

Compensation for arbitrary divorce in Islamic Jurisprudence Fiqh, Algerian Family Law, and Legal Legislation: A comparative study

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Abstract---One of the Characteristics of the Pure Islamic Sharia Law is that it achieves Justice between Disputing Parties and Seeks to Protect the Interests of all Parties, especially in the Personal Status Cases and Matters related to the Family in particular. Some Contemporary Positive Laws have Enacted Legal Provisions relating to Arbitrary Divorce. This Research Examines the Term “Arbitrary Divorce” and the Rooting of its Provisions in Islamic Sharia law through the Fatwa Jurisprudential Heritage and the New Opinions of the Contemporary Jurists. The Researcher relied on the Descriptive Approach, then the Analytical Approach, then the Comparative Approach, in his Presentation of Jurisprudential and Legal Issues and Opinions, in order to Reach the Results that the Research Yielded.

Keywords---Arbitrary Divorce, Compensation, Islamic Jurisprudence Fiqh, Jurisprudential Opinions, Legal Position.

Introduction

Praise be to Allah, Lord of the Worlds, and the Outcome is for the Righteous. May Blessings and Peace be Upon the Imam of Messengers, our Prophet Muhammad, may the Best Prayers and Complete Peace be Upon Him.

Furthermore; The Personal Status Laws derived from the Pure Islamic Sharia Law represent the Opinions of Contemporary Muslim Jurists regarding what they have Selected from the Scholars' Sayings, and regarding what they have Striven to Achieve from Modern Issues. The Legislators in

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Algeria and Jordan have addressed the Issue of Arbitrary Divorce. Through this Research; Contemporary Jurisprudential Trends in Addressing this Issue Judicially Emerge. In its application; The Islamic Sharia law Seeks to Achieve Interests and Establish Justice and Fairness. It does not Hesitate to Remind People that the Balm and Remedy for Problems, along with Justice, is Kindness and Noble Manners, especially with Regard to Members of the Muslim Family.

Reasons for Choosing the Topic:

- ✓ **The Novelty of the Topic;** as it has not been thoroughly addressed in Books of Islamic Jurisprudence Fiqh. In our time; Women need a Comprehensive Statement based on a Sound Understanding of the Provisions of the Pure Islamic Sharia.
- ✓ **Participation of the Legal Drafters and Lawmakers** in Developing Legal Formulation, through the Submission of Research that addresses the Concept and Jurisprudential Perspective, and identifies the Observed Applications that should be Governed by Sharia Law, the Rules of Interest, and the Spirit of Legislation.

Research Methodology:

The Researcher relied on the Inductive Method and the Comparative Method of the Texts of Earlier and Later Jurists, with the Analysis of Some Jurisprudential and Legal Texts if Necessary.

Previous Studies:

- **Ali Al-Aoun (2016 CE)** Presented a Study Titled: “**Arbitrariness, the Rights Resulting from it, and the Measures taken to Reduce it**”.¹ This Research Focuses on the Legal Measures for Addressing the Arbitrariness of Rights in Divorce Cases and Related Matters such as Reconciliation “Reconciliation after the Divorce Cases”. The Research did not Limit itself to the Issue of the Arbitrary Divorce, nor did it Provide the Arbitrary Divorce with a Definition that Could Clarify its Limits and Assist the Judiciary in this regard.
- **Sajida Atili (2011 CE)** Presented a Study Titled: “**Arbitrary Divorce and Compensation for It: Between Islamic Sharia Law and Jordanian Law**”.² This Study Examines the Legitimacy of Compensation for Arbitrary Divorce, given the Existence of Both Proponents and Opponents of the Principle of Compensation. The Researcher Cited the Jordanian Legal Definition of Arbitrary Divorce and recommended Abolishing Compensation for Arbitrary Divorce and Instead Offering Alimony. This Differs from the Previous Research in its Attempt to Provide a More Precise Definition of the Arbitrary Divorce and its Discussion of the Issue from other Perspectives not addressed by the First Researcher, and in that Alimony does not Offer a Solution for this Problem.

Research Issue:

The Research Issue Can be Summarized in Answering the Following Question:

- **What is the Ruling on the Arbitrary Divorce from the Perspective of Islamic Jurisprudence Fiqh and Lawmakers?**

Research Questions:

The Research Issue Branches into Several Questions; The Most Important of which are:

- **What is the Concept of the Arbitrary Divorce according to Islamic Jurisprudence Fiqh and the Judiciary?**

¹ - Al-Aoun, Ali Abdullah, **Arbitrariness in Divorce, the Rights Resulting from it and the Measures taken to Reduce it: Jurisprudential Issues Compared to the Personal Status Laws**, Journal of Studies: Sharia and Law Sciences, Volume: 43, Issue: 02, 2016 CE.

² - Atili, Sajida Afif Muhammad Rashid, **Arbitrary Divorce and Compensation for it between Islamic Sharia Law and Jordanian Law**, Master's Thesis in Jurisprudence Fiqh and Legislation, Faculty of Graduate Studies, An-Najah National University, Nablus, Palestine, 2011 CE.

- **What Rulings does Islamic Jurisprudence Fiqh Establish regarding the Arbitrary Divorce Compared to the Existing Positive Law?**

Research Objectives:

The Research Objectives Can be Summarized as Follows:

- **Clarifying the Reality of the Arbitrary Divorce.**
- **Establishing the Foundations of the Rulings on Arbitrary Divorce Based on Islamic Sharia Legal Texts and Principles of Islamic Jurisprudence Fiqh.**
- **Explaining the Effects of the Arbitrary Divorce in Both Islamic Jurisprudence Fiqh and Positive Law.**

Research Plan:

I have Divided the Research into an Introduction, Two Topics, and a Conclusion, as Follows:

- **Introduction:**
- **Topic I:** The Concept of Arbitrary Divorce.
 - **Section I:** The Concept of Arbitrariness.
 - **Section II:** The Concept of Arbitrary Divorce in Law and Contemporary Research and Studies.
 - **Section III:** Criteria for Describing Divorce as (Arbitrary).
- **Topic II:** The Ruling on Compensation for Arbitrary Divorce in Islamic Jurisprudence Fiqh and Algerian Positive Family Law (Algerian and Jordanian).
 - **Section I:** Jurisprudential Trends Regarding the Ruling on Compensation for Arbitrary Divorce.
 - **Section II:** Legal Trends Regarding the Ruling on Arbitrary Divorce (Particularly: Algerian and Jordanian Law).
 - **Section III:** Discussion and Prevailing Opinion.
- **Conclusion:** This Section Presents the Research Findings and Recommendations.

Topic I: The Conceptual Framework of the Topic of Arbitrary Divorce

Section I: Arbitrariness in Language:

The Word “Arbitrariness” in Arabic Comes from the Root “AsP”, meaning Injustice. “Arbitrariness and AsP” also means to Proceed Walk without Guidance, to Undertake the Matter without Planning, or to Traverse a Desert without Purpose. As the Poet said:

**The Unknown Displaced Person may have been Oppressed by his Oppressor
In a Green Shade, the Owls Call Out to his Head³**

In “Mukhtar Al-Sahah, Arabic Lexicon” it Says: (Al-`Asf) means taking Something by way of Injustice, and its Verb form is “Daraba” (to Strike). Similarly, (Al-Ta`assuf) and (Al-`tisaf) also mean Injustice. (Al-`Asuf) means the Extremely Oppressor.⁴

In Al-Jurjani's “The Definitions”, He States: “Arbitrariness is Interpreting Speech in a Way that its Apparent Meaning Does Not Support”.⁵ In His Explanation; He addresses a Pattern of Thinking that

³ - Al-Farahidi, Abu Abdul Rahman Al-Khalil ibn Ahmad ibn Amr ibn Tamim Al-Farahidi Al-Basri (D. 170 AH), **Al-'Ayn Book**, Investigation: Dr. Mahdi Al-Makhzoumi - Dr. Ibrahim Al-Samarrai, Published by: Al-Hilal Library and Publishing House, Vol. 01, p. 339. The Poet Here, as the Investigator sees; He is: Dhû l-Rumma.

⁴ - Al-Razi, Zain Al-Din Abu Abdullah Muhammad Ibn Abi Bakr ibn Abdul Qadir Al-Hanafi Al-Razi (D. 666 AH), **Mukhtar Al-Sahah**, Investigation: Youssef Al-Sheikh Muhammad, Published by: Modern Library - The Model House, Beirut - Sidon, Fifth Edition, 1420 AH/1999 CE, Vol. 01, p. 208.

Leads to Weak Interpretations. His Use of “Apparent” Here Means Strong, so to Say “to Arbitrarily Understand Speech” means to Interpret it in an Incorrect Way.

In Other Statements by Al-Jurjani; He Limits the Concept of Arbitrariness to the Implications of Error, which is the Opposite of Correctness. He Says: “Arbitrariness is a Path that Does Not Lead to the Desired Outcome. It has also been Said that it is Weakness of Speech”.⁶ This Understanding of the Concept of Arbitrariness may be relevant to Our Topic, in terms of the Divorcer’s Adoption of an Incorrect or Weak Approach to Divorce, one that is Not Commendable. This Approach is Weak and Incorrect according to the Objectives of Islamic Pure Sharia Law and the Accepted Social Norms of Reasonable Muslims, which Consider Divorce a Means of Resolving Disputes without the Intention of Causing Harm or Injury. Therefore; It is Unacceptable for Either Party to Use Divorce as a Means to Harm the Other.

Arbitrariness: It is Committing what is not Permissible according to the Scholars, even if Some Permit it. It is also Used to Describe committing what is Unnecessary and whose Absence is the Default. It has also been Said that it is Interpreting Speech in a way that is Not Clearly Indicated by its Meaning, and it is Less Severe than Invalidity.⁷

In “Lisan Al-Arab” it Says: “Ta’assuf and P’tisaf, and Al-‘Asf: Traversing the Desert and Crossing it without Intention, Guidance, or Aim. It is Said: P’tisaf the Road P’tisafan if He Crossed it without Aiming for the Right Direction and Hitting the Target”. And Arrogance is Proceeding without Knowledge or Guidance. From this Comes the Saying: A Man is Arrogant if He does not Intend to Follow the Path of Truth. Arrogance is Likened to Something that Proceeds without Guidance, stubbornly Following its Own Course, and Nothing Can Deter it. The Sultan acted Arrogantly, and this is related to that. And in the Hadith: My Intercession Will Not Reach an Arrogant Ruler, meaning a Tyrannical and Oppressive One. The Original Meaning of ‘Asf’ is to Take a Traveler by Way of No Path, No Road, and No Signpost. It then Came to Mean Injustice and Oppression. So-and-So Acted Unjustly towards So-and-So when He Treated Him Unfairly and Did Not Give Him Justice. A Man is ‘Asuf’ if He is an Oppressor.⁸

Arbitrariness in the Language of Jurisprudence Fiqh:

The Lexicon of Islamic Jurists Clearly Indicates that Arbitrariness Signifies Injustice and Unjustified Actions. They Defined Arbitrariness as: “Arbitrariness, Injustice... Abuse, Tyranny * Unjustified Actions, such as the Arbitrary Dismissal of an Employee, meaning without Reasonable Cause”.⁹ The Term “Abuse of Power - Arbitrariness” is One of the Ambiguous Terms in Positive Law, whether in Public or Private Law.¹⁰ Ambiguous Terms require Clarification and Explanation from the Legislator. Therefore; The Task of Clarifying the Term “Abuse of Power - Arbitrariness” in Any Law Falls to the Committee Responsible for Drafting it. This Committee, in turn, Combines its Scholarly Standing with its Understanding of the Realities on the Ground. Furthermore; The Research and Studies in Jurisprudence Fiqh and Law from Various Countries represent Valuable Scholarly Contributions that Support the Work of the Legislative Committee.

⁵ - Al-Jurjani, Ali bin Muhammad bin Ali Al-Zain Al-Sharif Al-Jurjani (D. 816 AH), **Kitab Al-Ta’rifat (Book of Definitions)**, Investigation: A Group of Scholars Under the Supervision of the Publisher, Scientific Books House, Beirut, Lebanon, First Edition, 1403 AH/1983 CE, Vol. 01, p. 61.

⁶ - **Op. Cit.**

⁷ - Al-Kafawi, Ayoub bin Mousa Al-Husseini Al-Qarimi, Abu Al-Baq’a Al-Hanafî (D. 1094 AH): **The Whole Collections: A Dictionary of Terms and Linguistic Differences**, Investigation: Adnan Darwich - Muhammad Al-Masri, Published by: Al-Risalah Foundation, Beirut, Vol. 01, p. 294.

⁸ - Ibn Manzûr, Muhammad ibn Mukarram ibn Ali, Abu Al-Fadl, Jamal Al-Din Al-Ansari Al-Ruwayfi’i Al-Ifriqi (D. 711 AH), **Lisan Al-Arab**, Dar Sader, Beirut, Third Edition, 1414 AH, Vol. 9, p. 245.

⁹ - Qal’aji, Muhammad Rawas and Hamid Sadiq Qunaibi, **Dictionary of the Language of Jurists**, Al-Nafais Treasures House for Printing, Publishing and Distribution, Edition: Second, 1408 AH/1988 CE, Vol. 01, p. 136.

¹⁰ - Al-Derini, Fathi, **The Fundamental Methods in Independent Reasoning in Islamic Legislation**, 2nd Ed., 1405 AH/1985 CE, United Distribution Company, Damascus, p. 114.

Section II: The Concept of Arbitrary Divorce in Law and in Contemporary Research and Studies:

(Article: 155) of the Jordanian Personal Status Law States: If a Husband Divorces his Wife Arbitrarily, such as by Divorcing her without a Reasonable Cause, and She requests Compensation from the Judge, He Shall Rule in Her Favor against Her Ex-Husband for Compensation of No Less than One Year's Maintenance and No More than Three Years' Maintenance. The Husband's Financial Situation, whether He is Well-Off or in Hardship, shall be taken into Account in Determining this Compensation. It Shall be Paid in Full if He is Well-Off and in Installments if He is in Hardship, and this Shall Not Affect Her Other Rights.

The Explanation of this Came in what was Stated by (Dr. Muhammad Sallam), where He Said: "The Law allowed the Divorced Wife - whether the Marriage was Consummated or Not - without a Legitimate Reason, to File a Lawsuit Demanding her Right to Compensation".¹¹

In the Jordanian Lawsuit; It Suffices to State that the Divorce was without a Legitimate Reason and without Justification, and that the Plaintiff requested Compensation for this Divorce, which was Denied.¹²

The Algerian Family Code States (Article: 52): Order (No.: 05-02) Dated: (February 27, 2005 CE):

- ✓ If the Judge Determines that the Husband acted Arbitrarily in Granting the Divorce, He Shall award the Divorced Woman Compensation for the Harm She Suffered.
- ✓ If She has Custody of the Children and no Guardian, He Shall Agree to Provide Her with Housing that Guarantees Her Right to Reside with Her Children, according to the Husband's Means. The Marital Home is Excluded from this Housing Provision if it is the Only Residence.
- ✓ The Divorced Woman Loses Her Right to Housing if She Remarries or is Found to be Deviant.

The Review of the Articles in the Jordanian and Algerian Laws reveals that the Law Leaves the Determination of Arbitrary Divorce to the Judge's Discretion, without Providing a Precise Definition or Specific Cases. This Approach is Commendable by Some Researchers,¹³ given the Prevalence of Arbitrary Divorce Cases.

However; The Jordanian Legal Phrase "Without Reasonable Cause" Encompasses Numerous Scenarios, and a Judge might Consider a Case that Another Judge would Reject. This Broad Discretionary Power Necessitates Clarification to Eliminate Ambiguity.

¹¹ - Salamah, Muhammad, **The Explanation of the Jordanian Personal Status Law (No.: 15-2019) Marriage and Divorce**, Wael Publishing House, Jordan, 4th Edition, 2022 CE, p. 412.

¹² - **Op. Cit.**, p. 415.

¹³ - Atili, Sajida Afif Muhammad Rashid, **Arbitrary Divorce and Compensation for it between Islamic Sharia Law and Jordanian Law**, Master's Thesis in Jurisprudence Fiqh and Legislation, Faculty of Graduate Studies, An-Najah National University, Supervised by: Dr. Nasser Al-Din Al-Sha'er, Nablus, Palestine, 2011 CE, p. 167.

The Contemporary Studies Offer Insights into the Concept of Arbitrary Divorce by Citing Specific Examples, though these are Presented as Illustrative; For Instance:

1. **(Dr. Ali Al-Aoun's Research)**¹⁴ Includes Examples of Arbitrary Divorce:
 - 1.1. Divorce in a Way that Harms the Wife.
 - 1.2. Using the Right to Divorce Unnecessarily.
 - 1.3. Or having the Motive of Depriving the Wife of One of Her Rights.
 - 1.4. Or intending to Harm Her.
2. In **(The Study by Professor. Sajida Atili)**;¹⁵ States:
 - 2.1. Divorce during a Terminal Illness is a Special Case of Arbitrary Divorce; In Such Cases, Inheritance, Not Compensation, is What Determines Her Rights.
 - 2.2. Divorce Obtained Under Pressure from others, such as Family Members or One of the Wives, is Considered Arbitrary if there is No Legitimate Reason for the Divorce.
 - 2.3. The Burden of Proving the Absence of Arbitrariness Lies with the Husband;¹⁶ Whoever Fails to Prove it is Considered to be Acting Arbitrarily.

Section III: Criteria for Describing Divorce as (Arbitrary):

It is Important to Remember that the Separation Granted by the Judge due to Defects in One of the Spouses is Considered an Annulment and is Not Considered a Divorce, as Stipulated by the Jordanian Personal Status Law.¹⁷ Therefore; The Arbitrary Divorce is Dealt with Separately from (Khul' - Divorce Initiated by the Wife) or Separation due to Defects.

Some Commentators on Personal Status Law have relied on the Islamic Jurisprudence Fiqh and Jordanian Civil Law to Define the Criteria for Abuse of Rights, as (Dr. Salama) has argued.¹⁸ (Dr. Al-Darini) Stated that the Criteria for Abuse of Rights; Are:¹⁹

- ✓ **Subjective or Personal Criterion:** This Considers the Psychological Factors that Motivated the Right Holder to Exercise their Right, such as the Desire to Achieve Illegitimate Interests or the Pure Intention to Cause Harm.
- ✓ **Material or Objective Criterion:** This relies on the Principle of Proportionality between the Benefit Gained by the Right Holder and the Resulting Harm; Its Method is to Weigh the Harm against the Benefit.

(Article: 66) of the Jordanian Civil Code; Stipulates:

- A. The Person who Misuses their Right must be Held Liable.
- B. The Use of the Right is Considered Unlawful if:
 - There is Intent to Infringe Upon It.
 - The Benefit Derived from the Act is Unlawful.
 - The Benefit Gained is Disproportionate to the Harm Caused to Others.
 - It Exceeds what is Customary or Established Practice, Usual.²⁰

The Researchers did not Contribute to Explaining these Criteria with regard to Arbitrary Divorce, and the Judge must Determine in Each Case in which the Wife Complains of Arbitrary Divorce, the Extent to which the Criteria of Arbitrariness Apply to the Actions of Her Ex-Husband.

¹⁴ - Al-Aoun, Ali Abdullah, **Arbitrariness in Divorce, the Rights Resulting from it and the Measures taken to Reduce it: Jurisprudential Issues Compared to the Personal Status Laws**, Journal of Studies: Sharia and Law Sciences, Vol. 43, No. 02, 2016 CE, p. 649.

¹⁵ - Atili, **Arbitrary Divorce and Compensation for It Between Sharia and Law**, p. 167, *Ibid*.

¹⁶ - **Appeals Court Decision - Sharia Court of Appeals in Jordan (No. 19859)**: In Any Divorce Pronounced against a Wife as Arbitrary, the Wife is Not Required to Prove the Arbitrariness. The Burden of Proof lies with the Husband. The Decision States: "The Divorced Wife is Not Required to Prove the Arbitrariness of the Divorce; rather, the Burden of Proof lies with the Divorcing Husband if He Claims a Reasonable Cause for His Divorce".

¹⁷ - Atili, **Arbitrary Divorce and Compensation for it between Sharia and Law**, *Ibid.*, p. 167.

¹⁸ - Salama, **Explanation of the Jordanian Personal Status Law**, *Ibid.*, p. 414.

¹⁹ - Al-Darini, Fathi, **Jurisprudential Theories**, Published by: Damascus University, Second Edition, Undated Edition, p. 131 et seq.

²⁰ - **The Jordanian Civil Law (No. 43 of 1976 CE)**, Published on the Website of the Jordanian Ministry of Labor www.mol.gov.jo.

Although the Aforementioned Criteria help the Judge Determine whether a Divorce is Arbitrary or Not? The Large Number of Cases in which it may be Ruled that it is an Arbitrary Divorce, and the Resulting Harms related to Revealing the Secrets of Homes, has Led Some Researchers to Declare the Demand to Abolish this Article and Return to the Compensation for Divorce for Every Divorced Woman. This is what Researcher Sajida Atili Said; As She Stated in Her Recommendation: “Work is Underway to Amend the Personal Status Laws that Stipulated Compensation for Divorced Women, by Abolishing the Compensation and Imposing a Consolation Payment for Every Divorced Woman, Except for those who were Divorced before Consummation and for whom a Dowry was Stipulated, in which Case Half of It is Considered a Consolation Payment, the Amount of which is Stipulated, and Adherence to the Provisions of Consolation Payment in Islamic Sharia Law, since the Harm of Divorce Affects the Divorced Woman, whether it is Arbitrary or Not”.²¹

The Researcher Believes that the Wife's Demand for Compensation for an Arbitrary Divorce—Despite the Aforementioned Negative Consequences—is Justified. The Compensation Offered in Divorce Settlements is Not Always Sufficient to Adequately address Certain Cases of Arbitrary Divorce. As for Amending Laws; It is An Ongoing Process, influenced by Society's Evaluation of the Provisions Requiring Amendment. Undoubtedly; The Opinions of Legal Scholars and the Judiciary are of Paramount Importance. The Interpretation “Ijtihad” of this Issue; According to Researchers; Is to Amend the Articles by Specifying Specific Cases of Arbitrary Divorce and Not Leaving the Wording as it is, especially in Matters that raise Controversy among the Judges themselves.

Among the Cases that Constitute an Abuse of the Husband's Right to Divorce; Are:

1. Divorce after Marrying a Woman on the Condition that She Quit Her Job or Employment; Even if She Accepted this Condition, the Wife's Maintenance was the Substitute for Her Work, and She Lost Both Her Job and Maintenance Upon Divorce.
2. Divorce of a Woman on the Condition that She Leave her Country, resulting in the Loss of Educational or Employment Opportunities.
3. Divorce that Deprives the Divorced Woman of Her Provider; Such as a Woman with No Father, Brother, or Son; The Divorce Can Lead to Hardship, Neglect, and Homelessness.
4. Divorce of a Man who has Benefited from the Wife's Money through Authorization or Otherwise, and has taken Possession of All or Part of It, even with her Consent. The Most Severe Example of this is when He Impoverishes Her, takes Her Money, and then Divorces her.
5. Divorce that results in the Divorced Woman Losing Her Job; Such as when the Divorce Forces Her to Leave the Country. In this Case; She Suffers Two Harms: Divorce and Job Loss.
6. Divorce due to the Husband's Desire to Marry Another Woman. Like Someone who Divorces in order to Marry Someone who Holds Another Nationality and whom He wishes to Naturalize.

The Value of the Ruling on the Occurrence of Abuse is Evident in the Ruling on Compensation to Remove the Harm that Befell the Divorced Woman. This Compensation is Not Limited to a Higher Ceiling in terms of the Amount of Pleasure Payment, but rather it is Compensation for what was actually Lost of Benefit and Interest due to the Marriage and what it Included of Conditions between them, or it is Compensation for the Loss of an Established Interest that has No Alternative, such as Someone who Divorces a Woman who has No Money and No Provider.

It Should be Noted that in the Aforementioned Cases; The Burden of Proving Harm Falls on the Divorced Woman, just as the Burden of Proving No Harm Falls on the Husband. It is Better for the Court to Consider the Evidence Presented by the Woman Claiming Harm, rather than Requiring the

²¹ - Atili, *The Arbitrary Divorce and Compensation for It*, Ibid., p. 170.

Husband to Prove that His Divorce was Based on Reasonable Grounds, which Sometimes Compels Him to Reveal Secrets He Did Not Wish to Disclose.

Topic II: The Ruling on Compensation for Arbitrary Divorce in Islamic Jurisprudence Fiqh and Positive Law

To Discuss the Ruling on Compensation for Arbitrary Divorce in Islamic Jurisprudence Fiqh; It is Necessary to Present the Jurisprudential Trends in the Ruling on Compensation for Arbitrary Divorce, then to Present the Trends of Comparative Positive Legislations and Laws in the Ruling on Compensation for Arbitrary Divorce, to Conclude with the Discussion and the Most Correct Opinion on the Subject.

Section I: Jurisprudential Trends in the Ruling on Compensation for Arbitrary Divorce:

The Previous Islamic Jurists did not Discuss the Issue of Compensation for this Type of Divorce, especially Since the Term “Arbitrary Divorce” is Not Part of the Vocabulary of the Old Jurisprudential Heritage. This is a Contemporary Issue in terms of Research and Establishing its Legal Basis. An Examination of the Opinions of Contemporary Jurists reveals their Differing Views on the Ruling regarding Compensation for Arbitrary Divorce. Their Opinions Can be Categorized into Two Trends:

➔ **Trend I:** The Permissibility of Compensation for Arbitrary Divorce.

➔ **Trend II:** The Impermissibility of Compensation for Arbitrary Divorce.

Trend I: The First Jurisprudential Trend: The Legitimacy of Compensation for Arbitrary Divorce:

A. This View is Explained as follows: When a Divorce Occurs without Reasonable Cause; The Husband has Abused his Right to Divorce. Any Abuse of Divorce Causes Harm to the Divorced Woman, and this Harm Necessitates Compensation for the Affected Party.²²

B. Evidence Supporting the View that Compensation for Arbitrary Divorce is Legitimate:

Those who hold this view base their argument on analogy, the principle of justice and fairness, and the spirit of the pure Islamic law:

- **The Analogy is Drawn from the Concept of Compensation for Divorce.** Compensation is Considered Legitimate and Obligatory by Some, and Recommended by Others. This is due to a Common Underlying Reason; To Alleviate Loneliness.²³ Researchers argue that it Can be Inferred Here that in Cases of Arbitrary Divorce, the Rationale for Compensation is Clearer, and the Need for Redress is Paramount.
- **The Analogy is Drawn from the Inheritance of a Woman Divorced during her Husband's Terminal Illness.** Since her Divorce Occurred during His Terminal Illness with the Intention of Depriving Her of her Inheritance;²⁴ The Ruling was Just, granting Her Share of the Inheritance and Nullifying the Divorce's Effect on the Inheritance. Generally; A Divorce Obtained Arbitrarily Inflicts Harm on the Divorced Woman that Cannot be Ignored; Therefore; The Compensation was Similar to the Inheritance Rights Granted to a Woman Divorced Irrevocably.

²² - This Trend is Represented by: Sheikh As-Sābūnī, Dr. Wahba Al-Zuhaili, Sheikh Muhammad Khallaf, and Others. See: Al-Zuhaili, Wahba, *The Islamic Jurisprudence Fiqh and its Evidences*, Damascus, Thought House, 1409 AH, Vol. 09, p. 499. As-Sābūnī, Abdul Rahman, *The Extent of the Spouses' Freedom in Divorce in Islamic Sharia Law*, Thought House, 2nd Ed., 1968 CE, Beirut, Vol. 01, p. 117. Khallaf, Abdul Wahhab, *The Personal Status Laws in Islamic Sharia Law According to the Doctrine of Abu Hanifa and What is Practiced in the Courts*, 2nd Ed., Kuwait, Dar Al-Qalam, 1410 AH/1990 CE, p. 142.

²³ - Al-Zuhaili, *The Islamic Jurisprudence Fiqh and its Evidence*, Vol. 9, p. 499. Al-Siba'i, *The Explanation of the Personal Status Law*, Vol. 01, p. 267.

²⁴ - Al-Siba'i, *The Explanation of the Personal Status Law*, Vol. 01, p. 265.

- **The Analogy is with Khul'.** There is a Common Reason between Arbitrary Divorce and Khul'; Lack of Consent. Since a Husband who does not want a Divorce Can Demand Money to Agree to His Wife's Request for Khul', a Wife who was Surprised or Shocked, or did not Request a Divorce, Can Demand Money for Her Divorce without a Reasonable Cause.²⁵
- **Islamic Sharia Legal Policy Seeks to Achieve the Principle of Justice.** Part of Justice is Preventing the Oppression of the Tyrant, whose Tyranny is Evident in Subjecting the Divorced Woman to Poverty and Deprivation.²⁶
- **Sin is Incurred by One who Divorces without Justification.** This Confirms the Abuse of a Right,²⁷ and the Ruler has the Authority to Impose a Penalty of Compensation for the Transgression and Sin. Such a Penalty Serves as a Deterrent to those who Issue a Divorce without Cause.²⁸

Trend II: The Second Jurisprudential Trend: The Illegitimacy of Compensation for Arbitrary Divorce:

- This Viewpoint Can be Explained as follows:** Both Sides Agree that the Term "Compensation" for Arbitrary Divorce is Not a Term Used in the Classical Islamic Jurisprudence Fiqh. Those who Hold this View Argue against its Legitimacy; Supporting their Opinion with Rational Arguments, which They Use to Refute the Arguments of their Opponents. Furthermore; They Maintain that Compensation for Arbitrary Divorce Lacks Any Supporting Evidence and is Inconsistent with the Philosophy of Family Law.²⁹
- Evidence from those who Argue against the Legitimacy of Compensation for Arbitrary Divorce:**
 - **There is no Text in the Holy Quran, the Prophetic Sunnah, or any Tradition from the Companions that Explicitly Mandates Compensation for Arbitrary Divorce.**³⁰ However, the Absence of a Text Requiring Compensation does not Necessarily mean it is Illegitimate. Such an Assertion would Effectively Negate the Application of Scholarly Interpretation (Ijtihad). Those who Advocate for Compensation Base their Arguments on the Principle of Blocking the Means to Evil (Sadd Al-Dhara'i) and the principle of "No Harm, No Foul" (La Darar Wa La Dirar). This is Not a Valid Argument against the Permissibility of Compensation.³¹
 - **The Prohibition against Consuming Wealth Unjustly.** The Prophet Muhammad (Peace and Blessings be Upon Him) Said: "It is Not Lawful for a Person to take anything from His Brother's Wealth Except what He gives

²⁵ - Al-Zuhaili, Muhammad, **The Financial Compensation for Divorce**, p. 38. Al-Ghazali, Ahmed Bakht, **The Unilateral Divorce**, Renaissance House, 1420 AH, p. 44.

²⁶ - Al-Siba'i, **Op. Cit.**, Vol. 01, p. 267. Al-Zuhaili, **Op. Cit.**, Vol. 9, p. 499.

²⁷ - Khallaf, **The Personal Status Laws**, p. 142.

²⁸ - Atar, Nour El-Din, **The Most Hateful of Permissible Things**, 3rd Ed., Al-Risalah Foundation, Beirut, 1984 CE, p. 152.

²⁹ This Trend is Represented by a Group; Including: Sheikh Abu Zahra, Muhammad Al-Zuhaili, Omar Suleiman Al-Ashqar, Abdul Karim Zaidan, Mahmoud Al-Sartawi, and Zaki Al-Din Sha'ban. See: Sha'ban, Zaki Al-Din, **Sharia Rulings on the Personal Status**, Benghazi, Publications of Garyounis University, 1993 CE, p. 381. Abu Zahra, Muhammad, **The Personal Status**, 3rd Ed., Cairo, Arabic Thought House, 1368 AH, p. 285. Al-Zuhaili, Muhammad, **The Financial Compensation for Divorce**, p. 60. Al-Ashqar, **The Clear Explanation of the Jordanian Personal Status Law**, p. 260. Zaidan, Abdul Karim, **The Detailed Explanation of Women's Rulings**, Vol. 07, p. 358. Al-Sartawi, **The Explanation of the Personal Status Law (Section: Dissolution of the Marriage Contract and its Consequences)**, Amman, Publications of the University of Jordan, 1415 AH, Vol. 03, p. 43. Atili, **The Arbitrary Divorce and Compensation for it**, **Op. Cit.**, p. 109.

³⁰ - Saleh, Sami, **The Separation of Spouses due to Harm in Islamic Sharia Law**, Master's Thesis, University of Jordan, 1986 CE, p. 32.

³¹ - Atili, **The Arbitrary Divorce and Compensation for It**, **Op. Cit.**, p. 109.

Willingly”³² However; This Argument is Misplaced. Compensation for Harm is a Right of the Injured Party, unless a Legitimate Legal Impediment Prevents it.

- **The Husband's Right to Divorce is Not Restricted to Cases of Necessity.** This Contradicts the Majority Opinion that Divorce is Prohibited, Not Permitted. Therefore; A Man who Divorces His Wife Has Not Abused His Right; So **How Can He be Questioned about a Permissible Act?**³³
- **The Islamic Sharia Law Provides Women with Compensation for Arbitrary Divorce, such as Deferred Dowry, Maintenance Payment, and Divorce Compensation.**³⁴
- **The Consequences of Awarding Compensation for Arbitrary Divorce are Numerous,** including:
 - The Husband may be Forced to Disclose Family Secrets, leading to Social and Psychological Repercussions.³⁵
 - The Difficulty of Proving Arbitrariness Can Lead to Accusations and Defamation as Each Party tries to Substantiate their Claims.³⁶
 - The Husband may be Compelled to Remain in a Marriage Devoid of Stability and Affection to Avoid being Deemed Arbitrary in the Divorce.³⁷

Section II: Compensation for Arbitrary Divorce in Positive Law and Comparative Legislation:

The Basic Principle regarding Divorce is that it is a Voluntary Act. It is an Inherent Right of the Husband to Use for His Own Purpose; Otherwise; He would be Abusing His Right to Affect a Divorce. Among its Conditions is that; It be without Reasonable Cause, or that the Husband Intended to Cause Harm to the Wife, thus Obligating Him to Pay Compensation. This Compensation is Paid by the Husband to the Wife Harmed by this Type of Divorce. However; Comparative Legislations Differ on the Reason for the Obligation of Such Maintenance; As Detailed Below:

1. The First Approach: Requiring the judge to Verify the Husband's Abuse of the Divorce:

The Judge's Verification of the Husband's Abuse of the Divorce Falls within His Discretionary Authority, based on the Facts and Circumstances of the Case, and on the Wife's Evidence and the Husband's Rebuttal to His Wife's Claims. If Proof is Impossible from Either Side; The Judge must Investigate: The Reasons for the Divorce? And Who Instigated the Other to Divorce? If it Becomes Clear to the Judge that the Husband Divorced without Justification and that He Suffered No Harm from His Wife, but rather Divorced Her with the Intention of Causing Harm, without any Benefit or Advantage, then the Judge may Proceed with the Divorce.³⁸

2. The Second Approach: Stipulating that the Divorced Woman must Suffer Poverty, Misery, and Harm, in order for Compensation to be due from the Divorced Man:

Some Legislations have Specified the Cases in which the Holder of the Right is Considered to be Abusing it, and this is Stipulated in (Article: 52) of the Algerian Family Code, and (Article: 124 bis) of the Algerian Civil Code. These Conditions are as Follows:

- The Right must be Exercised with the Intent to Harm Others.

³² - Al-Hakim, Muhammad bin Abdullah Al-Nisaburi, **Al-Mustadrak Ala Al-Sahihayn**, Investigation: Mustafa Atta, Beirut, Scientific Books House, 1411 AH, Vol. 01, p. 171, **Hadith No. (318)**.

³³ - Zaidan, Abdul Karim, **The Detailed Guide to the Rulings Concerning Women and the Muslim Home**, Beirut, Al-Risalah Foundation, 1413 AH, Vol. 07, p. 358.

³⁴ - Sha'ban, **Sharia Rulings on the Personal Status**, p. 382.

³⁵ - Abu Zahra, **The Personal Status**, Ibid., p. 516.

³⁶ - Al-Ghazali, **The Unilateral Divorce**, Ibid., p. 43.

³⁷ - Sha'ban, **Sharia Rulings on the Personal Status**, Ibid., p. 381.

³⁸ - Nabil Saqr, **Op. Cit.**, p. 163. Belhadj Larbi, **Op. Cit.**, p. 289. Mahfoudh Bin Saghir, **Op. Cit.**, p. 135.

- The Benefit Expected from Exercising the Right must be Less than the Harm Resulting from it.
- The Purpose of Exercising the Right must be to Obtain an Unlawful Benefit.

This Trend allows the Judge to Rule for Compensation when there is Abuse in Divorce, such as Divorcing without a Reasonable Cause, which Harms the Divorced Woman in Various Ways, such as Depriving Her of a Stable Married Life, Causing Her to Fall into Loneliness, and so on.³⁹

(Article: 117) of the Syrian Personal Status Law; States: "If a Man Divorces His Wife and it Becomes Clear to the Judge that the Husband is being Arbitrary in Divorcing Her without Cause, and that His Wife will Suffer Hardship and Poverty as a Result; the Judge may Order Her to Pay Compensation to Her Ex-Husband, according to the Circumstances and Degree of His Arbitrariness, not Exceeding the Amount of Three Years' Maintenance for Women Like Her, in addition to the Maintenance for the Waiting Period. The Judge may Order the Payment of this Compensation to be Made in a Lump Sum or Monthly, as the Case may require".

Some Researchers Believe this Condition Prevents a Working Woman, a Wealthy Woman, or One who remarries Immediately after the Waiting Period (Iddah) Ends, from Claiming Compensation.⁴⁰ From their Perspective; This Condition Imposes More Financial Compensation on the Husband than it does Compensation and Punishment. For Example; A Man who Divorces a Wealthy Woman is Not Held Accountable Under this Article.

3. The Third Approach: To be Satisfied with the Provision of Alimony as Compensation that any Divorced Woman is Entitled to:

It is Stated in (Article: 165) of the Kuwaiti Personal Status Law:

- A. If a Valid Marriage Contract is Dissolved after Consummation; The Wife is Entitled - in addition to Her Maintenance during Her Waiting Period - to Alimony Estimated at No More than One Year's Maintenance, according to the Husband's Circumstances, to be Paid to Her in Monthly Installments, after the End of Her Waiting Period, unless the Two Parties Agree otherwise in the Amount or Payment.
- B. The Following are Exceptions to the Preceding Paragraph:
 1. Divorce due to Non-Support Caused by Financial Hardship.
 2. Separation due to Harm Caused by the Wife.
 3. Divorce with the Wife's Consent.
 4. Annulment of Marriage at the Wife's Request.
 5. Death of Either Spouse.⁴¹

(Article: 18 bis) of the Egyptian Personal Status Law states: "A wife who has Consummated a Valid Marriage and is Divorced by Her Husband without Her Consent and without any Fault on Her Part is Entitled, in addition to Her Maintenance during the Waiting Period, to Compensation Equivalent to at Least Two Years' Maintenance, taking into account the Husband's Financial Circumstances and the Duration of the Marriage. The Husband may be Permitted to Pay this Compensation in installments".⁴² The Egyptian Legislation Has Established this Compensation as a Form of Redress and Consolation for the Divorced Woman for the Harm She Has Suffered and for the Psychological Distress Resulting from the Divorce. It is Stipulated that the Divorce must Not Have been Initiated by the Wife, and that She must Not Have Instigated the Divorce through Her Actions. It is Worth Noting that the Legislation Specifies a Minimum Amount of Two Years' Maintenance.

³⁹ - Al-Ashqar, **The Jordanian Personal Status Law**, 6th Edition, Al-Nafais Treasures House, p. 313.

⁴⁰ - Ben Zita, Abdul Hadi, **The Compensation for Moral Damage in Algerian Family Law**, Dar Al-Khaldounia, Algeria, 1st Edition, 2007 CE, p. 19 et seq.

⁴¹ - **Kuwaiti Personal Status Law (No. 51 of 1984 CE)**, Amended in (2007 CE), (No. 66), **Kuwaiti Legislation Collection**, Part Eight, **The Personal Status Law**, issued by: Kuwaiti Ministry of Justice, Printed by: The Ministry of Justice www.e.gov.kw.

⁴² - **The Personal Status Law (No. 25 of 1920 CE)**, as Amended by (Law: No. 100 of 1985 CE). See: **Collection of Egyptian Personal Status Laws** www.noor-book.com.

In Qatari Family Law (Article: 115); As in Kuwaiti Law; It States: “Every Divorced Woman is Entitled to Compensation if the Divorce is due to the Husband. The Provisions of the Preceding Paragraph Do Not Apply to Divorce due to Non-Support Caused by Financial Hardship. The Compensation is Determined according to the Financial Means of the Divorcing Husband and the Circumstances of the Divorced Woman, not Exceeding Three Years' Maintenance”.⁴³

As for the Moroccan Legislator; (Article: 84) of the Family Code; Stipulates that: “The Wife's Entitlements Include the Deferred Dowry, if any, Maintenance during the Waiting Period, and Compensation for Divorce, the Amount of which takes into account the Duration of the Marriage, the Husband's Financial Situation, the Grounds for Divorce, and the Length of Time the Husband acted Arbitrarily in Issuing the Divorce”.⁴⁴ Thus; The Positive Laws regarding Compensation for Arbitrary Divorce are Based On:

- The Principle of Prohibiting the Abuse of Rights;⁴⁵ Even though Divorce is a Right of the Husband; He is Held Accountable for Any Abuse of this Right.
- Compensation for Damages Resulting from Abuse.
- The Legal Maxim: There Should be No Harm Done or Reciprocated Harm.

Section III: Discussion and Preponderant Opinion:

Based On the Above; The Research Concludes that the View that Compensation for Arbitrary Divorce is Legitimate in Islamic Jurisprudence is More Likely and the Preponderant Opinion; For the Following Reasons:

- Often; A Husband Signs a Divorce not out of His Own Desire, but rather to Please External Parties or to Take Revenge on them.
- If the Compensation is Permissible in Ordinary Divorce –Despite Scholarly Disagreement on whether it is Obligatory or Merely Recommended– as a Means of Averting Potential Harm, then Compensation is Even More Permissible in Arbitrary Divorce, given the Harm it Causes, such as the Loss of the Wife's Future and the Forfeiture of Opportunities that may never return; The Judge is Entrusted with Ensuring Justice for the Wronged Party and must Punish those who Misuse their Authority. Therefore; If a Man Divorces his Wife without a Legitimate Reason, and the Wife Suffers Harm as a Result, such as being Deprived of the Enjoyment of Marriage for Life; The Divorce is Arbitrary, and the Compensation is Even More Justified in such Cases.
- The Weakness of Religious Conscience and the Absence of Piety in People's Dealings, and their Failure to Fulfill their Obligations, resulted in the Assertion of the Legitimacy of Compensation in Arbitrary Divorce.

Despite this; The Research Concludes that the Compensation Imposed by the Islamic Sharia Law is More General and Comprehensive than the Compensation Imposed by the Positive Laws, since the Compensation is a Consolation for the Divorced Wife from the Pain of Separation from Her Husband, whether the Husband was Arbitrary in Establishing the Divorce or Not. Upon Divorce; The Wife is Entitled to Compensation in addition to Maintenance during the Waiting Period Iddah. The Compensation; However, is Meant to Console the Divorced Wife for the Hurt of Separation from Her Husband, but only in Cases where the Divorce was Arbitrary. If the Husband Divorces without Arbitrariness; She is Not Entitled to the Compensation as Long as He is Exercising His Legal and Religious Right.

⁴³ - Law (No. 22 of 2006 CE); Issuing the Family Law www.almeezan.qa.

⁴⁴ - Royal Decree (No.: 22-04-1), issued on: (12 Dhu Al-Hijjah 1424 AH), Corresponding to: (February 03, 2004 CE), implementing Law (No.: 03-70); Serving as the Family Code, Official Gazette (No.: 5184), issued on: (Thursday, February 5, 2004 CE).

⁴⁵ - Al-Sartawi, Mahmoud, *The Personal Status Jurisprudence Fiqh*, Thought House, Amman, 2008 CE, p. 135. Al-Siba'i, Mustafa, *The Explanation of the Syrian Personal Status Law*, Damascus University Press, Vol. 01, p. 272.

Conclusion: The Research Yielded a Number of Results and Recommendations:

First: The Results:

- ✓ The Texts of the Holy Quran and the Prophetic Sunnah Came to Clarify the Obligation to Enjoin what is Right and Forbid what is Evil in accordance with the Rules of the Islamic Sharia Law.
- ✓ The Compensation is a Right for Every Divorced Woman who has been Proven to have been Wronged, regardless of whether She is Entitled to Compensation or Not.
- ✓ The Law Leaves the Judge to Determine Arbitrariness, without Specifying a Precise Definition or Defined Cases. This is a Commendable Approach by Some, given the Prevalence of Arbitrary Divorce Cases.
- ✓ The Wife's Demand for the Compensation for an Arbitrary Divorce, with all the Aforementioned Negative Consequences, is Justified. The Compensation Alimony Offered in Divorce Proceedings is Not Always Sufficient to Adequately address Certain Cases of Arbitrary Divorce.
- ✓ The Value of the Ruling that Abuse Occurred is Evident in the Ruling for Compensation to Redress the Harm Suffered by the Divorced Woman.
- ✓ The Basis of Compensation is the Loss of a Proven Interest that Cannot be Replaced, such as Someone who Divorces a Woman who has No Money or Provider.
- ✓ The Burden of Proving Harm Falls on the Divorced Woman, just as the Burden of Proving No Harm Falls on the Husband.
- ✓ The Term "Arbitrary Divorce" is Not Part of the Vocabulary of the Old Jurisprudential Fiqh Heritage, and it is a Contemporary Issue in terms of Researching it and Establishing its Ruling.
- ✓ Islamic Scholars, Both Past and Present; Have Differed on the Legitimacy of Compensation in Cases of Arbitrary Divorce. Some Have Prohibited it, while Others Have Permitted it, and Each of them Has Arguments, Proofs, and Evidence.
- ✓ Some Positive Legislations address the Concept of Marital Pleasure Alimony without including what is Called "The Compensation", such as the Egyptian and Moroccan Legislations. Other Legislations; However, mention it Under the Heading of "The Compensation" without Addressing the Marital Pleasure Alimony, such as the Jordanian and Algerian Legislations.

Second: Recommendations:

- ✓ The Researcher recommends the Importance of Islamic Legal Knowledge for those appointed to the Position of Enjoining Good and Forbidding Evil, and the Necessity of Mastering the Science of the Principles of Jurisprudence Fiqh, and the Topics related to this Ritual, and being Familiar with what the Nation has Agreed Upon, and what is Subject to Scholarly Disagreement or Valid Disagreement.
- ✓ It is Necessary to Distinguish between the Marital Pleasure Alimony and the Compensation, so that Each Concept is given its Own Separate Article, in order to Remove any Ambiguity or Overlap between them.
- ✓ It is Necessary to Clearly State the Entitlements for the Marital Pleasure Alimony from those who Do Not Deserve it, as long as this is Stipulated in the Concise (Article: 52).

References:

First: The Holy Quran.

1. Belhadj Larbi, **The Concise Guide to Algerian Family Law**, Vol. 1, University Publications Office, Algeria, 1999 CE.
2. Al-Jurjani, Ali bin Muhammad bin Ali Al-Zain Al-Sharif, **Kitab Al-Ta'rifat (Book of Definitions)**, Investigation: A Group of Scholars Under the Supervision of the Publisher, 1st Edition, Scientific Books House, Beirut, Lebanon, 1403 AH/1983 CE.

3. Al-Hakim, Muhammad ibn Abdullah Al-Nisaburi, **Al-Mustadrak Ala Al-Sahihayn**, Investigation: Mustafa Atta, Vol. 01, Scientific Books House, Beirut, 1411 AH.
4. Khallaf, Abdul Wahhab, **The Personal Status Laws in Islamic Sharia Law According to the Doctrine of Abu Hanifa and What is Practiced in the Courts**, 2nd Ed., Kuwait, Dar Al-Qalam, 1410 AH/1990 CE.
5. Al-Derini, Fathi, **The Jurisprudential Theories**, Published by: Damascus University, Second Edition, Undated Edition.
6. Al-Derini, Fathi, **The Fundamental Methods in Independent Reasoning in Islamic Legislation**, 2nd ed., United Distribution Company, Damascus, 1405 AH/1985 CE.
7. Al-Razi, Zayn Al-Din Abu Abdullah Muhammad ibn Abi Bakr ibn Abdul Qadir Al-Hanafi Al-Razi (D. 666 AH), **Mukhtar Al-Sahah**, Investigation: Youssef Al-Sheikh Muhammad, Published by: Modern Library - The Model House, Beirut - Sidon, Fifth Edition, 1420 AH/1999 CE.
8. Al-Zuhaili, Muhammad, **The Financial Compensation for Divorce**, 1st Ed., Dar Al-Maktabi, Damascus, Syria, 1418 AH/1998 CE.
9. Al-Zuhaili, Wahba, **The Islamic Jurisprudence Fiqh and its Evidences**, Thought House, Damascus, Vol. 9, 1409 AH.
10. Abu Zahra Muhammad, **The Personal Status**, 3rd Ed., Cairo, Arabic Thought House, 1368 AH.
11. Zaidan, Abdul Karim, **The Detailed Guide to the Rulings Concerning Women and the Muslim Home in Islamic Sharia Law**, Vol. 7, Al-Risalah Foundation, 1413 AH/1993 CE.
12. Ben Zita, Abdul Hadi, **The Compensation for Moral Damage in Algerian Family Law**, Dar Al-Khaldounia, Algeria, 1st Edition, 2007 CE.
13. Al-Sartawi, Mahmoud Ali, **The Explanation of the Personal Status Law (Section: Dissolution of the Marriage Contract and its Consequences)**, Vol. 03, Amman, University of Jordan Publications, 1415 AH.
14. Al-Sartawi, Mahmoud Ali, **The Personal Status Jurisprudence Fiqh**, Thought House, Amman, 2008 CE.
15. Salamah, Muhammad, **The Explanation of the Jordanian Personal Status Law (No.: 15-2019) Marriage and Divorce**, Wael Publishing House, Jordan, 4th Edition, 2022 CE.
16. Sha'ban, Zaki Al-Din, **The Sharia Rulings on the Personal Status**, Benghazi, Publications of Garyounis University, 1993 CE.
17. Al-Ashqar, Omar, **The Clear Explanation of the Jordanian Personal Status Law**, 8th Ed., Al-Nafais Treasures House, Amman, Jordan, 2021 CE.
18. As-Sābūnī, Abdul Rahman, **The Extent of the Spouses' Freedom in Divorce in Islamic Sharia Law**, Thought House, Vol. 1, 2nd Ed., Beirut, 1968 CE.
19. Saleh, Sami Muhammad Ahmad, **The Separation of spouses due to harm in Islamic Sharia Law**, Master's Thesis, Unpublished, Supervised by: Dr. Al-Sartawi Mahmoud Ali, Faculty of Islamic Sharia, University of Jordan, 1986 CE.
20. Ben Saghir, Mahfoudh, **The Divorce Issues in Jurisprudential Ijtihad and Algerian Family Law**, Al-Wa'I Consciousness House for Publishing and Distribution, Rouiba, Algeria, 2012 CE.
21. Saqr, Nabil, **The Family Law: Text, Jurisprudence Fiqh and Law**, Al-Huda Publishing House, Algeria, 2006 CE.
22. **Royal Decree (No. 22-04-1)**, Issued on: (12 Dhu Al-Hijjah 1424 AH), Corresponding to: (February 03, 2004 CE), Implementing **Law (No. 03-70)**, which Serves as **The Family Code, Official Gazette, (No. 5184)**, Issued on Thursday (February 05, 2004 CE).
23. Atar, Nour El-Din, **The Most Hateful of Permissible Things**, 3rd Ed., Al-Risalah Foundation, Beirut, 1984 CE.
24. Atili, Sajida Afif Muhammad Rashid, **Arbitrary Divorce and Compensation for it between Islamic Sharia Law and Jordanian Law**, Master's Thesis in Jurisprudence Fiqh and Legislation, Faculty of Graduate Studies, An-Najah National University, Nablus, Palestine, 2011 CE.
25. Al-Aoun, Ali Abdullah, **Arbitrariness in Divorce, the Rights Resulting from it and the Measures taken to Reduce it: Jurisprudential Issues Compared to the Personal Status Laws**, **Journal of Studies: Sharia and Law Sciences**, Vol. 43, No. 02, 2016 CE.

26. Al-Ghazali, Ahmed Bakht, **The Unilateral Divorce and Measures to Limit It**, 1st Edition, Arab Renaissance Publishing House, 1420 AH/2000 CE.
27. Al-Farahidi, Abu Abdul Rahman Al-Khalil ibn Ahmad ibn Amr ibn Tamim Al-Farahidi Al-Basri (D. 170 AH), **Al-'Ayn Book**, Investigation: Dr. Mahdi Al-Makhzoumi - Dr. Ibrahim Al-Samarrai, Vol. 1, Published by: Al-Hilal Library and Publishing House.
28. Qal'aji, Muhammad Rawas and Hamid Sadiq Qunaibi, **Dictionary of the Language of Jurists**, Al-Nafais Treasures House for Printing, Publishing and Distribution, 2nd Edition, Vol. 1, 1408 AH/1988 CE.
29. **Law (No.: 84-11)**, Dated: (Ramadan 1404 AH), Corresponding to: (June 9, 1984 CE), which Includes **the Family Law Amended and Supplemented by Order (05-02)**, Dated: (February 27, 2005 CE), Corresponding to: (Muharram 18, 1426 AH).
30. **Jordanian Civil Law (No. 43 of 1976 CE), Official Gazette, Issue No. 11**, Publication Date: (December 30, 1976), Corresponding to: (09 Muharram 1397 AH).
31. **Kuwaiti Personal Status Law (No. 51 of 1984 CE)**, amended in (2007 CE - No. 66), **Kuwaiti Legislation Collection**, Part: Eight, **Personal Status Law**, issued by: Kuwaiti Ministry of Justice, Printed by: Ministry of Justice www.e.gov.kw.
32. Al-Kafawi, Ayoub bin Mousa Al-Husseini Al-Qarimi, **The Whole Collections: A Dictionary of Terms and Linguistic Differences**, Investigation: Adnan Darwich - Muhammad Al-Masri, Vol. 1, Published by: Al-Risalah Foundation, Beirut, Undated Edition.
33. Ibn Manzur, Muhammad ibn Mukarram ibn Ali, **Lisan Al-Arab**, Dar Sader, Beirut, Vol. 09, 3rd Ed., 1414 AH.