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Examination of the "La Darar" Rule in Divorce and the Civil Code with Emphasis on the Jurisprudential Thought of Imam Khomeini

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ABSTRACT

The "La Darar" (No Harm) rule, as one of the fundamental principles of Imamiyyah jurisprudence, occupies a special place in the interpretation and implementation of Islamic legal rulings and statutory provisions. Its role in preventing unjustified and intolerable harm within legal and familial relations has consistently attracted the attention of both jurists and legislators. One of the most significant areas of application of this rule is divorce, where the identification and assessment of harm may serve as the basis for judicial decision-making and verdict issuance. Given the importance of safeguarding women's rights and preventing the infringement of familial rights, a meticulous jurisprudential and legal examination of this principle is deemed essential. The objective of this study is to analyze the jurisprudential foundations of the La Darar rule within Imamiyyah jurisprudence—particularly in the legal thought of Imam Khomeini—and to investigate its reflection in the Iranian Civil Code, especially Article 1130. The research methodology is library-based and analytical–comparative. In addition to the examination of authoritative jurisprudential sources such as Tahrir al-Wasilah and Jawahir al-Kalam, relevant statutes and judicial practices have also been reviewed. The findings indicate that, in Imam Khomeini's view, the La Darar rule functions not merely as a means of eliminating individual harm but also as a principle for maintaining social order and achieving justice. This interpretive approach can serve as an effective foundation for the expansive interpretation of statutory provisions related to divorce. The novelty of this research lies in its integration of textual jurisprudential analysis with a comparative critique of the Civil Code and its proposal of reform-oriented recommendations aimed at strengthening legal protection for the aggrieved party in divorce proceedings.

Keywords: *La Darar rule, divorce, Civil Code, Imam Khomeini, Imamiyyah jurisprudence*

Introduction

The *La Darar* ("No Harm") rule, as one of the fundamental principles of Imamiyyah jurisprudence, has played a foundational role in the development and interpretation of both Islamic and statutory law (1, 2). Rooted in the well-known Prophetic tradition, *"La darar wa la dirar fi al-Islam"* ("There shall be neither harm nor reciprocating harm in

Islam"), this rule was established with the purpose of preventing unjust or excessive harm and ensuring the equitable application of legal norms (3, 4). In the Iranian legal system—deeply influenced by Imamiyyah jurisprudence—the *La Darar* rule holds not only a jurisprudential but also a legislative and interpretive function, particularly within the Civil Code and special statutes (5, 6).

One of the most significant domains in which this rule operates is family law, particularly the institution of divorce. Within this context, the determination of harm, its type and intensity, and its relation to the rights of the spouses form a core concern in both jurisprudence and statutory law (7, 8). Article 1130 of the Iranian Civil Code, grounded in the *La Darar* rule, provides that in cases where serious harm is inflicted upon the wife, she may petition the court for divorce. Imam Khomeini, in his major jurisprudential works such as *Tahrir al-Wasilah*, approaches the *La Darar* rule from a dynamic and welfare-oriented perspective, considering it not only as a guide for individual relations but also as a mechanism for maintaining social order and preventing the abuse of rights (9, 10).

Based on this, the main questions of the present study are as follows: What are the jurisprudential and legal foundations of the *La Darar* rule in divorce? How has Imam Khomeini's thought influenced the understanding and interpretation of this rule in the Civil Code? And to what extent are Article 1130 and related provisions effective in achieving justice within family relations? The aim of this study is to conduct a jurisprudential–legal analysis of the *La Darar* rule in divorce, to elucidate its position in the Civil Code, and to explore its alignment or divergence with Imam Khomeini's viewpoint. The research method is library-based, analytical, and comparative; by consulting primary jurisprudential sources and statutory provisions, it seeks to propose interpretive and reformative solutions compatible with contemporary societal conditions.

Research Background

The *La Darar* rule, as one of the key principles of Imamiyyah jurisprudence, has long drawn the attention of jurists, legal scholars, and legislators, with numerous works devoted to its foundations, scope, and effects (1, 11). This rule occupies a prominent place in classical jurisprudential writings. Imam Khomeini, in *Tahrir al-Wasilah*, expansively extends the scope of *La Darar* beyond commercial transactions to issues such as divorce, emphasizing the necessity of removing harm from either spouse (9). He also discusses in *Rasa'il Fiqhiyyah* the duty of the religious authority (*hakim al-shar'*) to abrogate harmful rulings in order to achieve justice and fairness (12). Similarly, Najafi in *Jawahir al-Kalam* and Sheikh Ansari in *Al-Makasib* carefully examined the boundaries and applications of this rule (13, 14). Shahid Thani, in *Al-Qawa'id al-Fiqhiyyah*, also addressed its general dimensions and the way it applies to family relations (15).

In the Iranian Civil Code—particularly Article 1130—the influence of this rule is clearly visible (5, 16). Works such as Imamī's *Civil Law, Vol. IV*, Katouzian's *Family Law*, and Safaei's *Family Law* provide jurisprudential analysis and legal applications of this article (6, 17). Contemporary studies have also expanded this literature. Alishahi Qal'eh Jouqi and Taie (2022), in *The La Darar Rule in the Wife's Rights from the Perspective of Iranian Law and Sunni Jurisprudence*, analyzed its role in family law and compared the views of Sunni jurists with Iranian legal provisions on divorce, *nushuz* (disobedience), and discord (18). Mohajeri (2021), in *Jurisprudential-Legal Analysis of the La Darar Rule in Removing Harm Resulting from the Wife's Obedience and Disobedience*, examined *La Darar* as the key principle for eliminating harm caused by marital obedience or disobedience (19). Alimoradi and Arzhangi Pour (2011) studied its practical applications in family law, presenting examples of its use in divorce and marital disputes (20).

However, a clear research gap remains: most prior works have either examined *La Darar* generally or focused solely on legal aspects of divorce without establishing an analytical link between the rule, the Civil Code, and Imam Khomeini's jurisprudential approach. The present study, focusing on this gap, aims to analyze Imam Khomeini's textual jurisprudence to elucidate the role of *La Darar* in divorce both jurisprudentially and legally, highlighting areas in which the Civil Code can be strengthened or reformed.

Research Concepts

Jurisprudential Rules (Qawa'id Fiqhiyyah)

Jurists have offered various definitions of jurisprudential rules. One defines them as "general and comprehensive legal norms that apply across multiple branches of jurisprudence" (2). Another describes them as overarching categories connected by conceptual commonality (21). Some scholars define them as general principles derived from legal evidence (*adilla shar'iyya*) that apply directly to specific cases, just as natural universals apply to their instances (22).

The La Darar Rule

Lexical Meaning of *La Darar*

In lexicology, *darar* (harm) denotes "a loss inflicted upon something" and is also defined as the opposite of benefit. It carries a customary meaning associated with damage or loss (14, 23). The term *darar* thus refers to detriment, damage, or any deficiency or impairment, while *la darar* signifies the negation of harm or of a harmful ruling.

La Darar in Jurisprudential Terminology

The phrase *"La darar wa la dirar fi al-Islam"* is one of the most significant legal maxims in Imamiyyah jurisprudence. It establishes that no legal rule or right may be valid if it causes harm to oneself or others (11, 24). This principle encompasses both the negation of harmful rulings and the prohibition of harmful conduct. Imam Khomeini, in *Tahrir al-Wasilah*, considers *La Darar* as the basis for annulling a legal duty or ruling in cases of hardship or harm (9). In jurisprudential discourse, *darar* stands opposed to *manfa'a* (benefit) and refers to any loss affecting property, life, or reputation (22). According to Akhund Khorasani, the term *dirar* in the hadith serves as an emphatic repetition of *darar* (25), while other scholars such as Sistani interpret *dirar* as continuous or repeated harm. Jurists generally hold that the criterion for identifying harm is based on customary understanding (*'urf*) (1, 26).

La Darar in Law

In the Iranian legal system, the *La Darar* rule is implicitly reflected in various provisions of the Civil Code, such as Article 132 (prohibition of exercising one's rights to harm others) and Article 1130 (divorce due to hardship and detriment). Both provisions are rooted in the jurisprudential foundation of this rule (17).

Divorce (Talaq)

Lexical Meaning

Linguistically, *talaq* means "release," "undoing," or "termination" of the marriage contract (23).

Divorce in Jurisprudential Terminology

In Imamiyyah jurisprudence, divorce is a formal unilateral act (*īqā'*) effected by the husband's will, although in cases of hardship (*'usr wa haraj*) the religious authority (*hakim al-shar'*) may pronounce divorce on behalf of the wife. It must be conducted under specific conditions—pronounced in eloquent Arabic with the intent of initiation and in the presence of two just witnesses (13).

Divorce in Legal Terminology

According to Article 1133 of the Civil Code, "A man may divorce his wife in accordance with prescribed conditions," but under Article 1130, if continuation of marital life causes hardship and suffering to the wife, she may petition the court for divorce. This provision directly reflects the influence of the *La Darar* principle (5, 7).

Generalities of the Research

The "La Darar" Rule in Imamiyyah Jurisprudence

The "La Darar" rule, which originates in the Prophetic hadith *"la darar wa la dirar fi al-Islam,"* is one of the important maxims of Imamiyyah jurisprudence; by virtue of it, any ruling that imposes abnormal harm upon the legally responsible person or upon others is removed under the Shari'a (3, 4). Imamiyyah jurists have understood this rule to contain two dimensions: the negation of harmful rulings and the prohibition against harming others (27). *Darar* and *idrar* are most often used in the sense of inflicting diminution upon property and life, while *dirar* and its derivatives convey the meaning of placing another in distress and causing non-pecuniary injury; accordingly, *dirar* is not identical with "harm," "retribution for harm," or "reciprocal harm" (26). Imam Khomeini, in *Tahrir al-Wasilah*, in addition to accepting these two aspects, emphasizes the role of this rule in removing onerous duties and correcting legal effects whose continuation would harm persons—particularly within family relations (9).

The Historical Background of the "La Darar" Rule in Hadith Sources and Legal Theory (Usul al-Fiqh)

The text of the hadith *"la darar wa la dirar fi al-Islam"* is among the most authoritative reports and is transmitted in sources such as *al-Kafi* by al-Kulayni and *Tahdhib al-Ahkam* by al-Tusi (3, 4). Usuli jurists have employed this hadith among the probative sources of inference and, in works of legal theory such as *Kifayat al-Usul*, have treated it as a foundation for "removal of harmful rulings" (25, 28). Throughout the history of fiqh, the rule has found practical application across diverse chapters—transactions, acts of worship, and personal status—including divorce (13, 15).

The Position of the Rule in Iranian Law and Constitutional Principles

In Iranian law, the "La Darar" rule is incorporated—explicitly and implicitly—into statutory texts. Article 132 of the Civil Code provides that "no one may exercise rights in his property in a manner that causes harm to a neighbor," and Article 1130 (as amended in 2002) recognizes the wife's *'usr wa haraj* (hardship and detriment) as a ground for divorce, which in substance reflects the notion of severe harm and hardship (5, 6). Likewise, Article 40 of the Constitution states that "no one may use his rights as a means of causing harm to others or of encroaching upon the public interest," which is a direct reflection of the "La Darar" rule (7, 16).

The Distinction Between the "La Darar" Rule and Similar Maxims (Such as the "La Haraj" Rule)

The "La Haraj" maxim, drawn from Qur'an 22:78—*"and He has laid upon you no hardship in religion"*—negates rulings that impose undue hardship, even where no specific material loss is present (9, 24). By contrast, "La Darar"

negates rulings that impose significant harm—pecuniary, bodily, or reputational. Put differently, every harm can constitute hardship, but not every hardship is necessarily "harm"; hence, the scope of application of the two maxims is conceptually and in practice distinct (17).

Jurisprudential–Legal Analysis of the "La Darar" Rule in Divorce

Jurisprudential Foundations for Permitting or Restricting Recourse to "La Darar" in Divorce

Within Imamiyyah jurisprudence, the "La Darar" rule is a *governing* maxim (*qa'ida hakima*) that, when in tension with primary evidence, removes the harmful ruling (27). On this basis, if the continuation of the marital bond causes serious harm to either party—especially the wife—the Lawgiver permits removal of that harm even though the primary rule (the bindingness of the marriage contract) ordinarily requires continuity (13, 15). Some jurists, such as Sheikh Ansari and others, construe "La Darar" not merely as negating a harmful rule but as establishing a substitute remedial ruling to remove the harm; thus, in divorce, upon establishing harm, the religious authority may either compel the husband to divorce or pronounce judicial separation directly (1, 14). By contrast, some limit the rule to negation of the harmful ruling and maintain that the maxim, by itself, does not create a unilateral right of divorce for the wife unless a specific text or prior agreement provides for such a right (13, 29).

Opinions of Classical and Contemporary Jurists

Classical jurists. Fazel Miqdad, al-Muhaqqiq al-Hilli, al-'Allama al-Hilli, and Shahid Thani accepted application of "La Darar" in the chapters on marriage and divorce insofar as it negates the husband's obligation to maintain a harmful marriage; yet they tended to emphasize compelling the surrender of a right or authorizing judicial dissolution by the lawful authority rather than creating an immediate personal power of divorce for the wife without judicial order (27, 29-31).

Contemporary jurists. Leading contemporary authorities—including Grand Ayatollah Naser Makarem Shirazi—view the "La Darar" rule as applicable to divorce within the framework of the religious judge's judicial and governmental authority, contingent upon establishing harm or hardship (2). Under this view, the purport of *"la darar wa la dirar"* extends to marriage and divorce provided that the conditions of actual harm or *haraj* are duly established through probative means; the maxim operates to remove the harmful effect of the primary rule and may relieve the husband of any enforceable obligation to continue the marriage where doing so would inflict severe harm or hardship upon the wife, with practical implementation entrusted to the competent court (5, 24).

1) Imam Khomeini's approach. In *Tahrir al-Wasilah*, Imam Khomeini characterizes "La Darar" as a fully *governing* principle: wherever continuation of a primary ruling produces real harm, the maxim removes that ruling (9). On his usuli foundations, the maxim is not a mere specification or restriction but a governing rule that may limit even the general and absolute texts at the level of execution. In many contemporary cases, what changes is the subject of the primary rule itself: if a marriage that was not harmful becomes harmful due to new conditions (familial dysfunction, illness, psychological pressure), the subject "lawful marriage" gives way to "harmful marriage"; once the subject changes, persistence of the primary ruling (maintenance of the marriage) is no longer coherent, and—considering time and place—the authority may decree separation on the basis of "La Darar" (10, 32). Social and cultural shifts shape new criteria of harm; an injury tolerable in earlier centuries may today amount to *haraj* or severe harm. Differences in legal and customary structures across societies also affect assessment of the kind and degree

of harm; hence, Imam Khomeini underscores attention to the conditions of the place of enforcement (9, 21). While he locates divorce grounded in "La Darar" within the competence of the religious authority, he conceives that competence more broadly in light of subject-change: once a marriage is established as harmful, the authority may decree judicial separation by invoking both the maxim and the transformed subject (7, 17). Compared with more narrowly judicial framings, Imam Khomeini assigns distinctive weight to conceptual analysis of subject-change, and vis-à-vis approaches that hinge primarily on coupling "La Darar" with "La Haraj," he more explicitly employs the factors of time and place to expand the evidentiary field for establishing harm (9, 24).

Application of the "La Darar" Rule in Divorce from Imam Khomeini's Perspective

Imam Khomeini held a distinctive view of the "La Darar" rule, interpreting it as a *governmental prohibition* (*nahy hukumi*). In his interpretation, the phrase *"la darar wa la dirar"* encompasses two principles: the prohibition of physical and bodily harm, and the prohibition of psychological pressure and spiritual distress. Accordingly, "La Darar" is not a secondary ruling that universally overrides all other Shari'a rulings, as the "La Haraj" rule does (9, 24).

In matters of family law, including marriage and divorce, Imam Khomeini viewed the role of *La Darar* as a legitimate basis for judicial rulings. Numerous legal verdicts can be traced to the application of this principle. For example, according to Sheikh Ansari, if a guardian marries off his daughter to a man who is impotent, insane, or otherwise incapacitated, the daughter has the right to object based on the generality of the "La Darar" rule (14, 26). Similarly, in matters of marital relations and conjugal obligations, jurists have relied upon this principle to relieve the wife and husband from certain rigid obligations, such as the requirement of intercourse every four months, when doing so would cause harm or distress (2, 13).

However, many jurists have been cautious in invoking *La Darar* to justify the dissolution of marriage through judicial divorce. Some have refrained from applying it to annul marriages except in extreme cases of hardship and harm. Imam Khomeini's own jurisprudence reflects a balance between safeguarding Shari'a principles and ensuring fairness. In his legal opinions, divorce in cases of hardship and harm (*'usr wa haraj*) is permissible under specific conditions. For instance, in response to a legal query about a woman whose husband had been missing for eight years, Imam Khomeini ruled that if financial and emotional hardship were proven, divorce could not be granted before referring the case to a religious authority and after four years of diligent inquiry and investigation (10, 12).

Nevertheless, this view does not imply a total denial of the judge's authority in cases of hardship. In another opinion, Imam Khomeini reaffirmed the husband's primary right to divorce but also recognized the religious judge's power to compel the husband to fulfill his marital duties or, if he refuses, to execute the divorce himself—especially when the husband neglects financial obligations or refuses to grant divorce, even by *khul'* (mutual compensation) (9, 33). These rulings reflect Imam Khomeini's dual approach to divorce under hardship—grounded in jurisprudential principles while respecting judicial hierarchy.

The *La Darar* rule operates as a *primary ruling* that can specify or restrict other general rulings. Hence, when the wife suffers unbearable harm and the husband refuses to divorce her, the husband's exclusive right to divorce ceases to be legitimate. Although *La Darar* does not independently grant a new divorce right to others, it removes the harmful restriction that confined this power solely to the husband, allowing the *hakim shar'* (religious judge) to act as *wali al-mumtani'* (the guardian of the recalcitrant) and pronounce the divorce on his behalf (1, 17).

In *Tahrir al-Wasilah*, under the Book of Divorce and in *Kitab al-Bay'*, Imam Khomeini explicitly establishes *La Darar* as the foundation for obligating the husband to grant divorce in cases where continuation of the marriage inflicts harm or hardship upon the wife (9, 32). In his usuli works as well, such as *Al-Bay'* and his lectures on legal theory, he interprets *La Darar* not only as negating harmful rulings but also as affirming the necessity of removing harm through appropriate legal action. Incorporating the principle of "time and place" into ijtihad, Imam Khomeini asserted that when marital continuity leads to deprivation of basic rights or endangers life and dignity, the application of *La Darar* becomes obligatory—even in the absence of explicit textual authority on divorce. This interpretive framework paved the way for the 2002 amendment of Article 1130 of the Civil Code, which recognized *'usr wa haraj* as grounds for divorce (7, 8).

The Effect of the "La Darar" Rule in Affirming or Rejecting Divorce Petitions

Imam Khomeini explicitly stated that when severe and intolerable harm to the wife is established, the husband's Shari'a-based obligation to maintain the marriage is nullified. The implementation of this rule is vested in the *hakim shar'*, who, after verifying the existence of harm, either compels the husband to divorce or personally decrees separation as *wali al-mumtani'*. The foundation of this ruling lies in the mutawatir hadith *"la darar wa la dirar fi al-Islam"* and the complementary principle of *La Haraj* (9, 24).

Legally, this interpretation is reflected in Article 1130 of the Iranian Civil Code, which grants the wife the right to petition for divorce in cases of hardship and harm. However, if the alleged harm is deemed tolerable by social standards or arises from the wife's own misconduct or subjective perception, the court may, based on the same rule, reject the petition. The rationale is that the application of *La Darar* requires demonstrable and socially recognized harm that cannot reasonably be prevented (7, 17). Thus, the "La Darar" rule functions as a dual-purpose legal mechanism—it can justify the issuance of a divorce decree or, conversely, serve as the basis for its denial when real harm is not established.

Legal Analysis of the "La Darar" Rule in the Iranian Civil Code

The "La Darar" rule occupies a significant position in Iran's legal framework, especially in family law and divorce, where several statutory provisions provide for its application (6, 17).

Legal Provisions Related to Divorce and Harm

The main statutory foundation for applying *La Darar* in divorce is Article 1130 of the Civil Code, which—following amendments in 1982, 1991, and 2002—explicitly recognizes *'usr wa haraj* as legitimate grounds for divorce initiated by the wife. Under this article, if the court verifies that continued marital life results in severe harm or hardship, the judge may compel the husband to divorce or, with authorization from the religious authority, declare the wife divorced. Although the examples listed in the article's note are non-exhaustive, they include cases such as abandonment of family life, harmful addiction, persistent misconduct, and the husband's incurable disease (5, 16).

Judicial Practice and Supreme Court Rulings

Iranian judicial practice concerning divorce under Article 1130 demonstrates that courts generally interpret *La Darar* and *'usr wa haraj* broadly in favor of protecting the wife (7). Numerous Supreme Court rulings affirm this

interpretive approach. For instance, in Judgment No. 674 (January 18, 1998), the Court ruled that a husband's continued violent behavior causing fear and anxiety constituted harm warranting divorce. In another decision, the Court emphasized that determining harm or hardship requires consideration of the wife's personal, social, and cultural circumstances, as well as local customs, and that a rigid or purely formalistic interpretation of the law is insufficient (8).

These judicial developments reflect the practical embodiment of Imam Khomeini's jurisprudential theory of *La Darar*, combining the principles of justice, social welfare, and dynamic interpretation of law in contemporary family relations.

Evaluation of the Effectiveness of the "La Darar" Rule within the Current Structure of the Civil Code

The rule *"La darar wa la dirar fi al-Islam"*—"There shall be neither harm nor reciprocating harm in Islam"—is regarded in Imamiyyah jurisprudence as one of the fundamental governmental and moderating maxims capable of adjusting primary rulings (1, 11). In Iranian statutory law, this principle finds direct reflection, notably through Article 132 ("No one may exercise their rights in a manner that causes harm to another") and, more importantly, Article 1130 (divorce on grounds of *'usr wa haraj*), as well as related provisions. However, evaluating its practical efficacy within the current legal framework requires an analysis along several key dimensions.

Table 1. Strengths of the "La Darar" Rule in the Civil Code

Legal Example/Provision	Explanation	Strengths in the Implementation of the "La Darar" Rule
Article 1130: Divorce on grounds of hardship and harm	Reflection of the spirit of the rule in Articles 40, 132, 328, and especially 1130 of the Civil Code	Formal recognition of the rule in statutory texts
Judicial rulings related to chronic abuse or addiction	Provision of legal access to separation for wives enduring harmful or distressing marital conditions	Protective function in family disputes
Imam Khomeini's doctrine of subject-change and Supreme Court decisions	Consideration of custom, culture, and the personal circumstances of the wife in identifying harm	Flexibility in accommodating temporal and contextual conditions

The incorporation of *La Darar* into the Civil Code, particularly through Article 1130, demonstrates the legislator's acknowledgment of the need for justice-sensitive mechanisms that balance Shari'a foundations with evolving social realities. The capacity to interpret harm dynamically—considering social, psychological, and economic contexts—has enabled courts to better safeguard the rights of women and maintain family welfare (7).

Table 2. Challenges in the Implementation of the "La Darar" Rule in the Civil Code

Legal Example/Provision	Explanation	Practical Challenges and Limitations
Divergent judicial interpretations of "severe hardship"	Absence of a comprehensive statutory definition leads to inconsistent readings	Ambiguity in defining harm and *'usr wa haraj*
Difficulty proving psychological harm without tangible evidence	Burden of proof on the claimant; limited evidentiary mechanisms	Central role of judicial verification and lack of specialized assessment tools
Provisions on annulment of marriage without explicit reference to harm or hardship	Some courts interpret other legal texts as restricting the scope of Article 1130	Conflict with restrictive statutory provisions limiting the wife's authority
Reliance on personal or customary standards across courts	Inconsistent criteria among judicial divisions in assessing harm	Fragmentation and inconsistency in judicial practice

Despite its recognized position in Iranian law, the *La Darar* rule continues to face interpretive and procedural challenges that constrain its potential. Ambiguities in the legal definition of "harm" and "hardship," varying thresholds of judicial proof, and inconsistent reliance on social norms across courts have led to uneven protection for

claimants—especially women seeking divorce on hardship grounds. Moreover, the lack of specialized mechanisms for assessing psychological and non-material harm limits its full application in modern family law.

In summary, while the *La Darar* rule provides an essential jurisprudential and legislative foundation for justice in family relations, its effectiveness within the current Civil Code structure depends on clearer legal definitions, harmonized judicial interpretation, and procedural mechanisms that account for evolving societal and cultural realities. Imam Khomeini's jurisprudential insight—emphasizing time, place, and social context in defining harm—remains a critical guide for future reform (9, 17).

Conclusion

The *La Darar* rule, within the legal structure of Iran, has a limited yet vital function in family law. Its power to create protective avenues for women in specific circumstances is undeniable; however, the burden of proof, conceptual ambiguity, and inconsistent judicial practices prevent the full realization of its intended purpose. The findings indicate that although the Civil Code, through its amendments, has taken significant steps in applying the *La Darar* principle to divorce, the theoretical depth of Imam Khomeini's jurisprudential thought has not yet been fully integrated. Harmonizing jurisprudential foundations with objective criteria for proving harm and simplifying judicial procedures could simultaneously preserve fiqh principles and more effectively safeguard the wife's individual rights.

Jurisprudential and legal analyses demonstrate that the *La Darar* rule, as a governing maxim in Imamiyyah jurisprudence, possesses the capacity to remove harmful rulings and establish lawful alternatives to prevent injury. Within the domains of marriage and divorce, it serves as a crucial instrument for protecting the wife's rights under conditions of harm or hardship. Imam Khomeini's broad and time-sensitive interpretation of the rule legitimized compelling the husband to divorce or allowing the religious judge to issue a decree of separation when harm was verified. This interpretive approach influenced Iranian legislation, directing Article 1130 of the Civil Code (as amended in 2002) toward recognizing *'usr wa haraj* as a legitimate legal basis for divorce. Nevertheless, judicial practice reveals ongoing challenges in its application, including the restrictive interpretation of harm by some courts, the absence of precise customary and expert standards for establishing harm, and tensions between jurisprudential reasoning and traditional conceptions of the husband's exclusive right to divorce.

Recommendations

1. **Establish criteria for determining harm and hardship:** The judiciary, in collaboration with jurists and legal scholars, should develop a clear guideline grounded in Imamiyyah jurisprudence to identify instances of intolerable harm and reduce inconsistent interpretations among judges.
2. **Amend Article 1130 of the Civil Code:** Additional clauses should specify categories of harm—physical, psychological, financial, and social—while emphasizing the admissibility of expert psychological and social work evaluations in verifying harm.
3. **Expand judicial authority in applying the *La Darar* rule:** Based on the perspectives of Imam Khomeini and contemporary jurists, courts should be authorized to pronounce divorce independently and without the husband's consent in cases where he refuses to act despite proven harm.
4. **Enhance practical fiqh education for family court judges:** Specialized training on governing jurisprudential rules, particularly the *La Darar* principle, should be conducted to strengthen judges' analytical capacity for issuing rulings consistent with both Shari'a and statutory law.

5. **Strengthen legal and jurisprudential resources in courts:** Establish a shared database containing unified precedents, advisory opinions, and authoritative fiqh rulings related to the *La Darar* rule and divorce to reduce inconsistency in judicial practice.

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All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

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Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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