



The Legal Status of Marriage with Non-Mahram Consanguineous Relatives: An Analysis from the Perspectives of Islamic Jurisprudence and Comparative Law

Seyyed Mohsen Ghaemi Kharagh¹ Sajjad Davarpanah Moghadam²

DOI:

10.30497/FLJ.2026.248575.2207



1. Introduction

Marriage is one of the most important social institutions that has been recognized in religious and legal systems throughout history. In contemporary human rights discourse, the right to marry is considered an important aspect of personal autonomy, allowing individuals to choose their spouses and establish families. However, this right is not unlimited and may be regulated where individual or social interests require legal intervention.

In Islamic law, marriage is regarded as a legitimate and valuable institution. Quranic verses and narrations emphasize the importance of marriage and family formation. Nevertheless, Islamic jurisprudence acknowledges that marriage may receive different legal classifications depending on the circumstances of individuals, including obligation, prohibition, recommendation, discouragement, or permissibility.

One of the debated issues in Islamic jurisprudence is marriage with non-mahram consanguineous relatives. Islamic law explicitly prohibits marriage with certain relatives, such as close

¹. (Corresponding author) Assistant Professor, Department of Human Rights and Environmental Law, Shahid Beheshti University, Tehran, Iran. sm_ghaemi@sbu.ac.ir

². Assistant Professor, Department of Jurisprudence and Fundamentals of Islamic Law, Hakim Sabzevari University, Sabzevar, Razavi Khorasan, Iran.

sajjad.davarpanah@mail.um.ac.ir

blood relatives, but does not generally prohibit marriage with all relatives. Despite this, some narrations have been interpreted as discouraging marriage between close relatives due to possible negative consequences for future generations.

Some jurists have relied on these narrations and considered such marriages undesirable. However, other scholars have questioned the validity of this approach, arguing that the relevant narrations do not possess sufficient evidentiary strength to limit the general principle of freedom and permissibility in marriage.

This issue has also been discussed in comparative legal systems. Different countries have adopted different approaches toward consanguineous marriages. Some legal systems prohibit marriage between certain relatives, while others allow such marriages but regulate them through specific legal or medical requirements. These differences demonstrate that legal policies in this area are influenced by various factors, including public health, cultural values, and ethical considerations.

Therefore, this study aims to analyze whether Islamic jurisprudential evidence supports the prohibition or discouragement of marriage with non-mahram consanguineous relatives and to examine how comparative legal systems address this issue.

2. Research Background

Previous studies have examined prohibited marriages and the jurisprudential foundations of marital restrictions. However, most of these studies have focused on relationships that are explicitly prohibited in Islamic law, such as marriage with mahram relatives, rather than marriage with non-mahram consanguineous relatives.

Some studies have investigated the medical consequences of consanguineous marriages, particularly the possibility of genetic disorders among offspring. Nevertheless, fewer studies have provided an integrated analysis combining Imami Shi'a jurisprudence, Sunni jurisprudential perspectives, and comparative legal approaches.

This research attempts to fill this gap by examining the authenticity and legal implication of the relevant narrations and analyzing their relationship with contemporary legal approaches.

3. Methodology

This research adopts a descriptive-analytical methodology. Data have been collected through library-based research involving classical and contemporary jurisprudential sources, hadith collections, legal texts, and comparative legal studies. The collected materials are analyzed through doctrinal and comparative legal methods in order to evaluate the validity of arguments concerning the legal status of consanguineous marriages.

4. Findings and Discussion

The examination of Islamic jurisprudential sources demonstrates that the fundamental principle concerning marriage is permissibility. Islamic law specifies certain categories of prohibited marriages; therefore, marriages outside these categories remain permissible unless a valid legal reason establishes a restriction.

The narrations cited as evidence for discouraging marriage with close relatives face significant challenges. From a textual perspective, many of these reports lack reliable chains of transmission or do not clearly indicate a binding legal ruling. Moreover, some statements appear to reflect social perceptions

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or customary beliefs rather than authoritative religious teachings.

Even assuming that consanguineous marriages may increase the possibility of certain genetic conditions, this issue cannot automatically lead to the prohibition of marriage itself. The existence of potential harm in reproduction differs from the legal validity of the marriage contract. Islamic jurisprudential principles require a clear and reliable basis before establishing a prohibition.

From the perspective of comparative law, restrictions on consanguineous marriage vary significantly. Some jurisdictions criminalize sexual relationships or marriage between specific relatives, while others merely refuse official recognition of certain unions. These approaches are generally based on considerations related to morality, social order, and public health rather than a universally accepted legal principle.

Accordingly, legal restrictions should be based on demonstrable harm rather than assumptions or general social concerns. Where scientific evidence establishes a serious risk, preventive policies may be justified; however, such circumstances do not necessarily invalidate the marriage itself.

5. Conclusion

This study concludes that the available jurisprudential evidence does not provide sufficient grounds for establishing a general prohibition or legal discouragement of marriage with non-mahram consanguineous relatives. The relevant narrations lack adequate authority to restrict the general principle of marital permissibility.

Therefore, under Islamic jurisprudence, marriage with non-mahram consanguineous relatives remains permissible as a

general rule. Nevertheless, in exceptional cases where reliable scientific evidence demonstrates a substantial risk of serious harm, preventive measures may be adopted based on recognized jurisprudential principles, including the prevention of harm. The comparative legal analysis also indicates that regulations concerning consanguineous marriages are context-dependent and shaped by medical, ethical, and social considerations. Consequently, any restriction should be based on clear evidence and proportionality rather than generalized assumptions.

6. Keywords

Islamic jurisprudence; Imami Shi'a law; marriage; consanguinity; family law; comparative legal studies.