
The Peculiarities Of Islamic Family Law

Introduction

Islam is a perfect religion governing all the principles that is required in the human life till the very end of the world. It was sent down by Allah Subhanahu wa ta'aala through His messenger and prophet Muhammad (?) and preserved by Him in the form of Quran and Sunnah. The Quran and Sunnah serve as a guidance to the mankind in all the walks of their life.

Shariah can be defined as the set of laws ordained by the Creator Himself which are obligatory on every human being to follow in order to be in the right path. These laws are divine and thus infallible.

“Then We put thee on the (right) Way of Religion: So follow thou that (Way), and follow not the desires of those who know not.”

Islamic family law

Shariah mainly deals with the responsibility of the Muslims towards their Creator, other people, himself and the nature. Holding on to the ties of kinship is very important in Islam. Thus, family law is one of the branches of the Shariah which deals with the relationship of the man with his kinship.

Islamic family law includes the matters of marriage, divorce, inheritance, etc. “A'isha reported that the Prophet (?) said, 'Kinship (rahim) is derived from Allah. If anyone maintains ties of kinship Allah maintains ties with him. If anyone cuts them off, Allah cuts him off.’”

Marriage

Marriage plays an important part in the life of human beings. Prophet Muhammad Sallallahu Alaihi Wasallam has encouraged people to marry if they are able to. The fact that he married makes the act of marriage sunnah for the people. ‘Anas reported God’s Messenger as saying, “When a man marries he has fulfilled half of the religion; so let him fear God regarding the remaining half.”

The basic principles of marriage in Islam includes

- It is regarded as honourable
- The marriage should not be done in haste instead it should be done honourably, and with complete trust in Allah Subhanahu wa ta'aala
- The marriage is invalid without the consent of both the spouses
- It is considered the best way to fulfil the natural sexual need of a person.
- It is important to maintain the human race.
- Marriage prevents the people from getting involved into immoralities that would deter the community.
- The permission of the bride’s guardian is necessary for the marriage to be valid.

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- The presence of two witnesses is necessary for the marriage to take place.
 - A man can marry up to four wives only.
 - The marriage allows the spouses to have certain rights over each other

Divorce

Divorce can be defined as the dissolution of the marriage contract. According to the Islamic Family Law, divorce is considered something detestable by Allah Subhanahu wa ta'aala but at the same time it is considered permissible in Islam for the welfare of the people.

Some of the basic principles of divorce are as follows

- Divorce is the last step to an unsuccessful marriage
- Divorce is permissible only when the harm resulting from the marriage is greater than its' benefit.
- Divorce is valid only when it is issued by a sane and mature person
- The divorce should not be forced.
- The divorce is prohibited when done during the menses of the women.
- After divorce, the husband is not allowed to take back the dowry from the latter.
- After the divorce is issued, three months of reconciliation has been granted in Islam unless it is for the third time.

The relevance of Islamic Family law in dealing with the problems of 21st century

The Islamic Family Law was revealed thousands of years ago. However, the speciality of the Shariah is that it is divine and revealed by the Creator whose knowledge encompasses all things. It is vague and is not limited to particular time. Thus, these laws are applicable even in the modern period.

The following are some of the common family problems faced in the 21st century with the solutions based on the Shariah:

Dispute over money

Money is a big issue in marriage. This issue mostly takes place in the two-income household. One spouse might feel resentment over the other who earns more leading to a bitter competition. The husband might also refuse to spend on the maintenance of his wife because she earns.

Solution: Islam commands the men to spend on their women. "Men are the protectors and maintainers of women..."

Trust issues

The problems in marriage also occurs due to trust issues between the couples. NThis happens when one of the spouses disclose their secrets to a third person while the latter might despise it.

Solution: Islam gives great importance to trustworthiness. “It has been narrated that Prophet (?) said, “The most wicked among the people in the eye of Allah on the Day of judgment will be those men who divulges their wife’s secrets to others.””

Division of work

The most common problem related to division of work among the couple is that the husbands believe that the household chores are the duties of the women only. The men believe that their self-respect is affected by doing such chores.

Solution: Prophet Muhammad (?) used to help his wives with their chores. Thus, it is Sunnah.

“Narrated Al-Aswad: I asked `Aisha what did the Prophet (?) use to do at home. She replied. 'He used to keep himself busy serving his family and when it was time for the prayer, he would get up for prayer.'”

Extra marital affairs

One of the major reasons for the dissolution of marriage contract is the extra marital affairs. There are some men who have strong physical desires and they don't suffice with the presence of one wife. Thus, their desires take them in the wrong way.

Solution: To prevent such problem, Islamic family law has made the act of polygamy permissible with certain conditions which involve consent of the first wife and financial ability of the man to provide them.

Child custody

Child custody issue is one of the major problems that occurs after the divorce of the parents. The parents are not ready to give up their children to the other. In certain extreme cases, the parent with the custody won't allow the other to even visit their children.

Solution: The beauty of this religion is evident in the fact that it doesn't fail to give attention even to the rights of the children. According to Islam, the right of custody of a child belongs more to mother than to father because of the compassionate nature of her and she will be naturally more aware of his needs than him. Whereas, the right of the father is to provide for the maintenance of the child.

Divorce in duress

One of the forms of divorce that is common is “forced divorce.” The husband is forced to divorce his wife by his family who is jealous that he loves her more whereas the husband has no intention to divorce at all.

Solution: Allah Subhanahu wa ta'aala has pardoned professing of disbelief under duress even though it is something very serious. Thus, divorce under duress is considered invalid in Islam.

Conclusion

From the above discussions, it is very clear that the Islamic laws were not revealed for a particular time period or people or place. These laws are binding on every individual till the end of the world. Thus, these laws are highly relevant in dealing with the problems of 21st century.

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