



Jurisprudential and Legal Implications of Disability on the Non-Financial Rights and Duties of Spouses in Imamiyyah Jurisprudence and Iranian Law

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Introduction

Preserving and strengthening the family institution, as the most fundamental pillar of Islamic society, requires a precise understanding of the mutual rights and duties of spouses. Based on the natural and inherent differences between men and women, the Islamic legal system has prescribed a set of financial and non-financial rights for each spouse, founded upon the principles of justice and human dignity. Within this framework, the disability of one spouse, whether prior to or after marriage, can generate significant consequences and effects on family relations, giving rise to novel jurisprudential and legal questions. The primary problem of this research is to investigate and analyze the jurisprudential and legal effects of disability on the non-financial rights and duties of spouses, including duties such as obedience (tamkin), good companionship (husn-i mu'asharat), guardianship (qawamah), headship of the family, and the right to rescind the marriage (faskh-i nikah). The central question is: if one of the spouses is afflicted with a physical, intellectual, or mental disability, what impact does it have on their mutual rights, duties, and non-financial relations under Imami jurisprudence and the Iranian legal system? The objective of the research is to elucidate the status of disability within the structure of family law and to present a model for reinterpreting jurisprudential rules in the light of the principle of human dignity and the rule of no-hardship (la haraj), thereby laying the groundwork for reforming and complementing protective laws for spouses with disabilities.

Literature Review

Prior studies have predominantly focused on “defects justifying the rescission of marriage” and the right to divorce (Alavi Qazvini, 2005; Moradi, 2013). Additionally, some research has examined good companionship and the interest of the family (Mousavi Bojnourdi et al., 2017), the reparation of moral damages (Mazaheri & Mohajeri, 2013), and the limits of the husband's headship (Parvin & Hosseini, 2013; Mardian et al., 2022). Alongside these, there are works concerning the marriage of persons with disabilities (Naseri & Khazaei, 2013) and comparing women's rights with international instruments (Abbasi & Ramezani, 2021). However, most of these studies have adopted a defect-

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centered (‘ayb-angāraheh) perspective toward disability, rarely addressing the non-financial dimensions of marital relations, such as the right to dignity, independent decision-making, privacy, and participation in family decisions. Employing a novel approach, this study examines disability not merely as a defect, but as a social and human reality that necessitates a contemporary jurisprudential interpretation.

Methodology

The method of this research is descriptive-analytical and comparative. The data were collected through library research, jurisprudential sources (such as Tahrir al-Wasilah, Jawahir al-Kalam, and al-Makasib), and the civil laws of Iran. In the first stage, the concepts and theoretical foundations of disability and family law in Imami jurisprudence were explained. In the second stage, the effects and consequences of disability on the non-financial rights of spouses were examined, and in the third stage, the jurisprudential findings were compared with the statutory laws of Iran and international instruments, including the Convention on the Rights of Persons with Disabilities (CRPD). The research hypothesis is grounded in the assumption that Imami jurisprudence, notwithstanding its traditional foundations, possesses flexible capacities for reinterpreting spousal rights in light of the principles of “no harm” (la darar), “no hardship” (la haraj), and “human dignity,” and can serve as a basis for reforming the Civil Code in the field of disability.

Research Findings:

The Law on the Protection of the Rights of Persons with Disabilities (2018) defines disability as a persistent impairment in physical, intellectual, or mental health that diminishes an individual’s social and economic independence. In Imami jurisprudence, disability has been examined in three dimensions—physical, intellectual, and mental—and is analyzed under the rubric of defects warranting the rescission of marriage. The research findings indicate that:

- The disability of the husband, in addition to potentially creating a right of rescission for the wife, also affects qiwamah and family guardianship. If the husband is unable to provide maintenance or manage the household, this right may be restricted or temporarily suspended.
- The disability of the wife, in cases where obedience (tamkin) entails hardship or harm, results in the lapse of the duty of obedience. In light of the rule of no hardship, Imami jurisprudence regards obedience as contingent upon the woman’s physical and mental capacity.
- In both cases, the right to good companionship and the observance of mutual respect remain intact, and disability cannot justify neglect or mistreatment by the other party.
- With regard to the rescission of marriage in the case of unspecified defects, contemporary jurists, relying on qiyas al-awlawiyyah (a fortiori reasoning), have considered the ruling on rescission extendable to more severe disabilities.
- In the sphere of modern non-financial rights, such as the right to procreation, independent decision-making, and participation in family affairs, Imami jurisprudence has the capacity to conform to human rights principles, provided that time-sensitive ijtihad and consideration of the interests of the family are observed.



Conclusion

Based on the findings, Imami jurisprudence and the Iranian legal system face challenges in recognizing and protecting the non-financial rights of spouses with disabilities. Many traditional rulings are not fully compatible with contemporary conditions and the requirements of the international Convention on the Rights of Persons with Disabilities.

Accordingly, it is necessary to formulate a "Comprehensive Law on the Protection of the Non-financial Rights of Spouses with Disabilities" so that, while preserving jurisprudential foundations, it may explicitly address such rights as dignity, privacy, the right to decision-making, the right to parenthood, and the right to reciprocal obedience based on physical and mental capacity.

It is also necessary to undertake deeper jurisprudential-legal research concerning the effects of emerging disabilities (such as autism spectrum disorders, rare genetic diseases, and chronic psychosomatic injuries), so that Imami jurisprudence, through dynamic *ijtihad*, may respond to the needs of the modern age in the field of family law. It is recommended that jurisprudential and legislative centers, drawing upon contemporary jurisprudential theories and the foundations of gender justice, redesign the family law system in order to support the dignity and equality of spouses with disabilities.

Keywords: Non-financial rights and duties of spouses, spousal disability, Imami jurisprudence, Iranian law, family law, marriage of persons with disabilities