

Independence And Economic Rights Of Women

Zahra Davar

Property is the most inclusive right an individual may have in relation to the entities in the material world. In other words, man has the right to property so he may live peacefully and easefully and develop his character.^{[1](#)}

In legal terms, property is a permanent right by virtue of which an individual can possess something within the confines of law and benefit from it altogether.^{[2](#)} Hence, each individual as a member of the human society has the right to use his entire faculty and his relation to others in order that he can appropriate something. This, in fact, is one of the most basic social rights particular to individuals.

Women as members of the human society are no exceptions to this case. After all, women have not been granted rights equal to men from the outset. The history of women's rights for attaining legal personality, social and economic rights, can be categorized in three phases:^{[3](#)}

1) The age of barbarism and idolatry in which women were not even considered human beings. They served as asset objects to be owned, equal to slaves and beasts of burden without dignity and power of choice. Women were used to gratify men's needs and desires. In other words, they were treated as bodies rather than spirits.

2) The age of Greek, Egyptian, Roman and Iranian civilization: the religions and sublime thoughts of the social reformers gave birth to the advent of civilization; the advent of humane feelings mingled with science and logic caused women to have material rights as human beings; yet, spiritually and socially they lacked legal personality; they were under complete domination of men in all aspects of life. Since, they had no legal personality, they could not manifest their potentials from a viewpoint of economic and social rights.

History tells us that only in Persia, *shahzan* (the woman who shared her husband's life and was considered his main wife) had independent legal personality, shared her husband's properties and at his

death, took over the family in absence of a son. From this, one may conclude that women were weak creatures worthy of pity and protection.

The age of Islam: women attained legal personality and opinions changed. They gained rights equal to men, and shared their husbands' properties. Their not interfering in men's affairs was not owing to having an inferior personality but owing to the law of distributing duties (such as pregnancy, childbirth and ...). This change was so radical that women gained rights equal to men and all forms of discrimination were eliminated.

Thus, women could ultimately play a puissant role in the social arena, enjoy freedoms and rights as everyone else in the society, have economic rights, appropriate assets of their own and claim property.

On the same basis, when talking about freedoms and rights the Universal Declaration of Human Rights⁴, and the International Covenant on Civil, Political, Economic and Social rights use *everyone* or *every human person*, meaning men and women on the same level.

Study of Backgrounds of the Realization of Women's Right to Property

As to the introduction stated above, we can say that women can have the right to objects and properties in two ways:

- 1) Kinship
- 2) Occupation

Here, we shall address the two topics.

- 1) Kinship: kinship, by definition, is the family relation recognized in one of the three ways below:
 - a) Consanguineous kinship: the relationship characterized by the sharing of common ancestors.
 - b) Affinal kinship: the relationship established by marriage.
 - c) Fictive kinship: the relationship established by being breast fed by someone other than one's mother which is equal to relative kinship.

In each one of the consanguineous or affinal kinships, there are occasions when women have the right to own property;

Consanguineous Kinship:

By reason of consanguineous kinship, women can gain properties in two ways through the medium of

their families. These two ways are marriage portion and inheritance.

1.1) Dowry: it is the property that a wife or a wife's family gives to her husband upon marriage. This custom is not only common in Iranian or Islamic culture but also prevails in most countries. The philosophy and administration of marriage portion varies from country to country until 1262. In Scandinavian countries (Sweden, Norway, Denmark), girls were not granted inheritance and only at marriage, they obtained a small marriage portion from the one whose consent determined their destiny. A few decades before in Japan, the poor families let their daughters for a certain period in order that they could provide their marriage portion. The let might be done to a certain person or to brothels. At all events, after the fixed time expired and they provided a decent marriage portion, they could easily get married and this smut did not have the least effect on their social position nor did it ruin their chance of getting married.⁵ Or in countries like India, violence against women has been intense in the recent years. Indian brides are savagely slaughtered by the groom's parents for lack of a suitable marriage portion. It seems that in this country a marriage portion is a levy, which the bride's family must pay to the groom.

It might be asserted that the philosophy of a marriage portion is manifold:

It helped a new husband discharge the responsibilities that go with marriage; it made possible for the bride to have economic independence: it made up the girl's meager share in succession or the inheritance of her parents' landed property (the girls' share is half of the boys') and most importantly, it consolidated friendship and created a spirit of cooperation between the two families.⁶

A marriage portion either belongs to the bride or it is given to her by her family. Though the woman may entrust her marriage portion to her husband or to her future mutual children, the husband does not have the right to apportion them but rather he has the right to use them in a reasonable fashion, for legally speaking, a marriage portion is a wife's private property.

The bride's family tries to enhance the desirability of their daughter for marriage by providing her with a suitable marriage portion in proportion to their economic power although no article exists in law which necessitates the provision of a marriage portion.

Although the women are the owners of their property and that the husbands have no right to them, the women, in principle, entrust their property to their family and never make any mention of them. Assuredly, while the mutual life proceeds on the basis of love, friendship and morality, there is hardly any mention of these assets. However, when the foundation of family is shaken, the first problem is how to distribute the assets.

The time when one comes to ask what women's rights are and what assets belong to them, one has to prove women's claim to property.

In some countries, they usually make a list of the assets, and have the groom and his family sign it.

However, such an act may be considered an insult to the groom, and an indication of mistrust. Sufficed it to say that such an indication of mistrust at the beginning of a married life particularly when the two parties have not yet known each other can exercise a negative impression on them. As a last resort, the Iranian legislators have promulgated that while there is no proof for the women's right to assets, the things that are most useful to them belong to them.[7](#)

1.2) The inheritance: the transfer of property to an heir or heirs upon the death of its owner.[8](#) A brief study of the history of women's rights shows that the inheritance of women becomes effective when they develop social personality.

As inheritance is either on sanguineous or affinal[9](#) basis, women as daughters, sisters, aunts, or nieces can obtain the share determined by law. Here are some examples for the further information of the readers.

Girls

Although in most countries today, boys and girls have equal share in inheritance, at least until the eighteenth century in most countries like France, Japan, China and so on, the landed properties went to boys: girls did not have any share or even if they had, it was in the form of a marriage portion.

However, Islam gave women social personality fourteen centuries ago, granting them a share in inheritance. The share of girls is as follows:

1. The girl is one of the heirs. If girls and boys are the heirs of the deceased, the share of the girls is half of the boys'. If girls are the heirs of the deceased, two-thirds of the landed property goes to them; and the rest goes to them if there are no other heirs.[10](#)
2. The girl is the sole heir. She receives half of the inheritance by precept and the other half by refutation.[11](#)
3. If the heir is the sole sister of the deceased, she is the sole heir; so, she receives half of the property by precept and the other half by refutation. If there are two sisters, two-third of the property goes to them.[12](#)
4. If the brother and the sister are the heirs, the share of the boys is two times bigger than that of the girls.
5. If the woman is the mother of the deceased and the sole heir, her share is one-fourth of the property. If the deceased has children; the mother's share is one-sixth of the property.[13](#)

The reason that girls receive one half less than boys, is thus justified:[14](#)

1. The men are responsible for the provision of things in the family; in other words, men are the

economic center and women have no responsibilities whatsoever.

2. It is incumbent upon men to pay their spouses marriage portion, and they have no way to bar them from it even if they agree on it.

3. In executive laws, in paying blood money, women have no responsibility.

At the end of this discussion, I have to remark what goes to women as inheritance, is part of their property. Hence, as owners they can use it any way they desire because *people are the masters of their properties*.

Article 24 of the Cairo Declaration of Human Rights in Islam¹⁵ stresses that: A) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or to society in general. Expropriation is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation. B) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

Affinal Kinship

Affinal Kinship¹⁶

When two people get married, they are obligated by certain rights and duties. Concerning these rights and duties which serve as a background for the right of women to property, the following four phases can be discussed:

Marriage portion is, by definition, the property a man gives his wife upon marriage. History shows us that in performing Greek ritual marriage or Roman patrimonial rights, the father could transmit these rights and duties to the groom for gift or money or even for free, because women served as mere objects to be owned and to be enjoyed. For the same reason, some believe that marriage portion is the price for woman.

In Islam, men are obligated to give some property to women as gift.

“And give the women their dowries as a gift spontaneous.” (Surah an-Nisa, 4:4)

The Holy Qur’an gives the beautiful metaphor of the gift. With regard to the changes Islam creates and the status the Holy Qur’an gives to women, one can never agree that this is a price for women, because they have their social personality; they are not objects to be bought or sold. In other words, marriage portion is not a price for which women give in to intercourse. It is a commitment that law assigns to men, for it is not the subject of any contract in modern law.¹⁷

There should be marriage portion at marriage and this is a canon, which neither of the parties can violate, for private contracts and agreements cannot overshadow canons. Hence even if marriage

portion is not fixed at a marriage, the woman is given suitable marriage portion¹⁸ and this refutes the claim of those who state that the suitable marriage portion is the price for women, for if the contract is based on selling and buying, and the price is not fixed, it nullifies the deal,¹⁹ whereas marriage without fixed marriage portion is correct.²⁰

Most jurists believe that there are no limitations on the amount of marriage portion; the only condition is that marriage portion should be a transmissible property.²¹

Some others believe that the amount of the marriage portion should not exceed the one fixed by the holy Prophet.²² It seems that such a basis should be respected, for it shall prevent the fixing of heavy marriage portions which cause the increasing of expectations and the deviations from cultural and social moral codes and problems of this sort.

Some people believe that marriage portion as the financial security for women in married life and an opportunity for their being independent of their husbands especially when the right to divorce is exclusive to men.

And if we regard marriage portion as gift, it is man's respect for women.

At any rate, no matter what the philosophy of marriage portion is, when the marriage contract is signed, marriage portion is transmitted to women.²³

From the points mentioned above, it becomes obvious that Islam and the Iranian law seek to protect women's rights and provide their financial independence; however, socially speaking, marriage portion has gained a ceremonial quality only mentioned in the marriage certificate. Although it is '*Ind al-Mutalibah*', meaning that man is obligated to pay it any time the woman demands it, in practice, as long as they live under one roof, there is never any mention of it. And only when the family pillars are shaken, the right to marriage portion is mentioned. And when the marriage portion exceeds the financial power of man, the marriage portion loses its protective quality.

Subsistence

Subsistence, by definition, is whatever is incumbent on man to provide for his spouse such as food, clothing, housing and the likes.²⁴ In other words, the responsibility of providing for the woman when she still stays with her family is on her father but when she is united in marriage and organizes a mutual life, the responsibility is shifted onto her spouse. Likewise, the responsibility is shifted onto her elder son if she is a mother without a husband.

At all events, a woman is provided for by her consanguineous or affinal kin when she is a girl, a mother or a wife. Hence, she does not have anything to worry about on that score because under Islamic law and jurisprudence, the man is the head and the economic pivot of the family, so he is responsible to provide for her family.

According to Islamic jurisprudence, the Iranian Civil Law determines the limits of subsistence;

Article 1107: Subsistence includes housing, clothing, food, and furniture appropriate to the situation of the woman and a maid if she is used to having one or if she happens to be sick, or handicapped.²⁵

Some Muslim jurists²⁶ believe that subsistence must not be specified by certain objects and that one should refer to common sense for determining subsistence, because subsistence differs at different times and places. Therefore, subsistence must not be limited to certain things. This seems natural because what matters in married life is the relation based upon mutual understanding and good conduct and the man's obligation to satisfy her material needs and provide her with solace.

There is a long-standing controversy over the philosophy of subsistence. Some commentators argue that if we believe in women's right to participate in all spheres of social and political activities, why should we reduce them to the degree of an object by considering subsistence for them? On the other hand, equal rights for men and women are accepted and women have the right to property. So, why should the law compel man to pay subsistence to woman?

Although Islam does not forbid women from participating in social activities and regards effective respect for their rights, it accords considerable attention to women's physical condition in fulfilling their maternal and wifely duties. Although attempts have been made to provide equal opportunities of employment for men and women particularly over the recent decades, and the States move onto this track due to their internal policies and the recommendations of International assemblies,²⁷ these opportunities, in practice, are more given to men than to women. Therefore, women have a lesser chance to play their part in providing for themselves. Therefore, opportunities should be devised to provide for them.

In this regard, one can refer to paragraph 2, article 23 of the Universal Declaration of Human Rights and paragraph one, article 25 of the same declaration and paragraph B, article 7 of the Cairo Declaration of Human Rights in Islam²⁸ because in these articles, it is mentioned that man should provide for his wife and children and this does not contradict the equal rights of men and women. The other question, which comes up here, is if the woman is the owner of her subsistence or if she is just entitled to use it temporarily.

In this regard, the lawyers and jurists hold that the objects in question should be categorized and divided. For example, the consumable goods (such as foods), belong to women, but in other cases (such as housing, ...) the women have the right to use them but should attempt to look after them.

Another question, which emerges here, is this: do women have the right to receive subsistence if they happen to work and earn money?

At any rate, man is obliged to pay for his wife's expenses. The legislators emphasize that subsistence is a rule to be obeyed and the women or other parties cannot cancel it. Even if women work and earn money, their husbands cannot oblige them to cover some of the expenses of their mutual life. However,

women are instrumental in covering some of the expenses because they are more than ever before given the opportunity to work.

With a brief glance at Iran today, one can realize that women assist their husbands in covering every day expenses although men are obligated to pay for their subsistence. If they are employed, they expend their income in better administering the family; if they are homemakers, they cut down on expenses and if they are villagers, they do farming, carpet weaving and harvesting.

At any rate, this legal protection of women seems necessary although we witness women working and helping their husbands in most of the social activities.

In addition, the legislators have promulgated a law, entitling women to sue their husbands if they do not pay for their subsistence. Although this law can prove very effective in punishing men, it should not be ignored that what dominates the family is ethical practice and the law exercises its force when this ethical practice is violated.

Payment

The Islamic law regards effective respect for women's personality and dignity; so, they are not obligated to do the house chores and the husbands do not have the right to oblige them to such chores as cooking, cleaning, tailoring and so on. Despite some prevailing beliefs, subsistence is not at all a payment for women's housekeeping. Women do not do all these acts out of their own volition. That is why Islam entitles women to get payment for what they do at home, for in Islam, anyone is to be respected and deserves to be rewarded for their work. ·

The prevailing Islamic law regards divorce as a right particular to men. By virtue of this right, men can put an end to mutual life by paying alimony and marriage portion. After divorce, women need financial protection. Therefore, the legislators promulgated a law, which compels men to pay for the pains their spouses have taken during their married life. In other words, the spouses receive their share of the life, which they helped take shape, but now it has fallen apart. Some people believe that this act²⁹ is a manifest insult to the elevated status of women, relegating them to the degree of a house cleaner: However, it seems that if this law is viewed like marriage portion and subsistence from a materialistic point of view, such views can be proposed.

The fact is that if we view women as creatures endowed with dignity and personality with social and economic rights from an Islamic standpoint, we realize that the aim is to protect women's rights and pave the way for their economic independence but not set a price for them or insult their dignity, as article 1 of the Cairo Declaration of Human rights in Islam³⁰ states, "Dignity is a right guaranteed for the entire human race and all people are equal in dignity granted by God and the inherent responsibilities and women have the same human dignity as men."³¹

Inheritance

While women have certain rights during mutual life, they have other rights as well when their husbands die, namely that they receive a share from their property just as the husbands inherit their spouses' property in the event of their death.

The share of inheritance of each spouse is different and this is one of the inequalities between men and women. Men inherit from whatever their wives possess: yet, women do not inherit from real property. In general, the women's share of their husband's property can be discussed in two ways.

Amount of inheritance

If the husband dies and his wife does not have any children, she inherits one-fourth of the property.^{[32](#)} If she has children, she will receive one eighth of the property.

In case one of the spouses happens to be the sole beneficiary, in case of man's death, the woman receives one-fourth of the property and the rest goes to the common wealth.^{[33](#)}

The properties from which women inherit

According to Civil Law inspired by jurisdiction, the wife's share is half of her husband's: furthermore, she is deprived of certain properties inherited. These properties include lands, trees, and buildings. The land whether built or not is not given to women as inheritance. Therefore, women do not receive a share from building and trees.^{[34](#)}

The philosophy of this may lie in the historical aspects of the tribes, lack of women's property after their husbands' death, and the transferring of them to the tribe.

At any rate, women enjoy their deceased husbands' property. The laws of inheritance contradict the equal rights between men and women from the perspective of international documents. For example, in the convention of all forms of discrimination against women, paragraph E of article 16 recognizes equal rights for both spouses in all cases: equal rights for the spouses as to property, acquisition, administration, custody, and the transferring of properties whether free from or with charge.

Employment

Of the most obvious individual rights in any society is the right to employment. The right to employment is the logical result of freedom of employment, namely that there is employment for those who seek it.^{[35](#)}

In other words, every individual has the right to choose his desired employment and use it as a means to earn his living and the state is obliged to provide this right for everyone.

In general, the goal of any employment, on the one hand, is to earn one's living and on the other, to improve the economic condition of the nation. At any rate, there are certain points, which must be born

in mind in this regard:

1. Everyone has the right to work.
2. Everyone has the right to the choice of his profession
3. Everyone has equal rights as to profession.
4. The workers have the right to protective rules.
5. The government is obligated to provide suitable profession.

With a glance at the international covenants, it becomes obvious that the right to employment is recognized for everyone without limitation of any kind due to sex, color, race etc.

Paragraph 1 of article 23 of the Universal Declaration of Human Rights suggests, "Every one has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment."

Article 6 of the International Covenant on Economic, Social, and Cultural rights states: "The State parties to the present covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

And the Cairo Declaration of Human Rights in Islam in article 21: "Work is a right guaranteed by the State and Society for each person able to work."

According to the Islamic Constitution, the right to employment is regarded as the inalienable right of each individual and according to paragraph 12 of article 3, the state is responsible to set up a correct and just economic foundation according to Islamic principles in order to bring about welfare, eradicate poverty and eliminate all deprivation in all areas of food, housing, work, health and providing social insurance.

Also paragraph 2 of article 43 states "The State is responsible to provide the possibilities and opportunities of work for everyone towards achieving full employment for all and provide the means of work for all who are able to work but lack the means."

And the rule of employment of the Expediency Council states: "All people, men and women, are equally protected by the law and everyone has the right to choose any occupation provided that it does not contradict Islam, the general good and the rights of others."

From the points noted above, it becomes manifest that there is no difference between men and women as to the choice of employment; both are free to choose and the only thing that limits their freedom is that the occupation chosen should not contradict Islam, and the public good. In the case of women's employment, the following two points are noteworthy:

1. Women are not capable of equal work with men due to their physical condition such as their delicacy, pregnancy, and maternal duties: so, they might encounter discrimination as to the choice of employment, lose their jobs, and get lower salaries. Hence, due to these reasons, they should be protected by the state and the state should take appropriate measures to safeguard their rights.

2. Women's occupations are limited due to legal limitations. For example, the legislators have forbidden hard, dangerous work by women.[36](#)

Therefore, even if we believe in the equal rights of men and women, we should persuade the States to take protective measures even if they are to men's loss and to women's gain.

The right to leave for childbirth, pregnancy and feeding is officially recognized as a way to respect and protect mother and child. The job security of women is ensured under certain special circumstances and the government puts services in priority.[37](#)

Besides, there are two limitations as to the choice of profession on the part of women; the limitation imposed by the society for women's jobs; in political affairs, (leadership, presidency, executive power presidency ...) and in official jobs (Judgment, military positions,) are among the activities in which women cannot actively participate: of course politicians and jurisprudents have different and sometimes contradictory views in this regard.

Secondly, limitation on the part of the spouse namely that the women should try to choose an occupation which in no case contradicts the family welfare or dignity, for the Civil Law entitles men to deprive their wives of choosing such occupations when they contradict the aforementioned issues.[38](#)

At this point, it seems necessary to point out that the recognition of such an issue is made by common sense and the legislator only seeks to solidify the family pillars. If we take it for granted that men are responsible for providing for the family and women for administering the house chores, man is capable to stop his wife's activities if they hurt the family relationship, or impede her doing her maternal or wifely duties.

In this case, when women encounter limitations in choosing a profession, they are consciously or unconsciously bound to choose their desired profession or when men provide such comfort that women relinquish their right altogether.[39](#)

Although the jurisprudents and the legislators believe that women must obey their husbands, and the fact that men are the heads of the family and that women are obliged to obey them and need their permission to do their activities, some great Shi'ite scholars propose new ideas on this score because of the special time such as:

Q: What is the duty of women if their husbands are against their going to university or to office?

Ayatullah Sani'i answered, "It is incumbent upon women to obey their husbands unless something

contrary is stipulated at their marriage. Their preventive attitude may be to the point here it does not prove hard and intolerable to women.[40](#)

It seems that this state of hardship is both individual and social. From a social point of view, one can justify that when the society provides for an individual's education, he, as an expert, has a role in contributing to the social and economic conditions of his country. One cannot say that just because men have the privilege to be the heads of the family, they cannot deprive their wives of the social services they can render to the society.

In the end, we should admit that the international covenants and forums have kept encouraging the governments to distribute equal rights of men and women for work, and they have succeeded in eliminating discrimination in the field of employment. The opportunities of women in obtaining jobs are practically less than those of men.[41](#) In case of women, most of the part-time seasonal jobs are considered as self-employment. Women are abused in working and there has been scant protection of them.

So, even if we believe in the equal rights of men and women in work, we should require the States to take protective measures, though they are to men's loss and to women's gain, in order that we may reach a real balance.[42](#)

Conclusion

Throughout the past decades, the issue of Women's rights has undergone positive and considerable changes to the point where they have been promoted from the degree of chattel to the degree of acquiring legal personality and the finding personality as a human being and having passed that stage, they have brought up the notion of equality of men and women during the recent years.

By the same virtue, some of the International documents and civil laws of countries have betrayed a tendency to recognise women's rights and some principles are issued in this regard. In international documents, the possibility of anyone's any man's or anybody's enjoying social and individual rights has been emphasised and the use of these words shows the equality of men and women in using these rights and freedoms for woman is a human person.

Also, by studying the grounds for the realisation of women's property and discussing its offshoots it became manifest that in consanguineous kinship, dowry, inheritance and in Affinal kinship, marriage portion and alimony and inheritance provide the ground for woman's right to property.

As to occupation, the right to work and earning income which create the right to ownership were discussed in detailed as viewed by International and internal documents of law, and it was stated that although there are limitations concerning women's working from a legal and practical perspective, women's working creates the right to ownership.

To sum up, it must be asked whether women have full authority over their rights or her right to ownership should take place under the supervision of some second party like her husband? Or from a legal perspective, have women full authority or are they to have a guardian?

The reason for proposing this question is that in the past laws of some countries, including France, the spouse did not have direct interference in her financial matters and had to ask her husband's permission in doing financial matters.⁴³ In answer, it may be said that in the communities which by joining International conventions have accepted equality of men and women, women have financial independence and every interference in her properties. In Islam, resorting to the verse 32 of sura of Women,

“Men shall have of what they earn: and for women shall have of what they earn” (Surah an-Nisa 4:32)

women have the right to property, profession and earning money, and her right to property is esteemed in Islam and by the same virtue, they can have any kind of interference in their property.

The civil law of Iran, following the tenets of Islam as to the right to property and financial independence has elucidated this the basis for this independence in the two following principles:

Article 30: “every owner has any kind of interference in the his/her properties unless as otherwise prescribed by law”

(The word *every* includes men and women.)

Article 1118: “women can independently interfere in their properties” in fact, men and women have equal financial independence.

Sources:

Reference Books

Farhangi Larus, Jor, Khalil, translated by Hamid Tabibiyah, Vol. 2, Amir Kabir, p. 1365

The Holy Qur'an

Farsi Books

Imami, Hasan, Huquq-i Madani (Civil Rights), Vol. 3, Islamiyyah Press, Second Edition, 1986.

Sadr, Hasan, Huquq-i Zan dar Islam va Urupa (Women's Rights in Islam and in Europe), Amir Kabir Press, Tehran, Fourth Edition, 1979.

Safa'i, Husayn & Dama'i Asadullah, Huquq-i Khanivadah (Family Rights), Vol. 1, Tehran University Press, Second edition, 1995.

Tabataba'i Mu'tamini, Manuchihr, Azadiha-yi 'Umumi va Huquq-i Bashari (Collective Freedoms and Human Rights), Vol. 1, Rahnama Press, Second Edition, 1996,

Iraqi, Izzatullah, Aya Midanid Huquq-i zan dar Izdivaj Chist? (Do you know the rights of women in marriage?) Vol. 1, Rahnama Press, Second Edition, 1990.

Katuziyan, Nasir, Huquq-i Madani, Amvil va Malikiyyat (Civil Rights, Properties and Possession). Vol. 1, Yalda Press, First Edition, 1995.

Katuziyan, Nasir, Huquq-i Madani-yi Khanivadah (Family Civil Rights), Vol. 1. Intishar Press, Third Edition, 1992.

Muhaqqiq Damad, Mustafa, Barrasi-yi Fiqhi-yi If Huquq-i Khanivadah (A Jurisprudential research on Family), Vol. 1, Nashr-i 'Ulum-i Islami, Second Edition, 1988.

Mutahhari, Murtaza, Nizam-i Huquq-i Zan dar Islam (Women's Rights in Islam), Intisharat-i Islami.

Arabic Books

Musavi Khumaini, Ruhullah, Tahrir al-Wasilah, Vol. 2, Najaf, 1970.

Najafi, Muhammad Hasan, Jawahir al-Kalam fi Sharh-i Sharayi al-Islam, 1901

International Documents

The Universal Declaration of Human Rights

The Cairo Declaration of Human Rights in Islam

Convention on Elimination of All Forms of Discrimination against Women

The International Covenant on Economic, Social and Cultural Rights

The essays of International Organisation of Labour

Law

Constitution

Labour Law

Civil Law

- [1.](#) Manuchihr Tabataba'i Mu'tamini, *Azadiha-yi Umumi va Huquq-i Bashari* (Collective Freedoms and Human Rights), (Tehran: Tehran University Press, 1996), p. 147.
- [2.](#) Nasir Katuziyan, *Huquq-i Madani, Amval va Malikiyyat* (Civil Rights, Property and Possession), (Tehran: Yalda Publications, 1995), p. 104
- [3.](#) Hasan Sadr, *Huquq-i Zan dar al-Islam wa Urupa* (Women's Rights in Islam and in Europe), (Tehran: Amir Kabir Publications, 1969), pp. 42–50, 107
- [4.](#) The Universal Declaration of Human Rights, Article 17, paragraph 1: Everyone has the right to own property alone or in association with others. Paragraph 2. No one shall be arbitrarily deprived of his property.
- [5.](#) Hasan Sadr, *ibid*, pp. 24–35 & 99
- [6.](#) Nasir Katuziyan, *Huquq-i Madani-yi Khanivadah* (Family Civil Rights), Vol 1, p. 200; Izzatullah 'Iraqi, Aya Midanid *Huquq-i Zan dar Dawran-i Izdivaj Chist?* (Do you know what women's rights are at marriage?), pp. 81–82; Husayn Safa'i and Asadullah Imami, *Huquq-i Khanivadah* (Family Rights), Vol. 1, p. 175
- [7.](#) Article 79 in official documents; Article 63 in civil principles. It is noteworthy that in Iran, the Islamic rules are dependent on Islamic principles interpreted by the Muslim jurisprudents.
- [8.](#) Article 140 of the Civil law stipulates: "Ownership is obtained through 1. The renewal of dead lands and occupancy 2. Contracts and commitments 3. Occupation by preemption 4. Inheritance
- [9.](#) Article 861, Civil Law
- [10.](#) Article 902, *ibid*.
- [11.](#) Article 908, *ibid*.
- [12.](#) Article 902, *ibid*.
- [13.](#) Article 908, 909, *ibid*.
- [14.](#) Murtaza Mutahhari, *Nizam-i Huquq-i Zan dar Islam* (Woman's Rights in Islam), Islamic Publications Office, p. 224
- [15.](#) Muhammad Taqi Ja'fari, *International Human Rights in Islam and the West*, (Tehran, Bureau for International Rights, 1991).
- [16.](#) I have used the following sources in writing this article:
Hasan Sadr, *Huquq-i Zan dar Islam va Urupa* (Women's Rights in Islam and Europe), pp. 24–30; Murtaza Mutahhari, *Nizam-i Huquq-i Zan dar Islam* (Women's Rights in Islam), p. 179; Nasir Katuziyan, *Huquq-i Madani-yi Khanivadah* (Family Civil Rights), Vol. 1, p. 143 onwards; Mustafa Muhaqqiq Damad, *Huquq-i Khanivadeh, Nikah va Inhiqal-i An* (Family Rights, Marriage and its Dissolution), p. 224; Hasan Imami, *Huquq-i Madani* (Civil Rights), Vol. 3; Husayn Safa'i & Asadullah Imami, *Huquq-i Khanivadah* (The Family Rights), Vol. 1, p. 192–193; 'Ezzatullah 'Iraqi, Aya Midanid *Huquq-i zan dar Dawran-i Izdivaj Chist?* (Do you Know What the Rights of Women are in Marriage?), pp. 63–73; Ruhullah Musavi Khumaini, *Tahrir al-Wasilah*, Vol. 1, p. 297, Issue 1.
- [17.](#) 2 Nasir Katuziyan, *Huquq-i Madani-yi Khanivadeh* (Civil Rights of Family), (Tehran: Shirkat-i Intishar, 1993), Vol. 3, p. 143.
- [18.](#) Article 1087, Civil Law, "If permanent marriage portion is not fixed at marriage, or no marriage portion, the marriage is correct and the parties can fix the marriage portion after marriage. And if they have intercourse before fixing marriage portion, the spouse shall deserve a suitable marriage portion."
- [19.](#) Article 1079, Civil Law, "Dowry should be fixed between the two parties to remove invalidity."
- [20.](#) Article 1087, Civil Law.
- [21.](#) Ruhullah Musavi Khumaini, *Tahrir al-Wasilah*, Vol. 2, p. 297, Issue 1.
- [22.](#) *Ibid*.
- [23.](#) Article 1082, Civil Law
- [24.](#) Khalil Jor, *Larus Dictionary*, translated by Hamid Tabibiyan, Vol. 2, Amir Kabir Publications, 1986, p. 2068.
- [25.](#) Article 1107, Civil Law.
- [26.](#) Muhammad Hasan Najafi, *Jawahir al-Kalam fi Sharh-i Sharayi al-Islam*, 1901, Tehran, p. 257
- [27.](#) In the Convention on Elimination of All Forms of Discrimination Against Women, the States have been invited to accept equal payment for men and women, to eliminate the discrimination among men and women under special circumstances such as marriage, pregnancy and motherly duties as much as possible, and to formulate protective rules for women. In

addition, in the international arena, paragraph 2 of article 43 of the Constitution obligates the State to provide suitable working conditions for all and sundry.

[28.](#) ARTICLE 23: 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4. Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 29: 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 7 of the Cairo Declaration of Human Right in Islam: A) Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage. B) The husband is responsible for the support and welfare of the family.

[29.](#) For further information see Zahra Davar, A Study of Divorce in Jurisprudence and Law, Majalla-yi Siyasat Khariji, Peking Conference, 1995, note no. 60: in the course of divorce, in case the spouse demands payment for the things nor religious incumbent upon her, the court takes measure by way of compromise; if no compromise is achieved, steps are taken based on any financial conditions stated prior to marriage; otherwise, if the divorce is not demanded by the spouse, and if the divorce does not arise from any error on the part of woman, or any perversion, steps are taken as follows: If the spouse has performed the duties prescribed by religion or marital bond, and if this is proved to the court, the court shall calculate the payment for those duties and issues the decree for the payment.

Apart from what was stated earlier, the court determines a certain payment according to the period of the married life and according to the financial prowess of the husband.

[30.](#) Muhammad Taqi Ja'fari, *ibid*.

[31.](#) Articles 6 & 7 of the Cairo Declaration of Human Rights in Islam

[32.](#) Article 900 of Civil Law, "The precept of the two heirs is one quarter of the estate: 1. The husband in case of the demise of his spouse and having children 2. The spouse or the spouses in case of the demise of the husband without children."

[33.](#) Article 949 of the Civil law states, "In the absence of any heirs, other than the spouse or the spouses, the husband inherits the wealth of his deceased spouse; however, the spouse only inherits her own share and the rest of his wealth shall be considered wealth without heir and will be act upon as prescribed by article 866."

[34.](#) Article 946 of Civil Law, The husband inherits from all the wealth of the spouse but the spouse inherits from A) transmitted property B) Domicile and trees. Article 947 of the Civil Law states: "The spouse inherits from the price of the domicile and trees, not from their likes and the manner is such that the price of the domicile shall be calculated in terms of the current money."

[35.](#) Manuchihr Tabataba'i Mu'tamani, Azadiha-yi Umumi va Huquq-i Bashari (Collective Rights and Human Rights), Tehran University Press, Vol. 2, 1996, p. 161.

[36.](#) Articles 75 & 77 of the Labor Law of the Islamic Republic of Iran.

[37.](#) Articles 75-78, Labor Law, the law of propagating breastfeeding by mothers and the protection of women during breastfeeding.

[38.](#) Article 1117, Civil Law.

[39.](#) In article 18 the Law of Protection of Family, Approved 1974, women are given authority to complain to the court if her husband's profession is contradictory to family welfare or their dignity: and the court gives a positive response to this demand if it does not mar the family foundations. Although there is no harm in this law as viewed by some jurists, the acceptance of such a claim seems far-fetched.

[40.](#) 1951, Quoted from Majma al-Masa'il Istifta'at, Hazrat Ayatullah Sani'i

- [41.](#) As to the equality of wages of men and women for equal work in letter no. 100, the International Organization of Labor is considered as the basis and most of the countries have joined it but in practice this action has been less exercised.
- [42.](#) In two futurist documents of Nairobi and Peking, which have dealt with Elimination of all forms of Discrimination against women., have treated this issue in detail.
- [43.](#) Hasan Sadr, Huquq-i Zan dar al-Islam va Urupa (Women's Rights in Islam and Europe), Vol. 4, p. 178.

Source URL: <https://www.al-islam.org/fr/node/41030#comment-0>