obedience and Consultation

Obedience and consultation are some of the most important concepts for the institution of family. "Avoiding traditions and making efforts to generate new role models brought the modern women into the following point: A woman that trusts

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[95] al-Ibrahim 52/ 7.

[96] al- Ahzab 33/21.

[97] Muhammad ibn Saad ibn Mani al-Hashimi al-Basri ibn Saad, *Qitabu at Tabaqati al Qabir*, ed. Ali Muhammad Umar (Egypt: s.l., 2001), 10/180. According to certain narratives, this issue arose from the gift sent by the Prophet to Zaynap bnt. Jahsh and rejected by Zaynap. See: Ibn Saad, *Qitabu at Tabaqati al Qabir*, 10/181. Considering this narrative, the problem-solving aspect of patience can be seen in Islamic families.

[98] For more details in this regard, mothers' status and relevant topics can be seen in "*Tabaqatu al Qubra*" by İbn Saad. For both of these sections, see: Ibn Saad, *Qitabu at Tabaqati al Qabir*, 10/57-80, 85-94.

her boss rather than her husband, in other words, that focuses on her boss rather than her husband, emerged. This type of woman displayed obedience to anybody but her husband while acting rebellious against him."[99]

Consultation forms the basis of an Islamic family. The Prophet became upset seeing that Muslims were slow in practicing the articles of the Treaty of Hudaybiyyah and shared this issue with Ummu Salamah, his wife, and following the consultation process, he solved the issue.[100] The Prophet consulted his wives in this and other similar topics. In addition to the surah ash-Shuraa meaning consultation and counseling in the Quran, other verses ordering consultation [101] indicates that obedience is among the most important criteria of Islamic society. Being the head of an Islamic family does not mean performing any action by the self which can be seen in the practices and statements of the Prophet. Following and obeying the domestic decisions in any fields is both a human and Islamic principle. Islamic families assign responsibility to the head of the family, and to the women in terms of obeying the head.

6. 3. 5. Respect for Inherent Values and Roles

Every person, in Islamic families is valuable, and each value reflects a specific role and duty. Therefore, family is the collection of values. A family is not an ordinary institution where everybody acts individually. Instead, it is a sacred institution where people have specific roles but act collectively. Due to the importance of different roles family members have, family is defined as follows: "institutions formed by the relationships between the members and formation of these relationships".[102]

Epictetus' statement regarding the natural role and the relevant metaphor between Allah and creatures is a great example explaining the case between family members: "Remember, you are just actors who play their roles in the long or short play written by the creator."[103] Accordingly, all members of a family should be busy with their natural roles. One of the most important criteria for Islamic families is the principle of *responsibility*[104], which should be known by everybody and considered in their acts. The opposite means destruction for families. All creatures ranging from bees to ants have certain responsibilities and roles. In daily life, people working in different positions such as a manager of cleaning staff also have

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[99] Öğüt, "Nisa Suresinin 34. Ayeti Bağlamında Aile Kurumunun İki Temeli'', 55.

[100] Bukhari, ''Şurut'', 15; For more details on Ummu Salamah and this case, see: M. Yaşar Kandemir, "Ümmü Seleme", Türkiye Diyanet Vakfı *İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 2012), 42/328-330.

[101] Ali 'Imran 3/159; ash-Shu'ara 42/38.

[102] For more details, see: Zeynel Abidin Ataşalan, *"Tevrat, İnciller ve Kuran-ı Kerim'e Göre Aile Kavramı"* (Kahramanmaraş Sütçü İmam University *ISC,* Master's Thesis, 2008), 5.

[103] Epiktetos, *Düşünceler ve Sohbetler*, trans. Cemal Suer (Istanbul: Kaknüs Yayınları, 2010), 22.

[104] Cuma Karan, "Aile Bağlamında Cinsiyet Eşitliğinin Beslendiği Arka Plan ve Sahabe Ailesi", *II. Uluslararası Mevlid-i Nebi Sempozyumu Tebliğler Kitabı,* ed. Abdullah Kartal (Şanlıurfa: s.n, 2019), 572.

different roles and responsibilities within the natural flow of life. Therefore, neglecting the roles regarding the equality of men and women is equal to neglecting the concept of family.

"Being a spouse is a minor process of management. Men are the external authorities of their homes while their wives are responsible for the internal issues."[105] Accordingly, due to physiologic differences between a man and woman, men are responsible for earning lawful income as the head and protector of their families or paying alimony when needed[106] while women are responsible for domestic works as the authority of the house; they are also responsible for domestic peace, trust, tranquility and discipline of the generation. Women are the queen while men are the true leader of the house. As understood from the verse "*men are not like women* "[107], men are created in a manner that they can endure difficult and harsh situations while women are formed to be naive, elegant, soft and weak, indicating the naturalness of domestic responsibilities.

With the distortion of the domestic harmony and efforts of men and women to earn money all day, both sides become mentally and physically tired in their lives. Due to this intense tempo, they cannot have time and energy to spare for one another or to console each other at home at night.[108]

6. 3. 6. Love and Respect

One of the most important points as the bases of an Islamic family is mutual love and respect. The institution of family is an organization that obligates mutual love, respect, commitment, faithfulness and priority of the spouse over the self when needed. No problems can shake a family with the aforenoted characteristics. However, people who are raised through the modern conceptions and without these merits quickly become egoist, pragmatist and pleasure-seeking. As a natural result of such a development period, mutual trust, love and respect become weak between the spouses while all sorts of activities seeking to satisfy interests in the pragmatic business life are regarded as normal."[109]

The Prophet occasionally joked with his wives and sometimes he witnessed their jealousy. Aisha stated that she was jealous toward Hatijah more than anybody else . Having stated that Hatijah passed away three years before her marriage with the Prophet, Aisha said she was jealous because the Prophet often mentioned

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[105] Nevzat Tarhan, *Kadın Psikolojisi* (Istanbul: Nesil Yayıncılık, 2019), 193.

[106] For more details, see: Öğüt, "Nisa Suresinin 34. Ayeti Bağlamında Aile Kurumunun İki Temeli'', 49-52.

[107] Ali 'Imran 3/35.

[108] Öğüt, "Nisa Suresinin 34. Ayeti Bağlamında Aile Kurumunun İki Temeli'', 55.

[109] Öğüt, '' "Nisa Suresinin 34. Ayeti Bağlamında Aile Kurumunun İki Temeli '', 57.

Hatijah .[110] The following narrative in the Prophetic biography is an example in this regard: *"The Prophet once ate honey somewhere. Aisha came to see him and said his mouth smelled different. Upon hearing this, the Prophet who loved and valued Aisha swore not to eat honey once again."*[111] Due to his love for his wives, the Prophet always took them serious and abstained from hurting the feelings of Aisha even due to a different breathe smell.

Members of Islamic families show respect not only to one another, but also to their sensitive characteristics. For instance, Asma bnt. Abu Baqr – the sister-in-law of the Prophet – knew that her husband Zubeir ibn Avvam was jealous, and she acted accordingly. Asma stated the following: "One *day, I was carrying date seeds on my head. I saw the Prophet when there were certain Sahabah people around him. He called me and made his camel sit down so that I could ride with him. I was embarrassed due to the men around. Considering how jealous Zubair was, I rejected the offer of help."*[112]

The Prophet, who is the model for Islamic families, briefly explained the concepts of love and respect in the following manner reflecting that these concepts are also valid for all fields of life: "*Those who do not show mercy to younger people and do not respect the elderly are not a follower of mine.*"[113]

6. 3. 7. Empathy, Wishful Thinking and Forgiveness

The most important method Islam suggests for solving many problems is empathy. The principles of sympathizing with others and "*avoiding wishing anything for anybody that one would not like for oneself, and demanding anything that one wants for oneself also for the sibling*"[114] are also effective in domestic problems which is also the case for any issues. What should be done first in the case of a problem or negativity is sympathizing. Answering the question "What would I feel, do, or expect the other person to do if this was done to me" empathy enables people to solve a problem without any further growth. The process of solving a problem starts with apologizing and ends with forgiveness which is among the main warnings reflected by the Quran and the Prophet's statements as the basis of Islamic families. "Afuw", one of Allah's titles, means forgiveness aspects of the divine characteristics. In the prayer taught by the Prophet to Aisha, *"O Allah! You are merciful and like forgiving. Forgive me!"*[115], the indication that the practice Allah likes the most is forgiving shows that people who need to be forgiven should also forgive others when needed

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[110] Ömer Sabuncu, *Hz. Hatice Bint Huveylid / Peygamber Evinin Hanımları 1* (İstanbul: Siyer Yayınları, 2019), 125.

[111] Bukhari, ''Tafsir'', 66/l-2.

[112] Ibn Saad, *Qitabu at Tabaqati al Qabir*, 10/ 271.

[113] Tirmidhi, ''Birr'', 15.

[114] Bukhari, ''Iman'', 7; Muslim, ''Iman'', 71-72.

[115] Tirmidhi, ''Daawat'', 84 ; Ibni Majah, ''Dua'', 5.

and that domestic environments are the most suitable places where this should be followed.

The Prophet consoled Aisha, his wife, whom he loved the most and who was besmirched during the Campaign of Bani Mustaliq, while she was ill and staying in her father's home as the case was not cleared and there were many statements from different people. He showed the path for Allah's blessing and forgiving characteristics with the statement *"O Aisha, if you are innocent, Allah will reveal it. If you committed a sin, just foreswear and ask for forgiveness, as Allah forgives who prays* in this regard"[116], while he was showing patience in this case. When this issue was spread by the disbelievers in Madinah, the Prophet went to Masjid and reflected his wishful thinking about Aisha, without having any doubts in this regard.[117] The surah an-Nur 12 "*Why, when you heard it, did not the believing men and believing women think good of one another and say, "This is an obvious falsehood*"? reflects that Muslims should display wishful thinking and avoid any sorts of blemishing. The final direction of an Islamic family, that was founded on divine and prophetic orders and reflected paradise in this world, will be toward eternal paradise.

6. 3. 8. "Sarahan Jamilan" Talaq/Proper Divorce

The lawful practice that Allah disliked the most is divorce. Islam suggests people to maintain their marriage, mutual love and respect as much as possible, to show commitment in this regard, to treat spouses well, and to see the positive characteristics of them rather than the imperfect sides.[118] Islam asks for a number of measures to be taken towards the maintenance of marriage when parental discord occurs, and asked for the arbitrators selected from the man's and woman's family to mediate between the couple if this discord continues.[119] Islam disapproves the arbitrary termination of the family unity if there is not a significant reason[120], and it also morally, sociologically, and legally disapproves being married on paper but living separately in terms of mental and physical aspects if maintaining the family unity becomes impossible despite all and if a situation that causes mutual damages is in question. It suggested people to use the divorce method called "talaq"[121] as a legal solution without causing any physical or mental issues. This divorce is regarded as the lawful action *"that is still disliked by Allah"*[122]. In the pre-Islamic

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[116] Ibn Hisham, Siyratu an-Nabawiyya, 2/301.

[117] Ibn Hisham, Siyratu an-Nabawiyya, 2/300.

[118] al-Nisa 4/19.

[119] al-Nisa 4/34-35, 128.

[120] Muslim, ''Rada'', 63.

[121] See: H. İbrahim Acar, "Talak", *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 2010), 39/495-500.

[122] Abu Dawud, ''Ṭalaq'', 3.

ignorance period, only men could divorce.[123] Islam assigned the right of divorce to men but it also granted the opportunity to get divorced after applying to a court, which prevented the lack of agreement within the family turning into a greater violence and problem. The Prophet enabled Ummu Jamil bnt. Abdillah to divorce her husband upon hearing that he beat her.[124]

Contrary to other religions, Islam does not consider maintaining difficult and problematic relationships as appropriate. A Bible verse reflects the following in this regard; "*And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery.*''[125] However, in Islam, it is not necessary and appropriate for people to live a marriage and life that will cause torment throughout life due to an unhappy marital relationship and that does not suit the facts of this life. *"And when they have [nearly] fulfilled their term, either retain them according to acceptable terms or part with them according to acceptable terms."*[126] Accordingly, either of the aforenoted ways should be followed.

Marriage is valuable as long as the peace is maintained. However, an unpeaceful family can be fragmented in the most appropriate ways if it causes pain and sorrow for both sides and the children. Accordingly, the divorce between Zayd bin Harisa and Zaynap bnt. Jahsh[127] mentioned in the Quran is an example.

Conclusion

Europe has witnessed dramatic changes especially in the family order and structure in the last 30 years. Women's participation in the labor force has increased even though the labor force has decreased. The traditional family model has diminished in many countries which are mostly the members of the EU, where men work full-time for their family and are the ones who ''bring home the bacon'' while women do the unpaid housework and raise their children.

Women have become the ones being victimized the most throughout history. They could not escape being a farm laborer/field-hand in the feudal agricultural period, a blue-collar worker working for a very small amount of money in the industrial period, and an object to fulfill men's pleasures and lust today. Women's position in society have been deviously converted into their current position for so-called freedom and equality. This independence, however, has been referred to as

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[123] For more details on the status of women during the Ignorance Period, see: Şemseddin Günaltay, "İslâm'dan Önce Araplar Arasında Kadının Durumu, Âile ve Türlü Nikâh Şekilleri", *Marife: Dini Araştırmalar Dergisi* 1/3 (2002), 189-199.

[124] Ubnu al-Asir, *Usdu Al-Gabah*, (Beirut: Daru al ibn Hazm 2012), 1600.; Ibn Hajar al-Asqalani *al-Isabah*, (Beirut: Daru al Qutubi al Ilmiyya 1995), 8/368.

[125] Matthew 19/9.

[126] at-Talaq 65/2.

[127] al-Ahzab 33/37.

the freedom of having women easily and this freedom has been defined as the freedom of men to have fun with women whenever they want for a small fee. Women's body and skin have always been used while their personality, character, honor, dignity, compassion, and benignity have always been ignored. Women have become the most easily accessible and enjoyable meta and they have also become the ones who are excluded when other people want to get rid of them. Male religious scholars have interpreted and implemented religious beliefs and texts in favor of themselves and against women by deviating from their real intentions and purposes. These wrong beliefs and comments were sometimes practiced under the title of traditions in the Muslim society despite the rooted and precise principles regarding Islamic families. Certain non-religious traditions of Islamic society were realized instead of Islam. Unfortunately, women were the first victims of this corrupted approach, which was associated with Islamic families and blemished these families. Therefore, deficiencies of Muslim families were related to Islam.

The women of modern life have been the capital of men's pleasure, lust and fortune. Women have always been used in social processes. They were used in the advertisement sector, even in the advertisement of car tires. This relationship formed by the perpetrator and victim – men and women – turned into a form other than the marital relationship, becoming a temporary pleasure formation.

According to Islam, marriage is the name of the remarkable relationship that gathers two people under the same roof, connects them through strong ties, and helps them complete each other and become strong together. Although the relatives included in this relationship live in different locations, they share the happiness and pain together under the same lineage. Accordingly, family means unity while the latter indicates peace.

The information age brings those from afar closer while sending the close people away from one another, which caused us to lose the most important and primary institution of ours that equips people of love and respect with different human characteristics and that presents them to others in this form. Therefore, humanity lost its paradise on this earth, turning its spring into autumn, and caused irreversible damages.

The impact of modern age on the family is that it distorts the feeling of unity and loosens the domestic ties. Family members who have financial freedom stayed away from one another with the claim that they could live their lives however they wished, which is one of the most sorrowful aspects of modern societies. However, members of a family need the presence of one another not only in financial terms but also in spiritual matters. They are responsible not only for meeting one another's physical needs, but also for completing one another's emotional and mental deficits. Establishing a domestic relationship based on love, sincerity, peace and safety will help us reach the domestic peace and happiness that is regarded as a reflection of paradise.

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12. A maximum of two pieces of work by the same author (copyright/translation) can be published in a single issue.

13. No royalties are paid to the author for published articles. All scientific and legal responsibility for the language, style and content of the published work belongs to the author(s) and does not bind the editorial board.

14. In matters not mentioned here, the decision authority belongs to the Editorial Board of Gaziantep University Journal of *Theological Academy*.

Writing Principles and Rules

Our journal is written based on the spelling rules of the *TDV Islamic Encyclopedia* (DIA). Accordingly;

1. Articles submitted to the journal must be written or adapted to the PC Microsoft Word (at least office 2003 edition) software.

2. Copies of the original texts should be added to the translation, simplification and transcription texts. In addition, the book source picture should be included in JPEG format for book introductions and reviews.

3. Page format: 17.5x25 size, the margins should be set to 2.5 cm from the left, 2 cm from the right, 2.5 cm from the top and 1.8 cm from the bottom.

4. Typeface: Palatino Linotype (main text: 10, footnotes: 8 points, Abstract: 9 points); line spacing: Single; paragraph spacing: before: 6 pts; after: 6 pts; Traditional Arabic font (main text) in Arabic texts: 14 points, abstract and footnotes: 12 points) should be used.

5. If any, tables, graphics, pictures, etc. in texts should not exceed 12 cm in width, which is the standard page width value.

6. Details such as page numbers, headers and footers should not be included in the articles. In addition, any information that may disclose the author's identity or name should not be included in the manuscript.

7. The bibliography must be arranged alphabetically by the last name of the authors.

8. The methods of reference used by our journal are ISNAD citation system, Chicago of Manual Style (CMS) and APA system.