

Husband's Rights Between Duty and Responsibility: A Legal and Islamic Sharia Analysis

Benahmed Rania ¹, and Baroudi Mokhtar ²

¹ University Abou Bekr Belkaid Tlemen, Algeria.

Email: benahmedrania59@gmail.com

² University of Ahmed Zabana, Relizane, Principal Private Law Research Lab, Algeria.

Email: mokhtarbaroudi@gmail.com

Abstract---Marriage has existed since ancient times, yet it was not organized in the structured manner we see today until the intervention of Islamic law. Islamic law provided comprehensive teachings that guided the formation of marriage and continued to oversee it until its termination, either through the death of one of the parties or their separation for any reason. Islamic law elucidates the conditions and essential elements required for a valid marriage, as well as its effects on the spouses and others. It specifies the rights and obligations of both parties, aiming to prevent confusion and abuse within the marital relationship.

Keywords---marriage, legal relationship, Islamic law, rights.

Introduction

The marital bond is considered sacred due to several considerations. The marriage contract not only unites two bodies but also joins two souls, with each party being a source of comfort for the other. Additionally, marriage is the foundation for building the family and, by extension, society as a whole. Islamic law refers to it as "*the solemn covenant*" to highlight its sanctity. This sanctity prompted Islamic law to intervene by regulating the relationship and defining the rights and obligations of each party.

Given this context, several questions arise, forming the core of our study. ***What are the obligations that the marriage contract imposes on the husband, which simultaneously serve as rights for the wife? What rights can the husband enjoy under the marriage contract?***

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These questions will be addressed through our article, using an inductive approach to legal texts and an analytical approach to examine the teachings and rulings in Islamic jurisprudence. Our topic will be divided into two main sections: the first dealing with the obligations of the husband. As for the second axis: we dealt with the husband's marital rights.

First axis: obligations of the husband

Contracts, in their entirety and in general, have significant implications for the rights and obligations of the parties involved. The marriage contract, in particular, establishes numerous obligations and duties for the husband toward his wife. These obligations vary in nature, encompassing both financial and moral responsibilities, and the husband's liability can only be absolved through their fulfillment. In the following discussion, we will examine the husband's financial duties and subsequently his moral duties.

1. The husband's financial Obligations

The wife possesses numerous financial rights that constitute obligations owed by the husband and are affirmed by the marriage contract.

1.1. The dowry

In addition to the dowry being a fundamental pillar of the marriage contract according to Islamic law, it is simultaneously considered a financial obligation owed by the husband.

1.1.1. The concept of dowry:

The term "dowry" originates from the Arabic word "mahr." In its conventional sense, it refers to what is given to a woman in exchange for marriage or intercourse. It is what a man offers to a woman to express his desire to marry her and start a family together. ¹The dowry can be provided immediately upon marriage or deferred, depending on the agreement between the two parties. It is known by various names, such as "Sedaq," "Aqar," "Adjer,"etc²

Numerous Qur'anic verses underscore the obligation of the dowry. Among these is the Almighty's declaration: "And give the women their dowries willingly. But if they, of their own accord, remit any part of it to you, take it and enjoy it with a clear conscience."³

Likewise, God Almighty states: "And give the women their bridal-due in good cheer; but if they, of their own accord, give up unto you aught thereof, then enjoy it with pleasure and goodwill." Here, "bridal-due" refers to the dowry, and the term "obligation" in the verse indicates its mandatory nature, signifying that the husband is obliged to provide it to the wife, and he cannot evade this responsibility unless she willingly absolves him of it.

1.1.2. Types of dowry and their value :

The dowry is commonly understood to exist in two forms: the specified dowry and the customary dowry. The specified dowry, as the name suggests, is agreed upon and named by the parties involved. On the other hand, the customary dowry refers to the dowry expected for a woman of similar status in her society, encompassing factors such as beauty, knowledge, lineage, and virginity, among others⁴. This customary dowry reflects what is typically deemed appropriate for a woman of comparable standing in her community.⁵

¹ Ahmed Abash, *The Family between Stagnation and Modernity*, Al-Halabi Publications, Beirut, Lebanon, 2011, p. 100.

² Omar Suleiman Abdullah Al-Ashqar, *Rulings on Marriage in Light of the Qur'an and Sunnah*, Dar Al-Nafais for Publishing and Distribution, Jordan, 4th edition, year 2012, p. 259.

³ Surah An-Nisa, Verse 4

⁴ Surah An-Nisa, Verse 24

⁵ Souad Kassaa, *The Financial Rights of the Wife in Islamic Jurisprudence and Algerian Family Law*, Journal of Sharia and Economics, Faculty of Sharia Sciences, Emir Abdelkader University, Constantine, Volume 4 , Issue 08, S. 2015, p. 273

Regarding the value of the dowry, jurists have unanimously agreed not to establish a maximum limit. However, there is divergence among them concerning its minimum value. Some have stipulated it to be ten dirhams, while others have suggested that it should not be less than a quarter of a dinar or three silver dirhams.⁶

1.2. Alimony

Marital maintenance constitutes the second legal obligation incumbent upon the husband.

1.2.1. The concept of alimony:

The concept of spousal support encompasses all legal obligations for the wife to provide her husband with necessities such as food, clothing, and housing. This obligation is contingent upon the husband's capability, financial means, and social circumstances.⁷ Both Qur'anic verses and noble Prophetic hadiths emphasize the husband's responsibility to provide for his family. Among them is the Almighty's saying: "Let the man of means spend according to his means, and he whose resources are restricted—let him spend according to what God has given him. God does not burden any soul beyond what He has given it. God will bring ease after hardship."⁸

Among the Prophetic hadiths, it is reported on the authority of Muawiyah bin Haidah, may God be pleased with him, that he asked the Messenger of God, "What is the right of the wife upon one of us?" The Prophet replied, "That you feed her when you eat, clothe her when you clothe yourself, do not strike her face, do not revile her, and do not separate from her except within the house."⁹

1.2.2. Types of alimony:

There are two types of alimony :

- *Obligatory maintenance*: It refers to essential living requirements that cannot be foregone, encompassing food, drink, clothing, and housing—essentially all necessities of life.
- *Optional expenses*: These are considered luxuries rather than necessities, such as hiring servants to serve the wife, which are not essential compared to basic life requirements..¹⁰

2. The husband's moral duties

The husband's obligations towards his wife extend beyond purely financial matters. Moral responsibilities are also incumbent upon him as part of the marital bond. These obligations are:

2.1. To live together with kindness:

In addition to providing for his wife and attending to her affairs, the husband is also obligated to ensure good companionship with her, treat her with kindness, and be mindful of God in his conduct towards her. This is emphasized in Islamic law as reflected in the saying from the Hadith: 'Only the lowly demean women, and only the noble honor them,' and similarly in the Quranic verse: 'And live with them in kindness; even if you dislike them, perhaps you dislike a thing and Allah makes therein much good.'¹¹ And if he is patient with the actions that come from her, then he is the shepherd of his family. He must be gentle in his dealings¹², The husband should refrain from abusing, insulting, or belittling his wife, as marriage signifies a union of two souls where harmony should prevail. Their relationship

⁶ Omar Suleiman Abdullah Al-Ashqar, previous reference, p. 264

⁷ Mahmoud Talib Al-Obaidi, Provisions of Marital Alimony in Islamic Sharia, Dar Al-Huda Al-Nabawi for Publishing, Mansoura, Egypt, 2004, p. 12

⁸ Surat Al-Talaq, verse 7

⁹ Narrated by Abu Dawud in his Sunan (Book of Marriage, Chapter on a Woman's Rights over her Husband, 325, H. 2142)

¹⁰ Salah El-Din Sultan, Women's Alimony and the Issue of Equality, **Nahdet Misr Publishing and Distribution**, Egypt, 1999, p. 25.

¹¹ Surat An-Nisa, verse 19

¹² Tawfiq bin Ali bin Ahmed Al-Sharif, The financial and moral rights of the wife in Islamic jurisprudence, Journal of the College of Sharia and Law, **Al Azhar university, Asyut, Egypt** , Issue 23 , Volume 2, Year 2020, p. 1061

must be characterized by love, understanding, and mutual respect. Without these elements, conflicts can arise, jeopardizing the marital bond. A lack of understanding and respect can lead to discord, which contradicts the objectives of marriage and often necessitates divorce when marital life becomes untenable, offering the most suitable resolution.¹³

2.2. Justice between wives :

Polygamy is a right afforded to the husband by law, granting him the option to marry one woman or up to four, depending on his desire and financial capability. However, he is obligated to treat his wives with fairness and equality to the best of his ability. Any form of differentiation among them is deemed unjust. For instance, if he chooses to stay exclusively with one wife and neglects spending time with or visiting his other wife or wives, it constitutes abandonment and deprives them of their legal rights. Such actions contradict the legal principles for which marriage is sanctioned. Similarly, if he shows kindness and favoritism to one wife while treating the others poorly due to his preference for her, or if he provides for one wife and neglects financial support for the others, it also constitutes injustice and is considered illegal.

Therefore, the husband is under the obligation to be fair with his wives in terms of financials and night and spending, but he is not responsible for that in the case of heartfelt love, so he has no authority over it and cannot be fair in it. This is due to reasons beyond his control.¹⁴

3. The husband's marital rights

Marriage imposes not only obligations on the husband but also confers upon him a set of rights. The wife is obligated to fulfill these rights, and failing to do so releases her from liability. These rights include:

3.1. The right of guardianship

Guardianship is a right generally imposed on men specifically on the husband. This right is affirmed by numerous Prophetic hadiths and Qur'anic verses. Below, we will discuss its concept and requirements.

3.1.1. The concept of guardianship:

Marriage, according to Islamic law, is an institution between two partners, a man and a woman. Within this framework, the responsibility of managing this institution falls upon the man, who is regarded as the provider for his wife. Therefore, guardianship is defined as follows: "A man, under his moral and ethical disposition, assumes responsibility for caring for his wife, providing for her needs, protecting her, and maintaining God-consciousness in their marital relations. Consequently, the wife has the right to obey his directives and follow his guidance." ¹⁵

3.1.2. Guardianship requirements:

The right to marital wardship of the husband grants and arranges other rights that are considered at the same time manifestations of its embodiment on the ground. These rights are represented in :

3.1.2.1. The right to obedience: The wife is obligated to obey her husband and adhere to his requests and directives; failure to do so without a valid reason is considered disobedience, except in matters that contravene God's commands. Manifestations of obedience include:

¹³ Abdel Moneim Naimi, Common Rights between Spouses in Sharia and Law, **Al-Ihya Magazine, Faculty of Islamic Sciences, University of Batna 1** , Volume 13, Issue 01, S. 2012, p. 457

¹⁴ Sumaya Tariq Khader Al- Ahaidib , Women's Moral Rights Consequent to the Marriage Contract in Islamic Sharia, **Journal of the College of Islamic Sciences**, University of Mosul, Iraq, Volume 09 , Issue 17, Year 2018, p. 234

¹⁵ Manouba Burhani, Dhikra Mansouri, marital custodianship in light of the Qur'an and Sunnah, intervention at the Ninth International Forum "Contemporary Muslim Family Issues in Light of the Principles and Purposes of Islamic Sharia", **Faculty of Islamic Sciences, University of Batna 1** , year 2022, p. 150

- Obedience to the husband includes responding to his call to join him in bed without refusal, except for valid reasons. This is per the saying of the Prophet Muhammad (peace be upon him): "If a man calls his wife to his bed and she refuses, causing him to spend the night displeased with her, the angels curse her until morning."¹⁶
- That is, if she objected to her husband's request in bed without having a legitimate excuse, she would be subjected to the angels' curse as punishment.
- A married woman should not leave her home without her husband's permission. If she does so without his consent, it is considered disobedience.
- She should not open the door or welcome strangers into their home without her husband's permission, except in the case of visitors who are from his family, her family, or mahrams (those with whom marriage is permanently prohibited).
- She should not engage in employment outside the home without her husband's knowledge and approval. Going out to work without his permission or against his objections would be considered disobedience.

3.1.2.2. The right to discipline:

If the wife dutifully obeys her husband and fulfills her responsibilities towards him, she is considered an obedient wife who deserves to be treated well. However, if she becomes stubborn, refuses his requests, exceeds her limits, or displays signs of disobedience and misconduct, then the husband has the right to discipline her. Discipline, in this context, can be defined as correcting the actions of the disobedient wife, guiding her away from disobedience, and restoring her to the right path.¹⁷ Discipline, according to Islamic jurisprudence, is carried out through three means, as outlined in the Quranic verse: "And those wives from whom you fear arrogance—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."¹⁸ The husband must cease disciplining once the wife returns to her senses and resumes obedience to him. The means of discipline include:

The means of discipline are as follows:

1. Preaching: This involves discussing with the wife the religious rulings and obligations as prescribed by God Almighty, with the hope that she will understand and return to obedience.
2. Abandonment in bed: If preaching proves ineffective, the husband may abstain from intimate relations with his wife as a form of discipline. However, this should not exceed four months.
3. Light beating: This is the third and final method the husband may resort to if the wife persists in disobedience despite the previous efforts. The beating referred to here is not severe but rather gentle, intended to make the wife aware of her disobedience and encourage her to correct her behavior.¹⁹

The beating must be gentle and not severe, and it should not cause injury, harm, or mutilation of the body. Furthermore, the husband must personally exercise this right and not delegate it to another person. The intention behind the husband's action should be solely to guide and correct his wife's behavior, not to harm or humiliate her, as this would contradict the purpose of marriage. Importantly, if the wife shows signs of repentance and ceases her stubbornness, the husband must stop the disciplinary action.²⁰

¹⁶ Narrated by Al-Bukhari, The Book of the Beginning of Creation, (Chapter If One of You Says Amin (4/116) Hadith No. 3237).

¹⁷ Sayed Omar Abdullah, Muhammad Jamid Al-Qamhawi, Personal Status Rulings for Muslims, University Press House, Alexandria, Egypt, (D.S.N.), 52.

¹⁸ Surat An-Nisa, verse 34

¹⁹ Abu Al-Wafa Muhammad Abu Al-Wafa, Violence within the family between prevention, criminalization and punishment, **New University Publishing House, Alexandria, Egypt**, Year 2000 , p. 41

²⁰ Hanan Abdel Rahman, may God grant Abu Mukh, The provisions of discipline by punishment in Islamic law, Master Thesis, An-Najah National University, Palestine, Year 2005, p. 145

3.1.2.3. *The right to polygamy:*

The practice of polygamy is not a recent phenomenon; its roots can be traced back to ancient civilizations such as the Greeks, Indians, and pre-Islamic Arabs. However, these practices were not organized in the structured form they are today. Islamic law introduced regulations and teachings that shaped the institution of polygamy as practiced within the Islamic framework. Below, we will discuss its concept and the conditions that must be met for its practice:

The concept of polygamy: The concept of polygamy was not explicitly defined by ancient jurists, unlike contemporary scholars who have provided detailed definitions. For instance, some contemporary definitions include: "Polygamy refers to a man marrying more than one wife, within the limit of four wives in total."²¹

It has also been defined as: "a system that allows a husband to have at least four wives at the same time."

Conditions for polygamy: We have previously stated that polygamy is a right guaranteed to the husband and is permissible according to Islamic law. It operates within a structured system with established foundations, rules, and conditions for its validity. These conditions include:

- **Justice between wives:** A polygamous husband is required to treat his wives with fairness in terms of marital support, spending time with them, and showing kindness. He should refrain from oppressing or favoring one wife over another, as this could lead to financial disparities in terms of maintenance payments. Psychologically, unequal treatment in terms of accommodation and overall treatment can also cause emotional distress among the wives.
- **Do not combine mahrams:** One who studies the Holy Qur'an will find that God Almighty has permitted and regulated polygamy. It is encouraged in the verse: "And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice]." (Quran 4:3) ²²Indeed, while regulating polygamy, God Almighty has forbidden specific relationships from being combined in marriage. These include marrying two sisters simultaneously, marrying a woman and her paternal aunt, or marrying a woman and her maternal aunt. This prohibition also extends to relationships established through breastfeeding, such as a breastfeeding mother, sister, aunt, grandmother, niece, nephew, and so forth. Islamic jurisprudence maintains that what is prohibited by lineage is also prohibited by breastfeeding relationships.²³
- **Do not exceed the maximum number of wives:** In Islam, a husband must not have more than four wives at any given time. This limitation is stated in the Holy Qur'an and affirmed by the Sunnah of the Messenger of God, may God bless him and grant him peace.
- **Ability to spend:** Alimony is a duty and obligation that falls upon the husband and is considered his responsibility, integral to the requirements of guardianship. As the head of the family, the husband is responsible for protecting his family, managing its affairs, and providing financial support.²⁴He is required to pursue polygamy only if he has the means to support more than one wife adequately. If he lacks the financial or emotional capacity to maintain multiple wives, he should abandon the idea of polygamy, as failing to do so would cause more harm than benefit. This approach aligns with the jurisprudential rule that "preventing harm takes precedence over obtaining benefits." Thus, in such cases, it is obligatory to be content with one wife.

²¹ Maryam's dizziness , Is polygamy an Islamic characteristic - a theoretical study -, **Journal of Social Sciences, Omar Theliji University** , Aghouat, Volume 10, Issue 20, Year 2016, p. 57

²² Surat An-Nisa, verse 03

²³ Rasem Shehdeh Sidr, Polygamy between Islam and its opponents, House of Culture for Publishing and Distribution, Oman, Jordan, Year 2010, p. 134

²⁴ Ibid., p. 135

Conclusion

Marriage is one of the most significant steps a person takes in life, and it can even be considered one of the most consequential. Therefore, one must approach it with patience and carefully choose a partner. Both parties should not proceed with marriage unless they are certain of their readiness to shoulder the responsibilities and fully understand what they are committing to. This ensures that the family is built on correct and solid foundations. Perhaps the most important conclusions we can draw from this study are:

- Marriage imposes many obligations on the husband, from which he cannot be absolved except by fulfilling them or by being released from them by his wife.
- The husband is responsible for several obligations that vary in nature, ranging from financial to moral.
- The wife is also committed to her husband by performing a set of duties, and she, too, is not absolved from these responsibilities unless she fulfills them.
- The wife's duties differ in nature from those of the husband. The wife primarily has moral obligations, unlike the husband, who has both financial and moral responsibilities.
- Islamic law regards the marriage contract with special importance, detailing the rights and obligations of each party within the relationship.