

# The Rights and Duties of Spouses in Viewpoint of Koran and Jurisprudence

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## Abstract

Have a family and tendency to Marriage is one of the most important religious and legal Principles of Islam – that there has been in previous religions. Marriage and having a safe and healthy marital relation is a natural affair. The rights of spouses are special for the man or the woman or both of them. If spouses review verses of Holy Koran and other traditions accurately before marrying, they will know the rights of the other one and their own duties, so the structure of this holy foundation will not weaken. Therefore, the most important factor that separates young spouses in their marital life is lack of recognition and enough knowledge about the rights of each other. A man and woman have no right against each other before marry but after marriage, they have to regard the rights of each other in their family and home. So making a marital relation that begins with demand and accept, some rights will be necessary for both spouses.

In this paper, we point at the most important rights and duties of husband including financial and nonfinancial rights which should be regarded by his wife and reciprocally.

**Keywords:** Husband, Wife, Alimony, Rights, Marriage

## 1- Introduction:

Family is the first and the most important social foundation in which humankind steps and learns the meaning of cooperation, philanthropy and generosity. In that manner establishment of a society is a natural requirement for human and his nature to provide his prosperity, the family is also created in order to satisfy human needs and instincts.

Family is a social unit aiming to provide mental health for all members. Islam considers the rights for all family members and these rights are in front of the duties of them against each other. A right is a privilege and is a merit too which according to Holy Koran, tradition or law is considered for people. Any person enjoys some rights based on the situation in which he is located. It means that if he is in the society, he will enjoy a series of rights and if he in at home or in the school, he will enjoy special rights for those places.

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As the subject of this paper is related to marital life, knowing marital rights will prosper the relation between spouses. Family is the foundation of society and the structure of society is established on families. More stable foundations will strengthen the structure.

This situation will be provided by recognizing the rights and also duties of each other.

## **2- Conceptualization:**

### **2-1- Rights:**

Right means collation, equality, coordination and honesty; such as a door which moves over its pivot firmly and correctly (Esfahani, 1991).

Rights is the plural form of "right" and can be referred to anti-evil, a certain affair, justice, properties, wealth and permanent creature (Al-Shartooni, 1991).

### **2-2- Jurisprudence:**

Jurisprudence is a collection of Islamic religious principles and rules to make a relation between Muslims with their great God and also with their society. In the culture of Koran, jurisprudence means insight and intelligence and also accurate understanding (Toosi, 2008).

### **2-3- Spouses:**

"Spouses" refers to husband and wife and also means "type and species" (Qomi, 2006). Ragheb writes in "*Mofradat*" (solitaries): Spouses refers to both husband and wife. "*Zoujeh*" (female form of *Zouj* which means husband) should not refer basically to "wife" According to holy verse:

«هو الذي خلقكم من نفس واحدة وجعل منها زوجها» (He is who that created all of you from one human and created also his wife from his type) (Holy Koran), the word "*Zoujoha*" (his spouse) does not refer to Eve, rather the verse says that the origin of all people is a couple that none of which is superior than the other from human viewpoint of nature.

### **2-4- Disobedience:**

"*Nashooz*" (disobedience) means "height" "نشز الرجل". (Ibn-Manzoor, 1993) means: While sitting, the man stood up. This meaning is referred too in Holy Koran. This word is also referred to explain disobedience of men and women from their duties against each other (Holy Koran). This idiom is used when the man or woman refuses his or her duties.

### **2-5- Financial rights:**

"Financial rights" is an advantage that is donated by the law of each country to provide financial requirements of people (Khosroshahi, 2006).

### **2-6- Non-financial rights:**

The target of these rights is to remove sympathetic and moral requirements (Khosroshahi, 2006). The subject of non-financial rights is non-financial relations between the members of society that has no business value and cannot be evaluated directly as finance (Emami, 1996).

**3- Rights of husband:****3-1- Financial rights of Husband:****3-1-1- Inheritance**

Inheritance means survival and remainder of something. "Inheritor" ( وارث ) is one of the names of God that means "constant".

Among the far periods of history during which humankind started his social life by organizing families and recognized personal ownership, inheritance has been a subject to define destination of properties after the death of human. The relation between spouses is a casual relation and spouses become a family after marriage (Emami, 1996). This casual relation is an interest between two people that is caused by marriage, so a husband and wife will be partner in their properties. Inheritance is a financial aspect that is considered as a right. Inheritance is also interpreted as patrimony of the dead which is rooted in verses of Koran: " ولکم نصف ما ترک ازواجکم (Holy Koran).

So, patrimony is the part of heritage of the dead which remains after lessening debts, wills, identical rights and expenses of shrouding and burial. So it will be synonym with heritage (Ibn-Abedin, 1993).

Holy Koran says: "For men there is a share in properties of their fathers and mothers and other relatives and for women there is also a share in properties of their fathers and mothers and other relatives, weather less or much, this share is defined and should be paid" (Holy Koran). In this verse, "women" does not refer to "men" although it should be. But Koran orders for women in a separate sentence to indicate independency of women to inherit just like the men (Al-Showkani, 1964).

Islam defines the principles of inheritance on three bases:

- A) Coordination of principles of inheritance with natural interest to properties, children and relatives.
- B) Distribution of wealth and decentralization.
- C) Righteously distribution based on requirements.

**3-1-1-1- Inheritance share for husband:**

Holy Koran has described inheritance share of husband and its terms in details. The amount of inheritance share of husband is various if he has a curtain inheritor or not. "curtain inheritor" is the inheritor who is deprived of inheritance, little or much, because of a another inheritor. The inheritor who is the reason of this situation is called "*Hajeb*" (curtain inheritor = حاجب). For example, children are *hajeb*s who decrease inheritance share of their father from maximum to minimum level. So if a couple has not a child, husband inherits half of properties of wife and if they have children, husband inherits a quarter of properties of his wife. Holy Koran announces husbands and says: "and you inherit half of properties of your wives and if you have children, so you inherit a quarter of her properties after providing the will of your wives and their debts" (Holy Koran).

Those whose inheritance share is defined in Holy Koran are called "presumed ones" (*Farz-Bar*= بر فرض). *Farz* means "to measure" and the share of each inheritor is a sample of *Farz* (Jafari Langeroodi, 1993). Those whose inheritance share is defined are called: presumed ones (*Farz-Bar*).

About inheritance share of husband from his wife, three types are conceived in alimony which are described here:

First type: The inheritors are both husband and children of wife.

Second type: the inheritor is the husband and there is no other first grade relative but as second grade relatives, there are grandmother, grandfather, uncle, ...

Third type: The dead has only her husband as inheritor.

*Saheb-Jawaher* describes these three types and defines inheritance share as following: In first type, the share of husband is one fourth. In second type the share of husband is the half. In third type, if husband is the only inheritor and there is no other casual relative or relative-in-law instead of Imam, the share of properties will be inherited by her husband and the other half will return to husband too (Najafi, 1981).

Imam Khomeini in *Tahrir al-Vasileh* describes these three types too and agrees with *Saheb-Jawaher* (Khomeini, 1964).

It should be considered that according to verses of Koran and subjective principles about distribution of inheritance after performance of her will and payment of her debts, such these wills and debts include:

1- The price of the wrapping sheet to cover body of the dead that is included in responsibilities of inheritors such as mortgage.

2- Debts and financial obligations of the dead.

3- Will of the dead up to one third of inheritance without the permission of inheritors. More than one third should be according to permission of inheritors.

These rights should be provided in an assigned order and the rest should be divided if there is any (Kamalan, 2009). It should be mentioned that if inheritors trade with inheritance, these trades will not be correct and lawful if the debts of the dead are not paid and creditors can nullify the trades (Kamalan, 2009).

3-1-2- Receipt of ransom in *Khol'a* Divorce (divorce granted at a woman's request against Compensation = خلع)

As men are empowered to make a divorce, there is another kind of divorce in which the wife can request for divorce because of severe aversion against her husband. This kind is called "*Khol'a* Divorce". To use *Khol'a* divorce, the wife – in addition to sever aversion – should pay a property to her husband to satisfy him for divorce (Najafi, 1981).

Some believe that *Khol'a* Divorce in jurisprudence is dissolution of marriage but most of them believe that it is a kind of divorce (Qomi, 1992). Divorce has two types: 1- revocable divorce, in which the man is allowed to return 2- irrevocable divorce, in which husband is not allowed to return at all. Irrevocable divorce has various types, one of which is *Khol'a* divorce. "*Khol'a*" (= خلع) means to excavate and to depose. Holy Koran says: "فاخلع نعليك = take out your shoes" (Holy Koran). *Khol'a* divorce refers to the situation in which the woman intends to separate from her husband. In this kind of divorce, woman pays a property to her husband against her aversion to take her divorce (Ibn-Manzoor, 1993). This property may be equal with her dowry, less than dowry or more than it (Kamalan, 2009). In *Khol'a* divorce, the husband is called *Khale* (خالع) and the wife is called *Mokhtale* (مختلعه) (Najafi, 1981).

In such a divorce, woman cannot continue her marriage life and hates her husband. Such this hating is not enough for divorce but is a required element (Bahrani, 1985). Ransom is a property which the wife pays to her husband to make him satisfied for divorce. It also is referred to the property which a captive pays to be released. This kind of property is among spoils of war. This property is a right for husband; unless he refuses to receive it (Jafari Langeroodi, 1993).

There is no limitation to define the amount of ransom in *Khol'a* divorce. So in *Khol'a* divorce something should be paid but it is not a provision to make a divorce. If after *Khol'a* divorce,

the wife refers to property that she has paid to her husband, the *Khol'a* divorce will be revocable divorce not irrevocable (Kamalan, 2009).

### **3-1-3- Financial condition for marriage:**

Couple can define some conditions while marrying. Such conditions during marriage are joint rights between couple. It means that couple is allowed to use this right. Financial conditions can be defined by husband while marrying his wife. The husband can profit him or his wife in such these conditions.

So, one of the rights and financial conditions of husband while marrying his wife is to define that dowry is payable by husband only if the husband is capable to pay. It means that husband makes this condition that he will pay dowry to his wife only if he has financial capability, although dowry is payable on demand. As definition of dowry in permanent marriage occurs while couple enter into marriage, such this condition is financial and is not against the nature of marriage and does not harm the relationship between spouses . As above-mentioned method in capability of husband to pay dowry, it is possible to make the condition while marrying that dowry should be paid to wife on demand (Kamalan, 2009).

While marrying, husband can agree and make the condition that working of wife during their married life will be voluntary. In other words, any financial condition between husband and wife is the reason to prevent the wife to demand for her wage against working at home, either such this condition is in married period or out of married period (Hedayat Nia ,2006). Sometimes husband makes a condition to bisection his properties by his wife if he marries for second time (Katoozian, 1992). These conditions are predicted due to financial independency of husband and agreement of couple. As these conditions have financial loads, husband is lawful to mention them after agreement with his wife or disregard them.

### **3-1-3-1- The Principle of Free Agreements:**

1- According to verses, taking possession of properties of others through unlawful ways is prohibited. Trading along with agreement is exempted from this rule. So, if the trade is registered by agreement of parties, it will be a correct and lawful trade.

2- According to verse 1 from *Maedeh Surah*, Muslims are ordered to be loyal to their agreements. As these agreements include any form such as purchase, rent, marriage, etc, so any kind of reasonable trade which enjoys basic conditions of a true agreement, is the subject of this verse and should be performed.

3- According to the famous tradition of Holy Prophet of Islam who said that people are authorized over their own properties, everybody is lawful to possess his own properties in any desirable way.

4- According to this tradition: "Muslims are loyal to their conditions", so Muslims should regard their conditions and commitments. If they conclude an agreement, they will not be authorized to nullify it with no particular reason or without agreement of second party (Horr Ameli, 1983).

### **3-2- Non-financial Rights:**

#### **3-2-1- Divorce:**

In Islam, husband is lawful to divorce his wife and according to law, a man is authorized to divorce his wife whenever he wants (Kamalan, 2009). There are many verses in which divorce is a right for men and there is not even one item to let women make divorce. Divorce is special for permanent marriage (Kamalan, 2009) and in temporary marriage there is no divorce. In

temporary marriage, the woman will not be the wife of a man if her marriage contract is expired or is granted by her husband. In religious idioms, divorce is “to remove marriage with a specific agreement” (Najafi, 1981). Divorce, in fact, dissolves marriage. Islam always prohibits Muslims to divorce and believes that the effects of divorce are destroying. In a tradition of Holy Prophet of Islam we read: “No action is more hated near God than the destruction of a family by divorce” (Horr Ameli, 1983).

In order to reduce the rate of divorce, although Islam lets men to divorce their wives, but it leaves the heavy responsibilities to make their living and payment of dowry for men and prevents illogical and shallow divorces. It is also possible for women to make condition about divorce while marrying their husbands or deprive them from this right (Khamenei, 1996).

### 3-2-2- Right to Revoke

“Revoke” means to return and to dispense and idiomatically means the man who divorces his wife (Ibn-Manzoor, 1993), is rightful to revoke to her again, either he returns or not (Horr Ameli, 1983). The right to refer exists in revocable divorce and means that the husband, during period of *eddeh* (period during which a divorced woman may not be married with another man) and without remarriage can return to his wife and live with her again because during this period the woman is the wife of man (Qomi, 1992). Revoke in the law is a legal unilateral measure and is, in fact, a cadence which is done by words or by action (Kamalan, 2009). In Islam any revoke in order to injure a woman is forbidden. According to verses of Holy Koran, revoke should be with good intention. In revocable divorce, if husband intends to return, he should revoke during *eddeh* period (Kamalan, 2009). Right to revoke will be offered to a man after divorce. According to explicit words of Holy Koran: “Their wives will be more worthy to revoke and start marrying life again, if they (men) really intend to reform” (Holy Koran).

Revoke during *eddeh* does not require remarriage or any official stages such as acceptance and recording marriage or presence of notary or clergy. But if a couple decides to revoke after expiration of *eddeh*, they should marry again. Holy Koran in such this case believes that the husband is more worthy to revoke and advises the others strictly not to interfere in their life. Jurisprudents believe that the reality of revoke is to return to marriage which is a new affair. Any new affair requires a reason which here is forgery of legislator (Al-Soyuri, 1984).

In revocable divorce, the right to revoke is saved for husband and he is more worthy to return. So the intention of husband should be real with good intention to continue their life together.

### 3-2-3- Remarriage:

One of the admirable customs in Islam is “polygamy” that roots out many of the social corruptions. In other words, those men who have enough financial and other properties and are able to behave righteously between their wives, may not let some women remain single in an Islamic society. Not only Holy Koran and traditions refer to this subject, but also it is one of the certain religious affairs. The Exalted God lets men in Holy Koran to have four permanent wives (Makarem Shirazi, 1987).

Although this verse announces supervisors of orphans and orders them either to marry with orphan girls and regard justice or ignore them and select their wives among other women, but the verse addresses all Muslims and told them to ignore orphan girls to marry to avoid oppress them and marry with those women whose social and family situation does not let you oppress. You are allowed to take two, three or four wives (Makarem Shirazi, 1987).

Despite explicit words of Koran, jurists also believe that marrying with four women at a time is right, but those who have four permanent wives are not authorized to marry the fifth woman, unless one of four wives dies or divorces and her *eddeh* period ends. A man can have four permanent wives at a time and many temporary wives.

*Saheb-Jawaher* describes the story of a tribe in *Zeidieh* who believed that nine permanent wives are legal and says: "According to necessity of religion or reunion of jurists, marrying with more than four women permanently is not allowed if all of them were alive and in marriage (Najafi, 1981). *Sahiheh Zarrareh* and *Mohammad Ibn Moslem* quoted from *Imam Sadeh* (P.B.U.H) that: "If a man divorces one of his four permanent wives, he will not be allowed to marry the fifth wife unless the *eddeh* period of divorced wife is over" (Jahangiri, 2009).

### **3-2-4- Guardianship (management of family):**

Being created through the relationship between couple as a small society, a family requires manager and guardian to manage its affairs. In Islam, the man is manager of family. Holy Koran says: "Men are guardian of women due to superiorities of some bodies over the others (in social discipline) and also due to sustaining some part of their properties to women" (Holy Koran).

*Allameh Tabatabaei* interprets this verse and says: "Woman is independent to manage her personal affairs and if she does any good or bad deed which she desires, the man will not be allowed to object her. The meaning of guardianship is not that a woman has no right to perform her personal affairs and cannot resort her rights to achieve her independency.

This verse, in fact, defines the situation of men in human life and marital life against their wives, not the authority of men over the women and does not prove dependency of women" (Tabatabaei, 1984).

### **3-2-4-1- Necessitation to assign a head for family**

The governorship of an authority over a society is required to establish order and discipline there. Families are not exempted from this rule and assignment of a head is necessary to guarantee continuation of family. Personal rights say that equality of man and woman is more righteous and it may be claimed that a family should be managed jointly with husband and wife, and the discipline of family is based on coordination of man and woman. But social life in any group requires its special necessities to remove them, personal freedoms should be limited.

Some jurists pay attention to authority of father over his children and say: "If hard diseases prevent a man to provide his family financially, his guardianship and authority will be disappear" (Al-Karaki, 1988).

So the purpose of guardianship of husband is that total decisions should be taken by husband due to regarding advantages of family. This authority is granted to the man for interest and advantage of family.

### **3-2-5- Obedience:**

Obedience means authority and empowerment (Mostafavi, 1981). In Holy Koran is said: "We placed them on the earth and made them the owners of earth".

The *Saheb-Jawaher* believes that obedience is sexual method between husband and wife and lack of disobedience is ascertained through this principle. It includes any time and place in which enjoyment is *Halal* (legitimate) (Najafi, 1981).

In Islamic description of “obedience” it is called that: Obedience of wife from her husband (Soyuti, 1991). Jurisprudents say: “The obedience of wife means that she leaves herself free for her husband everywhere and every time, except for forbidden situations such as menstruation, Hajj or disease. So the subject follows time, place and family customs” (Jafari Langeroodi, 1993). Obedience of wife is an effect of management of husband (Qomi, 1992). Disobedience is anti-obedience that means lack of obedience, either in enjoyment or in other situations such as working in a position which is inconsistent with family prestige of man (Kamalan, 2009).

### 3-2-5-1- Types of Obedience:

Obedience has two various types: particular obedience and general obedience.

Particular obedience means that wife has an ordinary sexual relation with her husband, unless when she has a reasonable prevention. Particular obedience is not special for woman and husband should have regular sexual relationship with his wife to remove sexual needs of his wife. Particular obedience is emphasized too much in Islam and it is said that by Holy Prophet of Islam: “Do not prolong your praying, not to prevent your husband from pleasure” (Koleini, 1981).

According to description of obedience and disobedience, followings are not disobedience and the wife is not disobedient:

- 1- Having anus sexual relation
- 2- Taking a trip with permission of husband

General obedience means that woman performs her duties against her husband according to the law and common principles and accepts management of husband (Safaei, 2001).

Unfortunately some religious books and some jurisprudents have not paid any attention to sexual pleasure of woman and believe that marriage is only sexual pleasure of man and describe sexual pleasure as a unilateral enjoyment. It is quoted from *Hanaffieh* that women have the right of sexual pleasure only for one time in their lives and if the men reject them, women are not lawful to object (alJaziri, 1989).

Although *Malekiah* believes that marriage is a contract to make the man pleasant sexually, but he deems it necessary for man to provide sexual pleasure for woman unless there is an excuse. Nowadays family is seen in different forms which each one is considered as a social cultural system. Inside such a system, individuals are tied with each other by strong, mutual and durable

affective links. Entering into this organized system is accomplished through birth or marriage (Keikhah 2011).

The common advice among Shiites says that it is not permissible for husband to leave sexual relation with his wife for more than four months. In fact, those who accept this idea, also believe that sexual pleasure is specific for men and the right of women is too little, although they believe that provision of requirements of women is also recommended (Tabarsi, 1987).

*Shahid Sani* in *Masalekol-Afham* believes that all jurisprudents are common in this opinion. In other religious books such as *Sharh al-Lom'e*, *Kashf al-Lesm* and *Javaher al-Kalam*, this opinion is attributed to most of the jurisprudents. Between Islam and the Law Between citizenship and civil rights of any other spiritual tradition established relationship breakdown is inevitable (Abdolrahimi, 2012).

In religious books, obedience is one of the duties of women and nothing is said about obedience of men. Having sexual relation with wife, is one of the rights of husband and wife

may not prevent her husband to enjoy, unless there is a religious or reasonable excuse. The problems which prevent a woman to have sexual relation are as following:

- 1- In Ramadan while the woman fasts.
- 2- In Hajj while the woman worships God.
- 3- While the woman is in menses or childbirth. In opinion of jurisprudents, since the first part of body of child is being given birth, every blood will be blood of childbirth if it is not stop after ten days. In this situation, woman is called "*Nafsa*" (Khomeini, 2006).

### 3-2-6- Sociability:

Sociability is one of the important affairs to which people require either in society or in family. It is interpreted too as emotional and moral need. Sociability is a general concept which includes various and undefined meanings. Of course such these subjects can not be described in specific frames and no exclusive meanings can be defined for them, because such these subjects depend on time and place custom. So, the possibility to coordinate the meaning of such these concepts with situation of time and place should be provided (Davar, 2001).

Holy Koran introduces sociability as a right for women and obliges men to have good behavior with their wives (Holy Koran). It should be mentioned that husband should be sociable to support bases of family because a man and woman conclude a wedding contract intentionally to reach such these targets. Establishing a family is not enough and good behavior of couple is required to provide peace and tranquility for higher purposes such as training gentle children and duration of family. This good behavior is called sociability. If we suppose that the verse of sociability is specialized only for women, they will have no responsibility against their husbands to have good behavior and women can refer to this verse and have bad behavior. Followings may be mentioned among evidences of sociability: sexual relation, obedience, trustworthiness, confidence, good behavior, cooperation, attention to each other, respecting each other, consultation, kindness, living together, (Katoozian, 1992). Leaving family, inattention to spouse and his or her demands are some items of bad behavior.

In Islamic traditions, sociability is a reason to increase life length. *Imam Sadegh* (P.B.U.H) says: " و من حسن بره باهله زاد الله في عمره " that means: "Who behaves with his or her family in a good manner, God will increase his or her life" (Majlesi, 1983). The parameters of sociability cannot be defined accurately but any action which is considered an insult from social viewpoint is a parameter of bad behavior such as cursing, beating, quarreling, abasement and etc (Katoozian, 1992).

The word of "*Maroof*" ( معروف = good or lawful) means a well known, reasonable and good action and is repeated 12 times in Holy Koran and this series of verses to warn men and women not to abuse their rights and instead, respect each other to strengthen their family and to satisfy God.

*Imam Ali* (P.B.U.H) recommended his children in his will at the end of his life to have "sociability". In a tradition by *Imam Mohammad Bagher* (P.B.U.H) is said: "While passing away, Imam Ali (P.B.U.H) called his children and recommended: "My dear sons and children, live and behave with people in a manner that they eager toward you when you are not among them and cry for you when you die (Majlesi, 1983). This valuable tradition says that Imam Ali expresses the necessity of sociability. The word " الناس " (people) refers to general society, so how, in such an environment, does not the man of family need sociability? It should be mentioned that the man along with his wife requires sociability in his home and family.

*Imam Mohammad Bagher* (P.B.U.H) said: "Obviously the Great God necessitates Jihad (holy war), but jihad of men is to fight in the way of God to defend their land and religion and jihad of women is to tolerate difficulties of life" (Tabarsi, 1972).

### **3-2-8- Fostering:**

Fostering means to embrace a child by mother and idiomatically means to support and train a child physically and mentally (Maloof, 1973). Mother and father are called fosterers. Idiomatic meaning of fostering is "to foster, to support and to train a child" (Helli, 1993). This word is not referred in Holy Koran, instead, Koran uses "guardianship" and "authority". In the story of Mary, her guardianship is left to Zachariah, the Prophet.

As father and mother live together in a family, donation of fostering right to father will make no problem. Necessarily, fostering of child in two first years of life is by both father and mother. After divorce, if father fosters his child, there will be this probability of separation between the child and mother, and the child may live with third parties such as grandmother, aunt or stepmother. In many cases the child will be deprived from both father and mother. Such this situation is a sedition and lawmakers intend to prevent it, so they leave fostering right to mother after divorce. This reasonable differences cannot be ignored and different commands between these two situations are common (Mazrooei, 2008).

It is common among jurists that fostering of children is by mother up to two years of age. If the child is a boy, father will foster him after two years of age and if the child is a girl, mother will foster her up to seven years old. After seven year of old, the girl will be fostered by her father. *Ibn-Hasin* quotes from *Imam Sadegh* (P.B.U.H) that: "While the child is infant, fostering right is equal between father and mother. After weaning, father is superior for fostering" (Horr Ameli, 1983).

Followings are some quotations of some contemporary jurists about fostering right:

1- Ayatollah *Khoei* believes that mother is rightful to foster her child up to two years old of the child although the child is a girl. But it is better for mother to foster the child up to seven years old of the child although the child is a boy (Khoei, 1990).

2- Ayatollah *Bahjat* believes that mother should foster the child up to two years old of the child. Fostering of the child is joint between father and mother up to seven years of age of the child. But according to recommended precautions, father fosters the boy child and mother fosters the girl child between two and seven years of the age of the child. After seven years old, only father will foster the child, either boy or girl (Bani Hashemi 1998).

### **4- Conclusion:**

It can be concluded in this paper that the rights of couple is divided into financial and nonfinancial rights. Financial rights of couple include inheritance, taking ransom in *Khol'a* divorce and financial conditions while marrying. Holy Koran believes in inheritance share of man to be two times more than woman and says that its amount is various according to existence or non-existence of *Hajeb*. If wife has no other inheritor except for her husband, her husband will possess the entire inheritance. In *Khol'a* divorce, the condition is the hard hating of woman from her spouse and payment of some property to him. In such this divorce, wife hates to continue her life with her husband.

There are some non-financial rights for spouses. Some specific rights for men are: the right of divorce, the right of revoke, right of remarriage, guardianship, obedience, sociability and fostering. It can be understand through the verses of Holy Koran that the right of divorce has been always for men and the right of revoke is provided for men in revocable divorce and

husband is more suitable than other men to make a new life with his divorced wife. During the period of *Eddeh*, woman is the spouse of her man and if husband seriously intends to revoke, he should try to revoke before the period of *Eddeh* is over. In such this case there will not be required to marry again.

Remarriage has its specific conditions. One of the important conditions is to justly and equitably behavior of man with his wives. A man can marry with four women at a time but if somebody is not able to behave with his wives justly, he is not rightful to marry again.

The right of guardianship is, in fact, the management of home. Such as other institutions, families require a manager to develop their targets. Husband is not authorized to use this right for autocracy.

Wife should obey her husband in sexual affairs, unless she is a disobedient woman. Holy Koran advises three steps to impress a disobedient woman: to advise, to leave and to beat.

Sociability is advised in Holy Koran to women, but according to traditions, sociability is for men too.

In fostering, while the child is an infant, mother and father are equally guardians of the child. After this period, the interests of child should be regarded to define foster.

#### 5- Suggestions and Solutions:

- a. Having enough and reasonable distance between ages of husband and wife to have appropriate understanding from the rights of each other.
- b. Regarding coordination between validity and nobility of families to accept the rights of each other.
- c. Familiarity of man and woman before getting married under Islamic circumstances.
- d. Although divorce is a specific right for men, but they should understand destructive effects of divorce.
- e. Making familiar young people with matrimony affairs through mass media.
- f. Trying to remove appropriate age for marriage for men.
- g. Publishing and distributing suitable books about: the rights of spouse, the rights of children, sexual affairs, etc.
- h. Researching about rights of couple.

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