

The Function of the Family and the Purposes of Sharia Law

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Abstract

This research paper discusses the function of the family as defined by Islamic law, and the relationship of the family function to the purposes of Islamic law, and the functions of the family are represented in several tasks, including; the reproductive function of the family and qualitative reproduction; in order to build the universe and achieve succession on earth as mentioned in the Holy Qur'an, then comes the moral function of the family through legal marriage with full pillars and conditions, and then the educational and social function of the family, which is through raising children and maintaining them in order to build an independent safe for them.

These functions are related to the purposes of the general Islamic law, including the preservation of offspring, which is through legal marriage, which achieves the full function of the family of preserving offspring and the survival of the human species, the architecture of the universe and the stability of life in society through the application of the purposes of Islamic law in the function of the full family.

Keywords: Function, Family, Maqasid, Sharia

Introduction

Praise be to Allah, Lord of the Worlds, and the consequence for the pious, and prayers and peace be upon the Holy Prophet, I testify that there is no god to Allah alone who has no partner, and I testify that Muhammad is his servant and messenger, may God's prayers and

blessings be upon him and his family and companions, and peace be upon him a lot, and then after.

The family is the first building block of human society, and that is why Islam has paid unparalleled attention to the family, from the first moment by thinking about choosing the ideal partner to build the family, at the stage of engagement and preludes to marriage, and then the stage of real construction through the legal contract, which is the legal charter, which the Holy Qur'an described as a heavy charter, the Almighty said

(وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَىٰ بَعْضُكُمْ إِلَىٰ بَعْضٍ وَأَخَذْنَ مِنْكُمْ مِيثَاقًا غَلِيظًا) [An-Nisa: 21],

Islamic law has set the purposes of building the family for the human community to carry out its legitimate duties, foremost of which is building the earth and worshipping God Almighty, and in this research paper we try to shed light on the purposes of building the family in Islamic law.

Search Problem

The problem of research lies in showing the purposes of building Islamic law, foremost of which is reproduction, reproduction and architecture of the universe, and this will only be achieved through legal marriage, in which each of the parties knows the rights and duties entrusted to it, which achieves stability within the family, which is the first building block in building an integrated human society.

Research Questions

The research problem results in several questions that we try to answer through this study, the most important of which are:

- What is meant by the function of the legitimate family?
- What is the relationship between the function of the family and the general purposes of Islamic law?
- What is the relationship between the purpose of preserving offspring and the function of the family from a legal perspective?
- What is the impact of achieving the function of the family on the stability of society?

Research Objectives: Researchers aim to achieve a set of objectives, including:

- Show the importance of family formation in building society.
- Showing the function of the family and its impact on the architecture of the universe
- Explanation of the relationship between the purposes of Islamic law and the function of the family
- Emphasizing the comprehensiveness of Islamic law in building society

Research Methodology

The research relies on the comparative approach and the inductive approach to study the position of Islamic law on building the family and the function entrusted to it.

Research Plan: This research includes an introduction, two requirements and a conclusion.

First Requirement

The function of the family in Islam

The function of the family in Islam consists of three axes subordinate to the purposes of Islamic law of the formation of the family and we can explain this function in the following three axes:

First: the reproductive function of the family and qualitative reproduction: The ultimate purpose in Sharia and when the people of thought and consideration of marriage is reproduction and preservation of the human species, shows that the argument of Islam Imam Al-Ghazali by saying: "The child is the origin, and has the status of marriage, and intended to keep the offspring and not devoid of the world of the human race, but lust created a motive stimulated and soothing in the context to the child and the divine ability is not limited to the invention of people starting without tillage or marriage, but wisdom required the order of the causes on The reasons for dispensing with them are a demonstration of ability and a fulfillment of the wonders of workmanship" (al-Ghazali 2/40), and in the hadith of the Messenger of Allah (peace and blessings of Allaah be upon him): "Marry the friendly and the loyal, for I will multiply with you the nations" (Abu Dawwad: 3091), al-Haafiz Ibn Hajar says: "It indicates that what happens is what is meant by the encouragement to marry in the first place, but in the right of the one from whom the offspring comes as mentioned above, by Allah" (Ibn Hajar 9/111).

Moreover, when Allah Almighty created man, He made the purpose of His creation to be His Caliph on earth, as the Almighty said:

(وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً) [Al-Baqarah: 30], and it is true that he is the Caliph of Allah in his land to establish his rulings and implement his issues (Al-Baghawi 1/102), i.e.: people who succeed each other century after century and generation after generation, as the Almighty said: { وَهُوَ الَّذِي جَعَلَكَم خَلَائِفَ الْأَرْضِ } [Al-An'am: 165] and the Almighty said: (وَلَوْ نَشَاءُ لَجَعَلْنَا مِنْكُمْ مَلَائِكَةً فِي الْأَرْضِ) [An-Naml: 62] . Glory be to Him said: (فَخَلَفَ مِنْ بَعْدِهِمْ خَلْفٌ) [Maryam: 59] (Ibn Kathir; 1/216), and the caliphate is only the reconstruction of the earth, and this is by breeding and the multiplication of the species, and it is achieved by the meeting of the two types, and it is the wisdom of Islam to make man imprinted on the love of survival and continuation in life, and there is no way to survive except through organized marriage for the instinct, which achieves what is imprinted on him from the love of the continuation of his existence, which he sees in his descendants of children and grandchildren, the Almighty said

(وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِنِعْمَتِ اللَّهِ هُمْ يَكْفُرُونَ)

[AL-Nahl: 72] The meaning is made for you from yourselves, that is, from your race and your species and on your creation (al-Qurtubi; 142).

Second: the moral function of the family; Sex drive is one of the human needs that complement the preservation of the survival of the species, which is a human instinct and human nature in males and females. The way to satisfy this instinct is legitimate marriage and everything else is a form of adultery that is not permissible. God Almighty has expressed marriage with the word horse, the fortress is the castle, and the married is said: fortified and married is said to her: fortified and collected fortified, that is: they entered into the protection of this fortress prepared to protect their morals and preserve themselves Almighty said: (وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ مُحْصِنِينَ غَيْرٍ) (مُسَافِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ) [ALMayida:5] This function is shown in two ways.

First: Psychological and physical enjoyment

Marriage provides both women and men with one of the greatest pleasures in the world, and this pleasure is divided into two parts: housing and psychological comfort, and enjoyment and physical pleasure. The Almighty says (وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا)

(إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ) [ALRuwm: 21] What is meant by the words of the Almighty: (And He made affection and mercy among you) Ibn Abbas and Mujahid said: Affection is sexual intercourse, and mercy is the child, and Al-Hasan said. It was said: Affection and mercy are kindness in their hearts to one another. Al-Sudi said: Affection: love, mercy: compassion, and narrated its meaning from Ibn Abbas said: Affection is the love of a man and his wife, and mercy is his mercy on her to hurt her (Al-Qurtubi, 14/17).

If it exists with a sense of solution, guidance to instinct, and pleasing God Almighty, this grace is completed and nothing is lacking, it is said to dwell for the heart and it is said to dwell with him for physical stillness, because the word when came to the circumstance of the place and that for the bodies and to the very and it is for the hearts (Al-Razi; 25/91).

Second: the devotional aspect of the couple's meeting.

The Messenger of Allah (peace and blessings of Allaah be upon him) said: "In a few of you there is charity", they said: "O Messenger of Allah, will any of us bring his lust and have a reward for it?" He said: "If you put it in the haraam, would it have a button on it?" They said: Yes, he said: "Likewise, if he put it in the halaal, he will have a reward" (Al-Bayhaqi, 8723), if he intends to worship him, which is to fulfill the wife's right, ask for a righteous child, absolve herself and stop her from mahrams, and the apparent hadith requires that intercourse is charity even if he does not intend anything with it, just as if he commits adultery, he will sin even if he does not intend anything, but this is what the Prophet (peace and blessings of Allaah be upon him) pointed out by measuring the opposite that he mentioned, where he said: "You would have seen if you put it in a haram" etc. (al-Tufi, 196).

Third: the educational and social function of the family; Society is a large building consisting of building blocks, and the first unit of society is the individual, man or woman, and neither of them can live independently of the other, but each of them needs the other; the need to split the nucleus to the second part, but the need of the thing to itself (Abdul Rahman; 26), and married life, a contract similar to the contract of the company in terms of participation in building life and bearing its burdens, the nature of the family is stability and housing, and God Almighty says وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ [ALRuwm: 21], Al-Tahir ibn Ashour says: "And stillness: here is borrowed for humanization and the joy of the soul, because in that the disappearance of the disorder of desolation and the poultice of stillness, which is the demise of the disorder of the body, as they said: Rest assured of such and such and cut off to such, and ensure that you inhabit the meaning of incline, so count with the letter (to), even if it is his right to attach to (at) and the like from circumstances, and affection: love, mercy: A quality that inspires good treatment.(Ibn 'Ashur, 21/72).

A man toils and toils and travels and fights and calms down and peace, and can not do any of this properly without having with him and behind him a good wife who helps him and shares his joys and sorrows and relieves him of his worries and takes care of her home and her children (Saleh; 19), the Messenger of Allah (pbuh) says: "The world is the goods and the best of the world's possessions is a righteous woman" (Muslim; 1467), (and the best possessions of the world is a righteous woman) who is righteous in her religion and herself, and the interest of the condition of her husband, and this is as he said in the other hadith, "Do not I tell you the best of what One treasures! They said: Yes, he said: "The righteous woman who, if he looks at her, his pleasure and if he is absent from her, will keep him, and if he commands her, she will obey him" (Abu Dawood; 1664)

Taking care of the family is a collective responsibility that falls on each of the spouses, as stated in the hadith of the Prophet (peace and blessings of Allaah be upon him): "You are all shepherds, and you are all responsible for his flock, the imam is a shepherd, and he is responsible for his flock, and the man is a shepherd in his family, and he is responsible for his flock, and the woman is a shepherd in her husband's house, and responsible for her flock, and the servant is a shepherd in his master's money, and responsible for his flock. A man is a shepherd in his father's money, and responsible for his flock, and you are all a shepherd and responsible for his flock" (Bukhari; 4892), and the origin of care in speech is to save the thing, and to make a good commitment to it, and these mentioned participated in the name, and the name was made to them as a settlement and their meanings in that are different, as for the care of the imam, it is the guardianship of the affairs of the parish, and the care behind them and the establishment of borders and rulings in them, and as for the care of the man his family: Standing up against them, and the policy for their affairs and their death is the right to alimony and tithes (al-Khattabi, 1/579).

In the family, generations are formed on the ideal example provided by parents to their children, and the importance of the mother appears in the formation of the first childhood, where the education of generations requires a moderate maternal affection wise, not excessive or inadequate, as parents are the ones who instill the first building block in the correct education in the hearts of young people and lay the cornerstone in building morals (Al-Jundi; 41).

Second Requirement

The purposes of Sharia from the formation of the family

In order to achieve these basic functions of the family, it is necessary to take into account the purposes of Islamic law of family formation, as one of the five purposes of Sharia is the preservation of offspring, and this can only be achieved through legal marriage, in which the elements and conditions are met and free from obstacles and obstacles, one of the most important purposes that Islam wanted from the formation of the family (Alwani; 71).

1- Regulation of Sexual Energy

This energy was created in man, whether male or female, to achieve a great goal, which is reproduction, reproduction and reproduction for the purpose of continuing the human race to achieve the architecture that God Almighty wanted for the earth.

Rather, marriage and the family are prescribed so that marriage is a tool, and the family is a clean legal container to receive this energy and employ it in the right place.

Were it not for marriage, which is the organization of that common instinct between man and animal, man would be equal with other types of animals in order to meet this instinct through chaos and commonness, and then he would not be the man who was honored by his Lord and breathed into him from his soul, and then gave him reason and thinking, and preferred him to many of his creation, believing in the Almighty's saying: **وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبُرِّ وَالْبَحْرِ** (وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا) [AlIsra'a: 70]

Islam does not view this energy as a mere fait accompli, but treats it with appreciation as a means to a great end, and the Prophet (may Allah's peace and blessings be upon him) said: "There is charity in a few of you" – that is, a man is rewarded for the sexual work he brings with his wife – it was said, O Messenger of Allah: Will any of us bring his lust and have a reward for it? He said: "If you put it in a haraam, would it have a button on it? Likewise, if you put it in halal, it will have a reward... (Muslim; 1417)

The remembrance of Allah, may He be exalted, before the beginning of contact between a man and his wife, which is what the Prophet (peace and blessings of Allaah be upon him) taught Muslims to do, is a definitive indication of how clean sex is in the eyes of Islam, and the extent to which he desires to inculcate this cleanliness in the sense of the Muslim (Rayan; 76).

2. The Survival of the Human Species

Man is forced to love survival, and if man cannot survive by himself, his way to survival is the offspring known to be attributed to him, as he sees it as an extension of his survival, a continuation of his memory and the immortality of his life.

The Prophet (peace and blessings of Allaah be upon him) was urged to seek offspring and loved him, and it was narrated from Maq'il ibn Yasar τ that a man came to the Prophet (peace and blessings of Allaah be upon him) and said: "I have become a woman of character and beauty, and she does not give birth, so should I marry her?" He said: No, then the second came to him, and he forbade it, and then the third came to him and said: "Marry the friendly and the friendly, for I will multiply with you the nations" (Ibn Habban; 198).

3- Good Education for Future Generations

The family is the natural incubator that protects and cares for emerging chicks.

And the development of their bodies, minds and souls, and under him they receive feelings of love, mercy and solidarity, and are imprinted with the character that accompanies them for life, and on his guidance and light they bloom to life, interpret life, and deal with life.

Since the human child is the longest living childhood, as it is a period of preparation, preparation and training for the role required of him in life in the rest of his life, so his need to stay with his parents was more than the need of any child for another animal, and the stable and quiet family was more obligatory to the human system and attached to the human instinct, composition and role in this life.

Practical experience has shown that no organ other than the family system compensates for it or replaces it, but rather it is not without damage that corrupts the formation and upbringing of the child, especially the system of collective nurseries, which some arbitrary systems have wanted to replace the family system.

4- Land Architecture

The family is the pillar on which all that arises in this life of the manifestations of urbanization and urbanization is based, so his will Almighty willed when the departure of Adam - peace be upon him - from Paradise to descend to earth to begin life and urbanization - as preceded by the will - that he created for him from himself who shared this life and in the establishment of this urbanization, where he undertakes with his mental and physical abilities to create the material causes for this urbanization, She prepares what this hard-working man needs from psychological comfort and physical needs in his home, and then gives birth to him good boys and good girls so that life continues and generations continue, each trying according to his abilities to add to what he found of the reasons for architecture and prosperity, and so the family was and still is the focus of the architecture of this land and the source of its civilization and continuous progress (Ryan; 77).

5- Genealogical Preservation

He said most of it (وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ) [AL-Nahl: 72] A normal person must belong to a family consisting of a well-known father, a well-known grandfather, a mother and a grandmother as well, and one of the factors of psychological stability in a person is also to feel that he has children and grandchildren who belong to him and bear his name and surname.

Accordingly, rights and duties within the family are determined from upbringing, custody, alimony, inheritance, and other legal rulings that without the proper construction of the family, these rights would not have been arranged or died (Rayan; 77).

Conclusion, Main Findings and Recommendations

Praise be to Allah, thanks to whom good deeds, prayers and peace be upon our master the Messenger of Allah, his family and companions, and those who followed them with charity until the Day of Judgment.

After we have finished this research paper on the function of the family and the purposes of Sharia from it, and through the study of this paper we have found some results, including.

- The existence of a close relationship between the purposes of Islamic law and the function of the family, it is known that the general purposes of Islamic law are the preservation of offspring, and the preservation of offspring is one of the priorities of family functions approved by Islamic law.
- There is a natural correlation between the function of the family and the architecture of the universe; the architecture of the universe can only be achieved by reproduction and reproduction among humans through the legitimate way, which is the correct marriage.
- The function of the human family is not limited to the function of reproduction and reproduction; there is a function associated with reproduction, which is the moral and educational function; Islamic law has made the family responsible for raising children from the first moments of birth to reaching maturity and perfection.
- One of the purpose of the family is the function of natural gratification among human beings by the legitimate means permitted by God Almighty.
- The function of the family is to achieve stability within the human community that would bring development and stability to the whole world.

Recommendations: Through this study we recommend the following.

- The need to study the provisions of the family in a real study that helps to understand the function of the family
- Showing the purposes of Islamic law, including the preservation of offspring.
- Training family members on the moral message of raising children
- Focusing on the educational aspect of the family and the importance of education in building a human society.

Based on the foregoing, in order for the basic functions of the family to be fulfilled, it is necessary to take into account the purposes of the Islamic law regarding the formation of the family, as one of the five purposes of the law is to preserve the offspring, and this can only be achieved through legal marriage in which the pillars and conditions are fulfilled and are free of barriers and obstacles.

References

- Al-Ghazali, M. M. A. G. (1982), *Revival of Religious Sciences*, Dar Al-Maarifa, Beirut, Lebanon.
- Suleiman, I. A. A. (2009), *Sunan Abi Dawood*, Dar al-Risalah, Damascus, Syria
- Ahmad, A. H. A. (2013), *Fath al-Bari, The Ghost of Sahih al-Bukhari*, Dar al-Resalah, Damascus, Syria
- Abi, M. A. H. M. A. B. (1989 AD), *Milestones of the Download (Tafsir Al-Baghwi)*, Taiba Publishing House, Riyadh, Saudi Arabia.
- Abu al-Fida, I. D. K. (2000 AD) *Interpretation of the Great Qur'an*, Dar Cordoba, Cairo
- Al-Qurtubi, M. A. A. B. F. K. (2006 AD). *The Collector of the Rulings of the Noble Qur'an*, Al-Resala Foundation, Beirut
- Al-Razi, M. O. H. A. B. (1981). *Keys to the Unseen (The Great Interpretation)*, Dar Al-Fikr, Beirut.
- Al-Bayhaqi, A. B. A. H. (2003 AD). *Al-Sunan Al-Kubra*, Dar Al-Kutub Al-Ilmiyya, Beirut.
- Al-Tofi, S. A. Q. (1998 AD). *Appointment in Sharh Al-Arbaeen*, Al-Rayyan Foundation, Cairo.
- Khaliq, A. R. A. (1985); *Marriage under Islam*, Dar Al-Qalam Kuwait
- Ibn Ashour, M. T. A. (2008), *Interpretation of Liberation and Enlightenment*, Tunisian Publishing House, Tunisia.
- Saleh, S. I. S. (1995); *The Family System in Islam*, Dar Al-Diaa, Cairo
- Muslim , A. H. M. Al-Q. (2006 AD). *Sahih Muslim*, Dar Taibah, Saudi Arabia.
- Al-Bukhari, M. I. I. Al-M. A. (2002 AD). *Sahih Al-Bukhari*, Dar Ibn Kathir, Damascus, Syria.
- El-Gendy, A. E. G. (1979), *Muslim Women in Light of Challenges*, Dar Al-I'tisam, Egypt.
- Alwani, Z. J. A. (2012), *The Family in the Purposes of Sharia*, International Institute of Islamic Thought.
- Rayan, A.T. A. R. (2005), *Family Jurisprudence*, American Open University.