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Revisiting the Role of Gender in Iranian Family Law: From Male Guardianship to Gender Justice

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ABSTRACT

The family law system of the Islamic Republic of Iran is formed on the basis of Twelver Shi'i jurisprudence and relies on traditional interpretations of religious sources. Within this framework, gender plays a role that goes beyond a mere biological difference and functions as a rights-constitutive element in determining the status, rights, and duties of spouses. Adopting an analytical–descriptive approach, the present study examines the impact of gender on Islamic family rulings in Iranian law and demonstrates how concepts such as male guardianship (qiwāmah), obedience (tamkīn), disobedience (nushūz), maintenance (nafaqah), dower (mahr), child custody, the right to determine the place of residence, and polygyny operate within an interconnected structure that reproduces an unequal distribution of legal power between women and men. The findings indicate that although Islamic jurisprudence recognizes certain significant financial and protective rights for women, these rights are often conditioned upon the fulfillment of gender-based obligations and, in practice, assume a dual function, simultaneously serving supportive and controlling roles. Moreover, an examination of contemporary legislative developments and judicial practice—particularly in the areas of dower and maintenance—reveals that fragmented and case-specific reforms, without a reconsideration of the structural foundations of family law, have failed to achieve gender justice. Accordingly, this study emphasizes that realizing gender justice in Iranian family law requires a critical re-examination of its foundational concepts and the establishment of an institutional balance between the rights and duties of spouses.

Keywords: *gender, family law, male guardianship (qiwāmah), obedience (tamkīn), gender justice, Twelver Shi'i jurisprudence*

Introduction

The institution of the family in the legal system of the Islamic Republic of Iran, as one of the most fundamental social structures, has been formed on the basis of Twelver Shi'i jurisprudence and with an emphasis on traditional interpretations of religious sources. Within this framework, gender plays a role that goes beyond a mere biological difference and functions as a legal factor influencing the determination of the status, rights, and duties of women and men within the family, such that many rules relating to marriage, divorce, obedience (*tamkīn*), custody, and economic rights are regulated on the basis of differentiated gender roles (1).



One of the most central gender-based concepts in Islamic family law is the notion of male guardianship (*qiwāmah*), whose Qur'anic basis is verse 34 of Sūrat al-Nisā' and which is explicitly reflected in Article 1105 of the Iranian Civil Code, stating that "the headship of the family is among the attributes of the husband" (Civil Code of the Islamic Republic of Iran, 1928). This guardianship is justified primarily on the basis of two factors, namely the responsibility for the financial maintenance of the family and certain natural differences, and is presented as an executive and social duty for administering family affairs rather than as an inherent privilege or an indication of the man's intrinsic superiority over the woman. Nevertheless, this legal structure has had direct consequences for the wife's obligation of obedience, entitlement to maintenance, determination of the place of residence, and paternal authority over children.

Despite the explicit affirmation of equality before the law in Article 20 of the Constitution of the Islamic Republic of Iran, the qualifying clause "in conformity with Islamic criteria" has allowed gender-based distinctions in the family sphere to persist. These distinctions are clearly observable in matters such as divorce, custody, guardianship, and economic rights. Although more recent legislation—particularly the Family Protection Law enacted in 2012—has sought to strengthen legal protections for women, these reforms appear to have had a limited impact on altering the gender-based structure of family law, and the realization of gender justice continues to face constraints arising from prevailing jurisprudential interpretations (2, 3).

In this context, the concept of obedience (*tamkīn*) and its legal consequences constitute a clear example of the impact of gender on family law rules. An examination of jurisprudential sources indicates that obedience, as an independent concept, is not explicitly defined in the Qur'an or in narrations, and that jurists have instead abstracted it from a set of evidentiary bases, whereas disobedience (*nushūz*) has a Qur'anic foundation and is associated with specific legal effects. Twelver Shi'i jurists have primarily discussed obedience in connection with maintenance and the husband's sexual rights, considering the wife's failure to obey as grounds for the forfeiture of maintenance (4, 5). As a result, obedience has come to depend more on custom, social conditions, and jurisprudential and legal interpretations than on a fixed, text-based definition (6, 7).

In the area of marital dissolution, gender likewise plays a decisive role. Divorce, as a unilateral legal act, is primarily vested in the husband under Islamic jurisprudence and Iranian civil law, and this allocation is the subject of consensus among both Shi'i and Sunni jurists (8). Although Qur'anic verses emphasize the observance of women's rights in the process of divorce, the concentration of the right to divorce in the hands of men reflects an unequal distribution of legal power between spouses.

With respect to custody and women's economic rights, Islamic jurisprudence has indeed recognized rights such as dower (*mahr*), maintenance (*nafaqah*), and the mother's priority in custody during the early years of a child's life. However, these rights are often defined as conditional upon the fulfillment of obligations such as obedience. Such a structure reinforces the assumption that gender remains one of the principal factors in limiting or expanding women's rights within the Iranian family law system.

In light of contemporary social transformations, increased awareness among women of their rights, and the extensive discussion of gender justice in modern legal discourse, a re-examination of the impact of gender on Islamic family rulings appears unavoidable. Accordingly, the present study adopts an analytical-descriptive approach to demonstrate how gender has shaped family law rules—particularly in the areas of guardianship, obedience, marital dissolution, custody, and women's economic rights—and to assess the extent to which these rules are compatible with the requirements of gender justice in the Iranian legal system.

The Position of Gender in Family Law

The family law system in Iran is founded on Twelver Shi'i jurisprudence and emphasizes traditional interpretations of religious sources; within this framework, gender plays a decisive role in the allocation of spouses' rights and duties. One of the most central gender-based concepts in Islamic family law is *qiwāmah*, which denotes male headship and guardianship within the family and is grounded in verse 34 of Sūrat al-Nisā'. This concept is also explicitly affirmed in Article 1105 of the Iranian Civil Code, which states that "in relations between spouses, the headship of the family belongs to the husband" (Civil Code of the Islamic Republic of Iran, 1928). On this basis, the legislator has accepted a legal structure grounded in differentiated gender roles through provisions such as the husband's obligation to pay maintenance (Article 1106) and the conditioning of the wife's entitlement to maintenance on obedience (Article 1108), whereby the man is regarded as the axis of financial obligations and major family decision-making (1).

Although Article 20 of the Constitution of the Islamic Republic of Iran emphasizes equality for all individuals under the protection of the law, the stipulation "in conformity with Islamic criteria" has enabled the continued existence of gender-based distinctions in family law. These distinctions are particularly evident in areas such as divorce, guardianship over children, custody, and the economic rights of women and men. While recent legislation, including the Family Protection Law enacted in 2012, has attempted to mitigate certain inequalities through measures such as stipulating conditions within marriage contracts, permitting women's employment, and facilitating claims for dower, the effectiveness of these reforms appears limited, and the practical realization of equality continues to encounter obstacles rooted in traditional jurisprudential interpretations (2, 3).

A historical examination of family law in Iran likewise indicates that legislation in this field has consistently been shaped by a combination of jurisprudential foundations and the social conditions of each period. Prior to the 1979 Revolution, the Family Protection Laws enacted in 1967 and 1973 strengthened certain women's rights in areas such as divorce, custody, and polygyny. Following the establishment of the Islamic Republic, however, legislation was reformulated with a more explicitly religious orientation, and male guardianship was once again consolidated. Although subsequent decades have witnessed revisions to certain regulations—allowing women, for example, to seek judicial remedies for custody or employment without the husband's permission—many scholars maintain that as long as the prevailing jurisprudential framework remains anchored in traditional interpretations of gender roles, the full realization of gender justice within the structure of family law will remain difficult (9, 10).

The Impact of Gender on the Regulation and Dissolution of Marriage (Marriage and Divorce)

Family law in Iran, as one of the most fundamental branches of private law, is grounded in Twelver Shi'i jurisprudence and is directly influenced by traditional jurisprudential interpretations of the roles, functions, and responsibilities of women and men within the family. In this system, gender is not treated merely as a biological or descriptive reality, but rather as a structural and norm-generating component in the production and distribution of familial rights and duties. In other words, gender in Iranian family law functions as a determinant factor in the allocation of legal power.

The most prominent manifestation of this gender-based structure is the concept of male *qiwāmah* within the family, whose Qur'anic basis lies in verse 34 of Sūrat al-Nisā' and whose legal embodiment is Article 1105 of the Civil Code, which explicitly attributes family headship to the husband (Civil Code of the Islamic Republic of Iran,

1928). On the basis of this provision, the legal organization of the family is built upon the presupposition of a “final decision-making authority,” which the legislator assigns to the husband. This premise is reflected in other provisions of the Civil Code as well, including the husband’s obligation to provide maintenance (Article 1106) and the conditioning of the wife’s entitlement to maintenance upon obedience (Article 1108).

From a jurisprudential perspective, *qiwāmah* has consistently been justified as an executive and managerial duty imposed upon men rather than as an indication of inherent superiority or greater human worth. Contemporary interpretations emphasize that *qiwāmah* pertains to the administration and management of family affairs and does not imply moral or ontological superiority. The Qur’anic discourse, in this reading, addresses men as bearers of responsibility rather than as masters exercising authority over women (11).

Nevertheless, a significant gap can be observed between the theoretical justification of *qiwāmah* in jurisprudence and its realization within the legal system and judicial practice. In implementation, *qiwāmah* has gradually become an instrument for the concentration of legal power in the hands of men, with consequences evident across multiple areas of family law. The wife’s obligation of obedience, the husband’s right to determine the place of residence, the conditional nature of maintenance, the husband’s primary control over divorce, paternal precedence in guardianship, custody arrangements, and even the structuring of women’s economic rights can all be analyzed within this framework.

According to Saed, Iranian family law is constructed upon a form of “institutionalized gender role differentiation,” in which men occupy the position of final decision-makers and women are placed in a subordinate legal position; a structure that, while justified in the name of preserving family order, in practice leads to structural inequality in the distribution of legal power (1). This inequality manifests not necessarily at the level of formally declared rights, but rather in the conditions governing their realization and enforcement.

From a constitutional perspective, this structure presents a serious challenge. Article 20 of the Constitution affirms equality between women and men in the protection of the law, yet the qualification “in conformity with Islamic criteria” allows the continuation of gender-based distinctions rooted in traditional jurisprudential interpretations. Barikbin characterizes this situation as a form of “structural duality” in the Iranian legal system, whereby a discourse of legal equality is articulated at the constitutional level while gender distinctions are preserved as legitimate within family law (3).

Recent legislative developments, particularly the enactment of the Family Protection Law of 2012, are often viewed as efforts to moderate the consequences of this structure. By strengthening the role of the courts, expanding conditions within marriage contracts, and providing protective mechanisms for women, the law has sought to reduce certain practical inequalities. Nonetheless, as Niknezhad observes, these reforms have largely been remedial and case-specific in nature and, due to the preservation of the traditional foundations of *qiwāmah*, have failed to bring about a structural transformation in the logic of family law (2).

Historical analysis of family law in Iran further supports this conclusion. In the pre-revolutionary period, the Family Protection Laws of 1967 and 1973 sought to limit certain male prerogatives, particularly in the areas of divorce and polygyny. Following the 1979 Revolution, however, these limitations were largely removed, and male guardianship was once again consolidated as the principal foundation of family law (9). Although subsequent decades have witnessed revisions to specific regulations, scholars generally concur that as long as the dominant interpretation of gender roles in family jurisprudence remains unchanged, the full realization of gender justice within the existing legal framework will continue to face serious obstacles (10).

From this perspective, the following sections will analyze institutions such as obedience and disobedience, maintenance, divorce, custody, and women's economic rights not as isolated doctrines, but as interconnected components of a gender-based legal system.

The Position of Obedience (*Tamkīn*) and Disobedience (*Nushūz*) in the Structure of Family Law

Obedience (*Tamkīn*)

Obedience (*tamkīn*) is among the concepts to which extensive legal effects have been attached in Twelver Shi'i jurisprudence, yet it lacks an explicit and independent juristic definition. An examination of classical juristic sources shows that *tamkīn* is not treated as a standalone heading; rather, it appears implicitly and in a dispersed manner across chapters dealing with dower (*mahr*), maintenance (*nafaqah*), and the right of division of nights (*haqq al-qasm*). In other words, jurists have tended to articulate the effects and consequences of *tamkīn* more than to offer a conceptual definition. In the chapter on dower, *tamkīn* is raised in the sense that if the husband refuses to pay the dower, the wife is not obliged to render obedience. In the chapter on maintenance, complete obedience is regarded as the principal condition for entitlement to maintenance; and in discussions of *qasm*, a "disobedient" wife is deprived of the right to the husband's equitable allocation of nights. This mode of presentation indicates that *tamkīn* in Twelver Shi'i jurisprudence is an abstract, inferential concept extracted from a set of rules, rather than a concept that itself serves as the direct subject of an independent ruling.

Shaykh al-Ṭūsī, in *al-Mabsūṭ*, without providing a precise definition, describes *tamkīn* in the following terms: "Obedience is that the woman render full obedience," and then clarifies through examples that if the wife restricts obedience to a particular place or time—such as obedience only in her father's home or only in a specific city—full obedience is not realized and she will not be entitled to maintenance (5). Muḥaqqiq al-Hillī, in *Sharā'ī' al-Islām*, likewise understands complete obedience to mean that the wife places no "barrier" between herself and her husband and does not confine herself to a particular time or place; this, too, resembles Ṭūsī's approach in that it is less an analytical definition than a minimal statement of instances (4). Reviewing other juristic positions suggests that the notion of *tamkīn* in Twelver Shi'i jurisprudence largely remains within this framework, and its conceptual ambiguity persists—an ambiguity that has facilitated expansive and, at times, custom-driven interpretations in positive law.

Iranian jurists, drawing inspiration from jurisprudence and taking social developments into account, have attempted to provide a clearer articulation of *tamkīn*. In this regard, the categorization of *tamkīn* into "general" and "special" has assumed a central role in family law doctrine. Safai and Emami, in their discussion of family law, treat *tamkīn* as a direct consequence of the husband's headship in the family and divide it into two types: special obedience, meaning acceptance of customary sexual relations with the husband unless a lawful impediment exists; and general obedience, meaning the performance of marital duties and acceptance of the husband's managerial role in administering family affairs within the limits of law and social custom (6). On this view, if the husband makes an unlawful or abnormal demand—such as preventing the wife from performing religious obligations or compelling her to transfer property—the wife is not bound to comply (6).

Katouzian, adopting a more custom-oriented approach, considers *tamkīn* to be a concept dependent on social conventions and public morality. In his view, the criterion for determining obedience is "ordinary humane conduct," and a strict or overly meticulous husband has no right to expect from the wife anything beyond what is customary;

at the same time, the spouses' personal circumstances—such as age, education, and social and cultural standing—must also be taken into account (7). Mahrizi similarly maintains that *tamkīn* has both a general (type-based) and a personal dimension, and that judging it without regard to the woman's human dignity and social realities leads to a mechanical and unjust application of the law (12).

From an analytical standpoint, *tamkīn* in the Iranian legal system is not merely a reciprocal marital duty; rather, it functions as a legal mechanism for stabilizing a gendered power structure within the family. The conditioning of maintenance upon obedience, the absence of a parallel and symmetrical enforcement regime for a husband's non-fulfillment of duties, and the concentration of the legal consequences of *tamkīn* on the wife all suggest that this institution is grounded less in legal reciprocity and more in a hierarchical model of the family.

Disobedience (Nushūz)

Unlike *tamkīn*, *nushūz* has an explicit Qur'anic root and is presented in verse 34 of Sūrat al-Nisā' as an exceptional condition in spousal relations. Despite this textual foundation, however, an examination of Twelver Shi'i jurisprudential sources indicates that no precise and refined definition of *nushūz* has been consistently offered; rather, jurists have often confined themselves to listing behavioral signs and instances. Shaykh al-Ṭūsī, without setting out an independent definition, enumerates indicators such as abusive speech, verbal disregard, and the wife's practical refusal to comply with the husband, thus treating *nushūz* less as a narrow legal concept and more as a broad label for a woman's departure from the expected order of marital relations (5). Muḥaqqiq al-Ḥillī likewise characterizes *nushūz* as "departure from obedience," but then immediately expands its scope by citing indicia such as refusal of obedience or non-accompaniment of the husband—an approach that again reflects the absence of an analytical, delimiting definition in classical jurisprudence (4). In other Twelver Shi'i juristic views, behaviors such as refusal of sexual obedience, refusal to accompany the husband on travel, or opposition to customary marital demands are cited as instances of *nushūz*, while no clear criterion is provided to distinguish justified noncompliance from *nushūz* (8).

A key point is that although *nushūz* has Qur'anic grounding, the extensive legal effects attached to it in jurisprudence and law—most notably forfeiture of maintenance—are not stated in the foundational texts with such directness, but rather represent the product of later juristic development. In other words, by linking *nushūz* to the concept of *tamkīn* and to the condition of entitlement to maintenance, jurists have constructed a financial consequence for conduct framed as moral-familial behavior, a linkage that does not appear in the primary sources in this explicit form (12). This juristic reading is reflected in Iranian positive law as well: Article 1108 of the Civil Code, without defining *nushūz* or specifying the exact boundaries of marital duties, treats the wife's refusal to perform these duties as sufficient to cause the forfeiture of maintenance, leaving the determination of instances largely to custom and judicial practice.

Contemporary legal scholars, mindful of this conceptual ambiguity, have attempted to interpret *nushūz* in a narrower and more custom-sensitive manner. Safai and Emami, for example, emphasize that only unjustified and atypical refusal can constitute *nushūz*, and that differences in taste or marital dissatisfaction do not, by themselves, amount to *nushūz* (6). Katouzian likewise stresses the role of custom and public morality, cautioning that *nushūz* should not become an instrument for the husband's unilateral domination; its determination must take into account the spouses' personal, social, and cultural circumstances, otherwise the concept will lose its exceptional character and be transformed into a general rule operating against women's rights (7). From an analytical perspective, *nushūz*

in the structure of Iranian family law is an asymmetrical and gendered institution, because its immediate and effective sanction—namely, the forfeiture of maintenance—targets only the wife, whereas no equivalent and symmetrical sanctions have been devised for the husband's *nushūz* or his failures in moral, emotional, and even economic obligations. Accordingly, *nushūz* may be viewed not merely as a juristic concept but as a legal mechanism that, in practice, contributes to consolidating male *qiwāmah* and reproducing structural gender inequality in family law (12).

Dower (Mahr)

In Twelver Shi'i jurisprudence and Iranian family law, dower (*mahr*) is treated as an independent proprietary right of the wife that becomes vested in her ownership upon the conclusion of the marriage contract. At a theoretical level, it is regarded as one of the clearest manifestations of the recognition of women's legal capacity in property matters and their economic independence. (13)

Iranian civil law has likewise adopted this basic framework. Nevertheless, a functional analysis of *mahr* suggests that, beyond being a simple financial obligation, it often operates as a compensatory instrument within the family system, particularly in a structure in which the power to dissolve marriage and other major family decision-making powers are predominantly concentrated in the husband. (7)

From 2021 onward, Iran's legislative and judicial policy toward *mahr* has entered a new phase, the central feature of which is the practical restriction of enforcement mechanisms for *mahr* without a simultaneous reconsideration of other unequal family-law institutions. In recent years, judicial practice has moved more visibly toward broad installment plans, easier acceptance of insolvency claims by husbands, and reduced practical effectiveness of imprisonment as an enforcement tool—an approach that, while aligned with economic considerations and policies aimed at reducing the prison population, can weaken the protective function of *mahr* for women from a gender-sensitive perspective. (6, 14)

Recent analytical discussions also indicate that *mahr* has, in practice, shifted from a relatively “readily recoverable” entitlement into a protracted and exhausting claim, particularly for women with limited access to economic resources, employment, or support networks. Broad acceptance of insolvency and lengthy installment schedules can reduce the deterrent and balancing function historically associated with *mahr*, turning it from a mechanism of leverage into a comparatively low-impact obligation. (13)

Analytically, the core issue today is not merely whether *mahr* is “high” or “low,” but rather the disconnect between reforming enforcement guarantees and the broader architecture of family law. Within a traditional family-law structure, *mahr* has often been understood as performing a compensatory role against structural inequalities; weakening this institution without a more balanced redistribution of other rights and powers can intensify gender-based inequality and further undermine women's legal security. (15)

Accordingly, after 2021, *mahr* has become less a purely “financial issue” and more an indicator of the coherence—or lack thereof—of family-oriented legal policymaking. So long as the reduction of *mahr* enforcement is not accompanied by parallel reforms in institutions such as divorce, obedience (*tamkīn*), maintenance (*nafaqah*), and shared decision-making authority, *mahr* will remain in a dual condition: formally preserved, yet practically deprived of a substantial part of its supportive and balancing function. (2, 3)

Custody (Ḥiḍānah)

In Twelver Shi'i jurisprudence and Iranian family law, custody (*ḥiḍānah*) is a dual-aspect institution that simultaneously carries the character of a "right" and a "duty." This duality itself reflects a gendered conception of motherhood within the family structure: the mother is initially regarded as the most suitable caregiver due to emotional and biological ties, yet this suitability is often framed not as an autonomous right but within the contours of a "natural" maternal duty. (16)

The juristic consensus concerning the mother's priority during infancy is commonly justified by natural and psychological considerations, and accordingly custody is generally tied to the child's best interests rather than the mother's financial position or discretionary choice. (16)

At the same time, the transfer of custody after the early years—especially regarding male children—illustrates the predominance of paternal guardianship logic over the logic of maternal care; the well-known position in Twelver Shi'i jurisprudence assigns custody of a boy after the early years and custody of a girl after a later threshold to the father. (17)

Although Iranian civil law describes custody as both a right and a duty of the parents, in practice, by granting legal guardianship and ultimate decision-making authority to the father, it restricts the mother's role. (15, 16)

From an analytical perspective, custody in Iranian family law embodies a form of "conditional protection" for women—protection that endures only so long as it does not conflict with the logic of male headship and paternal guardianship. While contemporary legal scholarship increasingly emphasizes the child's best interests and social transformations in arguing for broader interpretive space in favor of mothers, as long as paternal guardianship dominates custody, this institution continues to reproduce an unequal gender order. (10, 15)

Maintenance (Nafaqah)

Maintenance (*nafaqah*) in Islamic jurisprudence and Iranian law is among the most important mechanisms for regulating spouses' economic relations. It is imposed as a binding duty on the husband and, on its face, serves a protective function for the wife; yet closer examination shows that this financial right is deeply intertwined with the family's gendered power structure. (13, 18)

While juristic reasoning acknowledges the husband's obligation to provide support, Twelver Shi'i jurisprudence—by tying entitlement to maintenance to the wife's complete obedience—can transform maintenance from an "independent financial right" into a disciplinary instrument in marital relations. Under this logic, the wife is entitled to maintenance only insofar as she conforms to the legally preferred behavioral template; otherwise, by being characterized as *nāshizah* (disobedient), she may be deprived of this financial support. (12, 19)

Iranian civil law mirrors this approach by treating forfeiture of maintenance as a legal consequence of disobedience, thereby institutionalizing the wife's economic dependency upon marital obedience. (18)

Analytically, the linkage between maintenance and obedience generates structural asymmetry: against the husband's failures in emotional, moral, or even managerial duties, no equally direct and symmetrical financial sanction is ordinarily established. (7, 18)

Although the wife's ability to petition the court to compel payment reflects formal recognition of maintenance as a right, procedural burdens, evidentiary difficulties, and social pressures can reduce its real protective effectiveness. In this sense, maintenance in Iranian family law simultaneously performs two competing functions: on the one hand,

it provides a minimum level of economic security for the wife; on the other hand, it consolidates a gender order grounded in male headship. (3, 13)

The Right to Determine the Place of Residence

In Twelver Shi'i jurisprudence and Iranian family law, the power to determine the family residence is not framed as an independent right but rather as a derivative consequence of male headship (*qiwāmah*) and the wife's duty of obedience. In other words, because the wife is deemed obligated to render both special and general obedience, she must reside where the performance of that duty is feasible; accordingly, the authority to determine the place of residence is typically attributed to the husband. (8, 12)

Juristic treatments often consider this attribution self-evident and not requiring separate proof, reasoning that without the wife's adherence to the residence chosen by the husband, the expected marital order and the husband's marital rights cannot be effectively realized. (5)

Iranian civil law has largely accepted this jurisprudential logic and, even without expressly using the phrase "right to determine residence," effectively reinforces the husband-centered structure through the legal consequences attached to the wife's refusal. (6)

Analytically, linking residential determination to obedience creates a cycle of power: obedience serves as the justification for granting authority to the husband, and that authority then becomes an instrument for compelling obedience. Although stipulations within the marriage contract may operate as a moderating mechanism and later juristic-legal discussions stress the binding force of such conditions, the default rule remains husband-centered, and the wife's agency is typically realized only through exception and private agreement. (20)

From a gender-sensitive perspective, this is not merely a spatial prerogative but a tool for regulating women's social, occupational, and even emotional mobility, because the chosen place of residence may significantly restrict access to family, employment, education, and support networks. (15)

Polygyny

Polygyny is among the most explicit gender-based institutions in Islamic family law: it is allocated exclusively to men and is historically connected to premodern social structures. Rather than abolishing it entirely, Islamic jurisprudence adopted a reformist approach by limiting the number of permanent wives and conditioning permissibility upon justice, seeking to control its negative consequences.

Analytically, however, the "justice" contemplated in classical juristic discourse has often been narrowed to financial and behavioral fairness, while affective justice—central to women's lived experience—has been treated as either unattainable or outside the scope of enforceable legal obligation. (3, 10)

Iranian civil law, while accepting the basic permissibility of polygyny, has not, in practice, established robust mechanisms to guarantee meaningful justice among wives; legal oversight has often been functionally reduced to reviewing the husband's financial capacity. (6)

From a gender-sensitive viewpoint, polygyny remains an institution anchored in male privilege even when restricted by juristic conditions, and it shifts the balance of power in marital relations in favor of men. For this reason, many contemporary legal scholars—without denying the jurisprudential foundation of the institution—emphasize the need for restrictive interpretation, effective judicial supervision, and serious attention to its psychological and social effects on women and children. (3, 7)

Conclusion

An analytical examination of Islamic family rules in Iranian law demonstrates that gender functions not merely as a contextual variable, but as one of the foundational elements shaping the structure of family law. Concepts such as male headship (*qiwāmah*), obedience (*tamkīn*), and disobedience (*nushūz*), as the central pillars of this structure, determine the distribution of legal power between spouses, and other family-law institutions—ranging from maintenance and dower to custody, place of residence, and polygyny—derive their meaning in direct relation to them. Within this framework, women's financial rights, although ostensibly designed as mechanisms of support and economic security, lack full independence and effectiveness due to their structural linkage to gender-based obligations.

An analysis of institutions such as dower and maintenance, in particular, reveals that Iranian family law is marked by a form of institutional imbalance, insofar as effective enforcement mechanisms are predominantly directed at regulating women's conduct, while equivalent and symmetrical sanctions are not provided for men's failure to fulfill emotional, moral, or managerial family duties. Recent legislative developments, especially the restriction of enforcement mechanisms relating to dower without concurrent reform of other power-centered family-law institutions, have further intensified this imbalance and weakened the compensatory function of certain women's rights.

From the perspective of gender justice, the core issue in Iranian family law is not simply the existence of legal distinctions, but rather the *structural* nature of these distinctions and the concentration of legal power on one side of the spousal relationship. So long as foundational concepts such as *qiwāmah* and *tamkīn* are interpreted without critical reassessment and without regard to contemporary social, economic, and cultural transformations, piecemeal and fragmented reforms will be incapable of producing genuine change. Accordingly, the realization of gender justice in family law requires a comprehensive, institution-centered approach in which the balanced redistribution of spouses' rights and duties, the redefinition of enforcement mechanisms, and attention to the human dignity of both women and men are treated as guiding principles.

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All authors equally contributed to this study.

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References

1. Saed MR. Family Law in the Iranian Legal System. Tehran: Mizan Publishing; 2016.
2. Niknezhad F. Investigating the Status of Gender Justice in the 2012 Family Protection Law. Family Law Research Quarterly. 2021;7(2):29-56.
3. Barikbin H. Gender Justice in Iranian Family Law. Tehran: Jangal Publications; 2018.
4. Muhaqqiq al-Hilli J. Shara'i' al-Islam fi Masa'il al-Halal wa al-Haram. Qom: Dar al-Kutub al-Islamiyah; 1988.
5. Tusi M. Al-Mabsut fi Fiqh al-Imamiyyah. Qom: Dar al-Kutub al-Islamiyah; 1987.
6. Safai SH, Emami A. Family Law. Tehran: University of Tehran Press; 2003.
7. Katouzian N. Civil Law: Family. Tehran: Entishar Co.; 2007.
8. Bostan H. Rights and Duties of Spouses in Islamic Jurisprudence. Qom: Research Institute of Culture and Islamic Thought; 2009.
9. Tohidi MR. Developments in Family Law in Iran after the Islamic Revolution. The Juridical Review. 2005(58).
10. Afshar M. A Jurisprudential-Legal Analysis of Gender Inequality in Iranian Family Law. Islamic Law Research Quarterly. 2013;8(2):45-68.
11. Amoli AJ. Woman in the Mirror of Majesty and Beauty. Qom: Isra Publication Center; 1992.
12. Mahrizi M. Submission and Disobedience in Islamic Jurisprudence and Law. Islamic Jurisprudence and Law Quarterly. 2003;4(1).
13. Soleimani R. Mutual Rights and Duties of Spouses in Islamic Jurisprudence and Iranian Statutory Law. Tehran: SAMT Publications; 2022.
14. Mousavi H. Economic Rights of Women in the Islamic Legal System. Tehran: Mizan Publishing; 2021.
15. Hakimpour F. Custody and Child Rights in Imami Jurisprudence and Iranian Law. Tehran: Dadgostar Publishing.
16. Mahrizi M. Child Rights in Islamic Jurisprudence and Law. Qom: SAMT Publications; 2009.
17. Karimi MR. Custody and Guardianship of Children in Imami Jurisprudence. Qom: Bustan-e Ketab.
18. Ghazi A. Alimony (Nafaqah) and its Enforcement Guarantee in Iranian Law. Tehran: Jangal Publications; 2021.
19. Ahmadi H. Investigating the Financial Rights of the Wife in Imami Jurisprudence and Iranian Law. Tehran: Mizan Publishing; 2020.
20. Jahangiri M. Family Law in Iranian Jurisprudence and Law. Tehran: Mizan Publishing; 2006.