

The Evolution of Spousal Rights in the Iranian and English Legal Systems: A Transition from Authority-Based to Partnership-Based Models

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This study aims to explain and comparatively examine the evolution of spousal rights in the Iranian and English legal systems, focusing on the transition of both systems from traditional “authority-based” models toward modern “partnership-based” frameworks. Employing a descriptive–analytical method and a comparative approach, the study investigates how distinct theoretical foundations have been adapted to contemporary social demands. The findings indicate that developments in the English legal system have been grounded in the doctrine of “liberal individualism” and the principle of “freedom of contract,” resulting in the erosion of the husband’s traditional authority and the establishment of a system of formal and substantive equality based on private agreements. By contrast, the Iranian legal system, drawing on the dynamic capacities of Islamic jurisprudence, has undergone this evolutionary process not through structural rupture but through the “moderation of authority” and the creation of complementary legal mechanisms, such as “stipulations incorporated into the marriage contract” and family protection legislation. The findings further demonstrate that, despite divergence in their ontological foundations and the sources from which legal rules derive their legitimacy, both systems have converged, in response to social transformations, toward the “contractualization of family relations.” Ultimately, this transition demonstrates that the effectiveness of family law in both systems no longer lies in the exercise of absolute authority, but rather in creating legal space for “voluntary agreements” and promoting responsible partnership between spouses.

Keywords: legal evolution, spousal rights, headship of the family, Iranian law, English law.

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1. Introduction

The family, as the smallest and most important social unit in every society, has in recent years become the locus of numerous controversial issues at both national and international levels. In the Islamic Republic of Iran, prior to 1967, provisions governing the institution of the family were dispersed across various statutes, including the Civil Code. However, the need to devote greater attention to the family and its distinctive characteristics compelled the legislature to address this

institution specifically, devise appropriate mechanisms to prevent its disintegration insofar as possible, and resolve potential disputes and difficulties at the lowest possible social and legal cost. The first statute specifically devoted to the family was enacted in 1967 under the title of the Family Protection Act and introduced several significant innovations. These included restricting the husband’s unilateral authority to divorce under Article 8, expanding the grounds upon which a wife could petition for divorce under Article 11, limiting the husband’s ability to enter into a subsequent marriage under Article



14, and restricting his authority to prevent his wife from engaging in employment under Article 15 (Azad Armaki, 2019).

The Family Protection Act of 1974 also introduced a number of innovations, including provisions relating to civil disputes, family claims, expert assessment, arbitration, the issuance of certificates of impossibility of reconciliation, agency in divorce, child custody, polygamy, employment by a wife that is contrary to family interests, failure to provide maintenance, the legal age of marriage, procedures for adjudicating family disputes, and the enforcement of judgments. The Implementing Regulation of the Family Protection Act was adopted in 1975 and addressed matters such as the initiation of proceedings, the method of receiving applications, visitation rights concerning children, arbitrators, and court-appointed trustees. The Family Protection Act of 2013 addressed the establishment of family courts, procedures before family courts, reconciliation and settlement, registration of marriage and divorce, custody and care of children, salaries and survivor pensions following death, and denial of the existence of a marital relationship. The 2014 Implementing Regulation of the Family Protection Act also addressed the establishment of family courts under Article 2, legal-aid counsel, and medical certificates to be provided by spouses. It further introduced or regulated new areas of jurisdiction, including the revival of the institution of engagement and compensation for damages resulting from its termination, authorization for marriage, embryo donation, interdiction and its removal, guardianship of children without guardians, gender reassignment under Article 4, authorization to use legal-aid counsel under Article 5, exemption from court fees for persons supported by the State Welfare Organization and the Imam Khomeini Relief Foundation under the note to Article 5, modification of the procedure for the acceptance and registration of consensual divorce under Article 28, reform of the arbitration mechanism and its exclusion from consensual divorce under Article 28, amendment of the qualifications and characteristics of arbitrators selected by spouses under Article 28, extension of maintenance rights to children conceived through assisted reproduction and to children without guardians under the note to Article 53, and the establishment of counseling centers under Article 17. These measures constituted important innovations and

updates responding to contemporary social needs when compared with the statute concerning the designation of certain existing courts under Principle 21 of the Constitution as family courts and other related legislation. Nevertheless, for unexplained reasons, the entitlement to compensation for the wife's services during marriage, which appeared in item 5 of the earlier legislation, and the Family Support Fund provided for in Note 2 to Article 14 of the 1974 Family Protection Act were omitted from the new Family Protection Act. Under Article 1 of the Family Protection Act of February 4, 1975, all civil disputes arising from marriage and related family claims were to be adjudicated at all stages without strict adherence to the formalities of civil procedure. Article 3 also provided, subject to the court's discretion, for exemption from court fees, arbitration and expert fees, other litigation costs, and the direct appointment of legal-aid counsel, although through arrangements different from those contained in the newer legislation. Further matters regulated included consensual divorce, the wife's rights, the validity period of divorce judgments and certificates of impossibility of reconciliation, salaries and pensions, family counseling centers under Article 25, licensing requirements for such centers, procedures for issuing and validating licenses, the taking of oaths, parental visitation with children, and the jurisdiction of family courts over matters involving adolescents. Whereas previous legislation generally referred to children, minors, descendants, custody, or their rights within the marital relationship, Article 45 of the newer statute expressly referred to both children and adolescents by requiring courts to safeguard their best interests. These provisions were consequently enacted. Notwithstanding these legislative developments, the family has faced extensive transformations in recent decades. It is now readily apparent that the model of the "traditional family" has changed, that society has entered a different stage in the history of the family, and that a "new family" has emerged.

The transformation of the family signifies a transformation in the destiny of all individuals. The sensitivities surrounding the family make individuals particularly responsive to changes affecting it. Accordingly, not only individual lives but also the collective destiny of society are intertwined with family transformation. Women constitute one of the most important and sensitive groups within the family.

International measures and instruments adopted for the protection of women's rights have placed particular emphasis on the concept of "gender equality." In most European countries, including England, gender equality has been incorporated into national educational and regulatory programs. The identification and analysis of women's rights have acquired particular importance over the past two centuries because intellectual, political, social, and cultural transformations have led women to seek a more effective and visible role in society and to claim a broad range of political and social rights. International instruments adopted in 1904, 1921, and 1933, the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966, and the world conferences held in Mexico City in 1975, Copenhagen in 1980, Nairobi in 1985, and Beijing in 1995 addressed women's rights either generally and indirectly or specifically and sought to recognize and guarantee women's political and social rights. Despite these developments, the realization of women's political and social rights in each country has depended on its political system, culture, values, and social customs.

According to Rapoport, families in contemporary Britain are undergoing a transition from a society in which only one dominant norm governed family life to a society characterized by several legitimate and, indeed, desirable norms (Giddens, 2017). In support of this proposition, Rapoport identifies five types of transformation: organizational, cultural, class-based, life-course, and generational transformations.

Shuster argues that, from 1907 onward, Iranian women became, in a single leap, among the most progressive, if not the most radical, women in the world. Even if such a proposition overturns centuries-old assumptions, it should not be feared, because it reflects a historical reality (Azad Armaki, 2019).

Awareness of family transformation draws greater attention to such changes. The increasing self-awareness of contemporary human beings regarding their social and cultural lives, in comparison with the past, enables them to observe family transformations within a broader context and to understand them more objectively and transparently. Contemporary individuals are alert and critically reflective regarding their own circumstances.

In other words, social and cultural transformations no longer occur gradually and unconsciously over time; rather, they unfold rapidly and visibly before the discerning eyes of contemporary individuals. Family transformation is not merely an academic issue discussed exclusively by sociologists, psychologists, or specialists in women's studies. It is also addressed in television debates, roundtables, dramatic productions, and ordinary public conversations. Family transformation has therefore become a central issue within academic, media, and popular discourse.

To examine contemporary developments in Iranian family law, this study adopts a historical approach to specialized family legislation, including the Family Protection Act of 1967, the Family Protection Act of 1974, and, ultimately, the distinctive features of the Family Protection Act adopted on February 19, 2013. By evaluating major issues in family law, including maintenance, custody, and divorce, the study seeks to compare family legislation and the trajectory of legal developments and innovations in Iran and England, as well as the extent to which their laws are consistent with and draw upon human-rights standards, sources, and instruments. Particular attention is also devoted to women as a fundamental component of the family in both Iranian and English law, including their actual legal status and the extent to which the state and society have created the facilities, policies, and planning necessary to realize human-rights ideals. Contemporary family-law provisions in both Iran and England are assessed from the perspective of the Charter of the United Nations, the Universal Declaration of Human Rights, international covenants, and other instruments, including declarations concerning the elimination of discrimination. In view of the transformation of the concept of family in the West, England is selected as a representative example of the Western legal world. Between 1961 and 1981, the number of lone parents in England increased from 474,000 to 975,000, a trend considered one of the principal indicators of the weakening of the traditional family structure. In 1986, 14% of English families were headed by a single parent, while the category of unmarried lone mothers accounted for approximately 3% of all families in England. Divorce in English society took such forms as petitions for divorce, conditional divorce orders, and final divorce orders. Approximately 30% of children experienced parental divorce before the

age of 16, while the annual cost of family breakdown in England was estimated at £5 million. These statistics indicate that the decline of the traditional family in the West has been substantial.

2. Definition of Concepts and Terms

2.1. Family

Scholars regard the family as a major social institution. The meaning of this fundamental institution has not remained constant over time but has evolved in response to social transformation. Social theorists generally consider the family to consist of a group of persons connected through variables such as consanguinity, marriage, or adoption, who live together for an extended and indeterminate period (Saroukhani, 2023).

In Dehkhoda's dictionary, the family is defined as lineage or ancestry. In domestic legal discourse, the family is also treated as a legal unit consisting, at a minimum, of a woman and a man between whom a marital relationship has been established. Although the presence of both a woman and a man is initially necessary for the formation of a family, it is not necessarily a condition of its continued existence. Thus, a household composed of a mother and a child following the father's death may be described as an incomplete family. The basic foundations of the family include close kinship relations, whether consanguineous or affinal, and a legally enforceable obligation to provide maintenance. Accordingly, if a person provides financial support solely on moral grounds and without being legally obligated to do so, such support is insufficient to establish a family relationship (Jafari Langroudi, 2023).

Social-science researchers have defined the family as "a group of persons whose relationships and kinship are founded upon blood ties." Other scholars, in order to broaden this definition, have included not only consanguineous relationships but also adoption and socially or contractually recognized relationships. They therefore define the family as a group of persons related through marriage, blood, or adoption who interact as husband, wife, mother, father, brother, sister, or child, create a shared culture, and live together as a distinct unit (Saroukhani, 2023).

2.2. Family Law

Family law is a branch of civil law and a subdivision of private law (Katouzian, 2022). Nevertheless, public law has penetrated certain areas of family law, such as the criminalization of a husband's failure to maintain his wife under Article 642 of the Penal Code and the requirement to register marriage, divorce, and revocation of divorce under Article 645 of that Code and Article 20 of the Family Protection Act of 2013. The term "family law" itself is a modern legal construct derived from contemporary legal thought. In Islamic jurisprudence, the rights and duties of spouses, parents, and children toward one another have traditionally been addressed in separate doctrinal chapters, including marriage, divorce, dower, and maintenance, rather than under a unified heading of family law.

In contemporary Iranian legal scholarship, it is customary to discuss these rules under the general heading of family law (Jafari Langroudi, 2023; Katouzian, 2023; Mohaghegh Damad, 2019; Safaei & Emami, 2021). Inheritance, however, is generally treated separately rather than being integrated into family-law analysis.

Kinship, filiation, marriage, and dissolution of marriage are among the most significant subjects of family law. Books Seven through Nine of Volume Two of the Iranian Civil Code, comprising Articles 1034–1206, address family-law matters, including kinship and its categories and effects, engagement as a social custom, legal capacity to marry, impediments to marriage, the requirements for validity of marriage, agency in marriage, temporary marriage, dower, mutual rights and duties of spouses, dissolution and annulment of marriage, divorce and its forms, the waiting period, filiation, custody and upbringing of children, the compulsory guardianship of the father and paternal grandfather, and maintenance obligations. More recent issues include gender reassignment, embryo donation, surrogacy, human cloning, and related developments (Abed Khorasani, 2016; Mirzaei, 2016).

2.3. Marriage

The term marriage denotes matrimony, the union of dispositions, the conclusion of a marital contract, joining, attachment, and sexual union. In juristic terminology, disagreement exists as to whether the term refers primarily to sexual intercourse, to the marriage contract,

or constitutes a homonym encompassing both meanings. The prevailing position is that, linguistically, marriage refers to sexual intercourse, whereas in Islamic law it denotes the marriage contract (Mohaghegh Damad, 2019). According to one legal definition, “marriage is a contract by which a woman and a man enter into a union for the purpose of forming a family and sharing a common life” (Katouzian, 2023).

Another definition states that “marriage is a legal and emotional relationship created by a contract between a woman and a man, granting them the right to live together, the most prominent manifestation of which is sexual intimacy” (Mohaghegh Damad, 2019). From a legal perspective, “marriage is a contract that grants spouses the right to lawful sexual enjoyment of one another” (Safaei & Emami, 2021).

2.4. Human Rights

Human rights are among the most fundamental entitlements inherently possessed by every person simply by virtue of being human. Under human-rights norms and principles, individuals are primarily rights-holders rather than duty-bearers. The corresponding duties rest principally upon states, which are required to respect, protect, and fulfill human rights. These rights extend to all individuals regardless of color, race, sex, religion, or other status, at all times, in all places, and under all circumstances.

The United Nations has similarly defined human rights as those essential conditions without which human beings cannot live in freedom.

From the Western perspective, the denial of human rights and fundamental freedoms is not merely a personal tragedy; it also generates social and political instability and spreads violence and hostility within communities and nations. According to the opening sentence of the Universal Declaration of Human Rights, respect for human rights and the inherent dignity of the human person constitutes the foundation of freedom, justice, and peace in the world. Human rights may therefore be understood as the freedoms, immunities, and benefits that all persons should be entitled to claim from the society in which they live under contemporary accepted values (Araujo, 2000).

3. Developments in Spousal Rights in Iran and England

3.1. *Developments in Family Law from a Human-Rights Perspective*

The family, as the primary and most enduring foundation of society and its first social institution, is a natural and fundamental unit that has historically served as the principal source of protection and support for its members. Numerous and diverse factors over the past several centuries, particularly in recent decades, have produced substantial changes in the definition, structure, and functions of the family, as well as in the role of the state in regulating this institution.

The international human-rights system recognizes both the relativity of the definition of family and the continuing transformations affecting it. The right to family life, recognized as a fundamental and central right in the international system, encompasses the right to marry, the right to found a family, and the child’s right to a family. These entitlements are rooted in freedom, human dignity, and individual personality.

3.1.1. *The Human-Rights Approach of International Instruments*

The family, as a valuable institution, is today—particularly in industrialized and Western countries—at risk of losing its conventional and natural meaning and being reduced to mere cohabitation and the sharing of a household. Major international human-rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the Islamic Declaration of Human Rights, emphasize and protect the institution of the family. In these international declarations, the family is treated as a key and fundamental institution of society.

As noted above, general human-rights instruments accord substantial attention to the family and its protection. Marriage between a woman and a man and the continuation of generations are of vital importance to every society. Women’s rights have also received considerable attention, and international instruments and United Nations bodies have focused on protecting women’s individual rights through the elimination of discrimination and the promotion of gender equality.

Periodic United Nations reports indicate that representatives of the organization have not always accorded sufficient attention to women's rights and have sometimes undervalued motherhood and diminished the importance of the family in pursuit of gender equality (Vik, 2013).

On July 21, 2010, the United Nations General Assembly established UN Women. This body was created to address women's rights and subsequently convened meetings and commissions in 2013 concerning violence against women. These meetings involved representatives of the United Nations, member states, and mass media and addressed domestic violence against women, women's empowerment, and policies contributing to the marginalization of women. Religious matters, education, health, HIV/AIDS, poverty eradication, and food security were also discussed.

3.1.2. *The Islamic Human-Rights Approach*

From the Islamic perspective, the foundational principle of marriage constitutes a bond joining a man and a woman, facilitating procreation and recognizing that the material life of either spouse cannot readily be sustained independently of the other. Human beings have therefore long understood that tranquility is associated with marriage and that the home and family constitute the most appropriate setting for achieving it. Family life should accordingly be founded upon kindness, affection, sincerity, and intimacy, while aggression, oppression, and injustice are inconsistent with its elevated purposes. Certain Muslim societies, including Afghanistan, Pakistan, and Turkey, exhibit substantial shortcomings in family law, particularly regarding women's rights. In these countries, insufficient efforts have been made to construct a family order compatible with the dignity of Muslim individuals. Islam is sometimes portrayed as the source of discrimination and inequality in family law, while patriarchal practices have been broadly institutionalized. This is inconsistent with the Qur'anic recognition of extensive rights for women and the principle of spiritual equality between women and men (Giddens, 2017).

In a country such as Afghanistan, for example, conservative groups invoke religious arguments to oppose developments in family law, especially reforms concerning women's rights. Such groups regard scientific research as inconsistent with religious traditions, view

human-made legislation as lacking legitimacy, and maintain that only divine laws should be followed. Religious authorities may fear that failure to enact the textual rules of Sharia concerning women's rights will lead to family disintegration. For instance, reform of divorce law may be resisted because of concerns that it could increase the rate of divorce (Ghasemzadeh, 2016). Ijtihad constitutes an appropriate instrument for addressing such issues and difficulties because Sharia is flexible and contemporary social problems require renewed juristic reasoning. For example, how should the extensive transformations of the past century, particularly those affecting women's status and their position as citizens, be addressed? The traditional assumption has been that the man is the provider and head of the family (Mohaghegh Damad, 2019).

Is it appropriate, after fourteen centuries, to disregard the social and cultural transformations that have taken place? The incompatibility of certain laws with contemporary conditions in Muslim societies and the resulting impairment of women's rights have led to efforts within Islamic legal frameworks to achieve justice and equality within the family. The Charter of Family Rights in Islam, comprising five chapters and 164 articles, contains several relevant principles (Hekmatnia & Kazemi, 2011):

- Equality of women and men in creation, as provided in Chapter One;
- Regulation of marriage and limitation of the conditions of divorce, as provided in Chapter Two;
- Clear determination of the duties of spouses, as provided in Chapter Three;
- Emphasis on the importance of child care, as provided in Chapter Four;
- Attention to kinship, the maintenance of family ties, and inheritance in Islam, as provided in Chapter Five.

3.2. *Developments in Iranian Family Law Concerning Spousal Rights*

The family, as a social institution and fundamental social unit, performs similar functions in different societies, including reproduction, economic and physical support of its members, and transmission of values, traditions, and social norms to children. Nevertheless, social transformation and changing historical conditions have

significantly affected this institution. The modern family faces numerous threats and intense competition from other institutions, particularly mass media and communications technologies, which have acquired an increasingly influential position within family life (Saroukhani, 2023).

Relations among family members are based, first, on rights governing the relationship between spouses and, subsequently, on rights governing relations between parents and children. Observance of these rights by spouses and children contributes to the durability and stability of the family. The mutual rights and duties of spouses include financial obligations, such as dower and maintenance, and nonfinancial duties, such as good marital relations, efforts to strengthen the family, and the upbringing of children (Safaei & Emami, 2021).

The contemporary world is characterized by new information systems that are transforming societies in ways that are difficult to predict or control. These developments profoundly affect the social, economic, cultural, and familial dimensions of human life and, by eliminating virtual boundaries, transform the world into a global village. Law occupies a significant position within this global environment, and family law has begun to experience the effects of globalization. Although globalization affects all areas of family law, few other legal fields have undergone such extensive change within such a short period. These developments are evident in the rapid increase in divorce rates, restrictions on the husband's unilateral authority to divorce, nonmarital relationships, cohabitation, delayed marriage, children born outside marriage, women's participation in the labor force, and new assisted-reproduction technologies.

3.3. Developments in English Family Law Concerning Spousal Rights

Under the historical common law of England and Scotland, a married woman's legal existence was subsumed under that of her husband. Upon marriage, her separate legal personality effectively disappeared into his, and she lost control over her property and the capacity to transfer it because the husband, through marriage, acquired control over his wife and her assets (Stones, 2006). This doctrine may be summarized by the proposition that "you and everything belonging to you belong to me" (Stones, 2006). These rules governed the marriage while the spouses lived together. The legal

position changed upon the birth of children or the husband's death and was determined in accordance with common-law principles (Stones, 2006). Similar rules applied to feudal interests in land (Stones, 2006).

During marriage, however, the wife possessed no proprietary rights in land or feudal estates belonging to her husband. Following his death, she could, under certain conditions, obtain a life interest in part of his immovable property. To overcome the practical difficulties created by this arrangement, legal mechanisms were later developed to settle property in the wife's favor. Although the wife and her property were treated as belonging to the husband during marriage, some immovable property could revert to her upon his death. The position concerning her movable property was different, because she generally possessed no continuing right over such property, even following her husband's death.

With respect to the wife's personal property, any attempt by her to transfer such property without her husband's consent was regarded as void and potentially fraudulent. If the property was transferred through another transaction, however, the transaction could not necessarily be rescinded. Likewise, the wife's choses in action acquired a legal status similar to that of movable property upon marriage (Stones, 2006). These rules concerning movable property were highly inequitable. One attempted justification was that the common-law system developed in a society in which land constituted the principal form of substantial wealth and was governed by special rules of ownership (Stones, 2006). The theory that the wife's legal personality was absorbed into that of the husband and that all of her property passed to him could not be fully remedied by equity. Equity primarily regulated income derived from investments rather than earnings generated through labor and social activity. Women's participation in paid employment increased following the Industrial Revolution, making labor income an increasingly important and valuable source of wealth. Consequently, one legal regime effectively developed for wealthy women and another for poorer women.

From the mid-nineteenth century onward, increasing support emerged for reforming the old rules. Several reforms were subsequently enacted. The Matrimonial Causes Act 1857 enabled women to transfer certain legal interests during their lifetime or by will.

The Married Women's Property Act 1870 granted married women exclusive control over property acquired through their own labor.

The principal effect of the 1935 legislation was to reform the rules of intestate succession and abolish common-law rules concerning inheritance between spouses (Stones, 2006).

The Law Reform Act 1935 provided in its first section that no distinction should be drawn between married and unmarried women regarding the ownership and transfer of their property.

Legislation adopted in 1949 abolished certain restrictions on alienation that had previously been imposed under equitable rules.

New family legislation was adopted in 1996, influenced by the report of the commission on family law and the grounds for divorce. This legislation reflected the contemporary status of women in English society. One of its most significant features was its limited regulation of spouses' financial and legal relations during marriage, particularly the absence of a general obligation requiring the husband to support the wife financially. The apparent intention of the legislature was to leave the regulation of spouses' financial and legal affairs during marriage to the parties themselves so that they could determine the allocation of household expenses through mutual agreement.

3.4. Comparison of Developments in Spousal Rights in Iran and England

3.4.1. Developments in Spousal Rights Concerning Women's Rights

Sex is an undeniable reality of human creation, dividing human beings from birth into the two distinct categories of women and men. Although intellectual transformation and social development have replaced many historical systems with principles affirming the dignity of the human person, discrimination between women and men has persisted. Even in countries regarded as leaders of modern civilization, women's political rights and personal status have not always been fully protected (Araujo, 2000).

At times, women's rights have been doubted or denied to such an extent that even the highest of these rights, the right to life, has been taken from them (Hekmatnia & Kazemi, 2011). Accordingly, women's rights became a

highly sensitive and widely debated issue during the second half of the twentieth century (Araujo, 2000).

The Commission on the Status of Women was among the earliest bodies established by the United Nations Economic and Social Council and became the principal United Nations organ for policy formulation and decision-making concerning women's status.

An examination of the Convention on the Elimination of All Forms of Discrimination against Women indicates that it is not limited to imposing upon states the traditional obligation to eliminate legal and customary discrimination against women. It also requires states to take positive measures to promote equality and to eliminate conventional and stereotypical understandings of the roles and responsibilities of women and men within the family (Vik, 2013).

During Iran's Constitutional Revolution, Iranian women challenged the discourse portraying women as weak and dependent. During the first Pahlavi period, they acquired a degree of independent legal and social personality and sought recognition as autonomous members of the family. During the second Pahlavi period, certain divorce and custody rights were recognized for women. Following the Islamic Revolution, women's position within the family power structure changed, in large part because of their increasing employment and economic participation (Azad Armaki, 2019; Zibaeinejad, 2014).

From the beginning of human history, women have been subjected to widely differing judgments. A brief review of history demonstrates that women in many societies have experienced oppression and injustice. With the gradual development of societies and the growing international importance of human rights, women's rights acquired particular significance.

Historical analysis further demonstrates that, during many periods and in many societies, women suffered deprivation and that their human rights were impaired under male domination and patriarchal culture.

Iranian women should invoke the relevant principles of the Constitution, particularly Principles 2 and 3, in presenting their lawful claims to the state. Religious authorities who led the Iranian Revolution resolved, at least at a general level, the complex question of women's participation in society. Under contemporary conditions, the state bears responsibility for guiding women seeking advancement toward education, specialization, and social development. Paragraph 14 of Principle 3 of the

Constitution expressly addresses the comprehensive protection of women's rights.

In responding to a journalist from the German newspaper *The Third World* concerning women's rights, Ayatollah Khomeini stated that the advances of the Western world were acceptable, whereas its corruption was not, particularly because Western societies themselves complained about such corruption. From this perspective, international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and the international covenants on civil, political, economic, social, and cultural rights may be regarded as acceptable legal advances. The Islamic state, however, is expected to prevent women from being reduced to objects or instruments in the hands of sexually exploitative men (Giddens, 2017).

Women's participation in Iran in economic, social, and political spheres reflects their competence in public and political affairs, demonstrates their genuine social personality, and invalidates unfair judgments concerning their capabilities. The Iranian Constitution recognizes the importance of women's development for the continuation of social life and emphasizes the restoration of rights historically denied to them. Its preamble accordingly states that, because women suffered greater oppression under the former authoritarian system, particular attention must be given to the restoration of their rights (Giddens, 2017).

Religious women who participate in society while observing Islamic dress and engaging in the promotion of virtue and prevention of wrongdoing may contribute to preventing social corruption. As members of society, they recognize the significance of their social role because religion attributes a collective identity to human beings and prescribes collective responsibilities.

3.4.2. *Developments in Spousal Rights Concerning Marriage*

The meaning of marriage in English law historically developed within a Christian social context and, like many legal rules and institutions, was influenced by ecclesiastical law.

The traditional definition of marriage in English law, articulated by Lord Penzance in an 1866 case, described marriage as the voluntary union for life of one man and one woman to the exclusion of all others.

Two elements are present in this definition: first, the voluntary nature of marriage; and second, the lifelong nature of the marital union.

The implication of these conditions is that marriage is intended to be permanent unless legally dissolved. For example, if a woman and a man marry solely for the legitimate purpose of procreation and agree to separate after the birth of a child, their union may still constitute a marriage under English law, notwithstanding the parties' privately intended limitation of its duration (Stones, 2006).

Until the early second half of the nineteenth century, dissolution of marriage through divorce was generally unavailable and effectively prohibited under English law, largely because of the influence of Christian doctrine. Once a marriage was legally recognized, it could not ordinarily be dissolved. The traditional definition therefore emphasized "the voluntary and permanent union of two persons of opposite sexes for life, subject only to lawful dissolution" (Stones, 2006). For this reason, some family-law writers attempted to identify similarities between marriage and certain proprietary interests in land (Stones, 2006).

Upon marriage, a woman and a man enter the legal status of married persons, and certain rights arise while others are removed. Among legal transactions and contracts, marriage is distinctive in producing such status-based consequences. Under the principle of freedom of contract, parties are generally free to structure their agreement as they wish, provided it does not violate public policy. Spouses, however, do not enjoy the same degree of freedom in marriage because many of their mutual rights and duties are determined by law rather than by private agreement. Although some of these rights and duties may be modified, many are mandatory and cannot be altered (Stones, 2006).

Understanding marriage as a human institution should be promoted through human-rights education so that the status of women and men is defined through an equality-oriented approach and marriage is viewed as a human relationship rather than merely as a sexual institution.

3.4.3. *Developments in Spousal Rights Concerning Maintenance*

Upon the valid conclusion of a marriage contract, spouses acquire rights and duties collectively described as the legal effects of marriage. This principle is reflected

in Article 1102 of the Iranian Civil Code. One of the most important effects of marriage is maintenance, which is subject to specific requirements in different legal systems. Although the family should be governed primarily by moral values and ethical principles, recourse to legal sanctions and judicial authorities may become necessary as a final means of enforcement. Each legal system determines spouses' rights and obligations in light of its religion, legal tradition, customs, and social practices, with the objective of preserving a balance between them. The protection of women's rights and gender equality are major concerns of the international community. Maintenance is one such financial right and obligation, and its requirements vary across legal systems.

Substantial differences exist among legal schools, religions, and cultures concerning equality between women and men in access to family financial resources. Iran, through legislation based on Islamic principles, seeks to establish a relative balance between spouses' rights and duties. Spouses are expected to cooperate in administering the family. Because the husband is legally regarded as the head of the family, however, the legislature imposes upon him the duty to provide for the household. Article 1106 of the Civil Code accordingly identifies the payment of maintenance as the husband's responsibility (Katouzian, 2023).

Maintenance has been defined in different ways. Linguistically, it connotes expenditure, consumption, and the depletion of property. The wife's maintenance is therefore described as such because the sums spent by the husband leave his estate and are consumed for the wife's living expenses (Mohaghegh Damad, 2019).

The former version of Article 1107 of the Civil Code defined maintenance as including housing, clothing, food, household necessities, and domestic assistance where the wife was accustomed to having such assistance. The provision referred expressly to housing, clothing, food, furniture, and a servant but did not mention medication, medical treatment, personal-care expenses, hygiene, or cleaning costs. Certain Imami jurists did not traditionally include these items within maintenance (Abed Khorasani, 2016).

Some legal scholars have nevertheless argued that the items enumerated in Article 1107 represent necessities without which the wife would experience hardship. They should therefore be included in maintenance in light of

the interests of the family and society, and the husband must provide them (Safaei & Emami, 2021). Because contemporary human needs are continually changing, medical, hygienic, and personal-care expenses cannot be confined within a fixed definition and must instead be assessed according to custom (Katouzian, 2022). Thus, the costs of medical treatment and medication are included in maintenance and must be borne by the husband. Where a wife is hospitalized for childbirth or surgery, hospital and medication expenses fall upon the husband because prevailing custom treats such expenditures as maintenance.

The wife's status, rather than the husband's status, must therefore be considered in determining maintenance under the amended Article 1107 of the Civil Code. Accordingly, where the wife comes from an affluent family and has needs corresponding to a higher standard of living, the husband must provide living conditions consistent with her social and familial status (Safaei & Emami, 2021).

The Supreme Court of Iran confirmed this principle in Judgment No. 292/23.

Under Article 1107 of the Civil Code, the nature and quality of maintenance owed by the husband must correspond to the wife's family status. Thus, if she has been accustomed to domestic assistance or to higher expenditures for housing and food, she may claim such provisions from her husband (Safaei & Emami, 2021). Although the wife's status is the principal criterion, the husband's financial position must also be considered to some extent because the spouses constitute a shared household rather than independent economic units (Katouzian, 2022). Under customary expectations, the wife adjusts to her new circumstances after marriage. A poor woman who marries a wealthy man should not have her maintenance assessed solely by reference to her former poverty. Conversely, a wealthy woman who marries a poor man cannot reasonably expect the husband to provide an aristocratic standard of living beyond his means. The relevant status is therefore the wife's position within the marital household after marriage. Article 47 of the Family Protection Act of February 20, 2014, provides that, upon the application of the wife or other persons legally entitled to maintenance, the court determines the amount and method of payment. The provision thus assigns the determination to the court rather than relying exclusively on the wife's

premarital status and implicitly allows the husband's circumstances to be considered.

In a permanent marriage, the husband's duty to provide maintenance arises from law rather than contract. Article 1106 of the Civil Code identifies maintenance of the wife in a permanent marriage as a statutory duty of the husband. The parties cannot therefore eliminate this obligation by agreement (Ghasemzadeh, 2016). A condition stipulating that the wife has no right to maintenance is invalid, although the invalidity of the condition does not invalidate the marriage itself (Safaei & Emami, 2021). This rule applies to permanent marriage. Under Article 1113 of the Civil Code, a wife in a temporary marriage is not entitled to maintenance unless the parties have expressly agreed otherwise (Katouzian, 2022).

English law employs several concepts concerning maintenance, each with distinct characteristics and requirements, as discussed below.

A) Continuing Maintenance

English law has historically recognized arrangements under which a husband, through the marriage settlement or a separate agreement, undertakes to provide for all of the wife's needs during her lifetime and, in certain forms, after his own death. If the husband dies before the wife, his heirs or estate may remain bound to make the stipulated payments from the deceased's estate (Stones, 2006).

B) Provision for Maintenance

Under this arrangement, the husband sets aside property to ensure the wife's maintenance and support. He may entrust that property to a person in whom he has confidence so that it can be used for the wife following death or divorce (Stones, 2006).

C) Maintenance Pending Proceedings

Where spouses are involved in divorce proceedings and are no longer living together, the court may consider it appropriate to order maintenance for either spouse and, where children are present, for the children, and may require the financially responsible party to provide it.

D) General Maintenance

In this context, maintenance refers to the payment of a sum at specified intervals. It commonly arises during the final division and settlement of matrimonial property and therefore differs from maintenance in its narrower technical sense. In such cases, a carefully calculated sum may be paid by the husband to the wife in order to settle

any further financial or proprietary claims against him (Stones, 2006).

E) Responsibility for Spousal Maintenance

With respect to responsibility for maintenance arising from marriage, English law may be divided into two historical periods: 1958–1973 and the period beginning in 1973.

From 1958 onward, maintenance orders were no longer available exclusively against husbands. In certain circumstances, a wife could be required to provide maintenance for her husband and the children of the family (Stones, 2006). This principle was confirmed in several statutory provisions (Stones, 2006). Under Section 27 of the Matrimonial Causes Act 1973, a wife could petition the court on the ground that the husband had failed to provide reasonable maintenance. The powers of the relevant courts were broader than those of magistrates' courts because they were not subject to the same limitations in determining the total amount payable to the applicant.

The rights of married women in matrimonial property now derive from the Married Women's Property Acts enacted in the late nineteenth century and subsequent legislation governing matrimonial property and proceedings. Spouses therefore owe one another mutual financial assistance within the limits of their resources.

F) Scope of Maintenance

Although the historical agency of the wife to purchase necessities on the husband's credit was abolished in its former form by the Matrimonial Proceedings and Property Act 1970, the husband's common-law responsibility remained influential because it formed part of the foundation of later law (Stones, 2006). Under traditional common law, the husband was required to maintain the wife, whereas no equivalent reciprocal obligation was ordinarily imposed upon her (Stones, 2006). English jurists regarded this obligation as arising from an undertaking assumed by the husband at marriage to support the family financially. It included the provision of suitable accommodation and necessities such as food, clothing, medical and health expenses, and travel costs. Accordingly, unless the wife could establish a legitimate reason for living apart, she was not generally entitled to separate maintenance for an independent residence (Stones, 2006). Where she lived with her husband, she could purchase household necessities from his funds. This authority did not arise solely from the

marriage itself but from the wife's conventional role as household manager (Stones, 2006). Where the husband assumed direct responsibility for household expenditure and purchasing, he might periodically or irregularly provide the wife with money for routine purchases. In such circumstances, the wife could be viewed as acting as the husband's agent in dealings outside the home.

Unlike the earlier position, however, the husband could expressly prohibit the wife from making purchases on his credit. If he had previously represented her to a particular trader as his authorized agent, he was required to notify that trader of the withdrawal of her authority (Stones, 2006).

It follows that marriage historically imposed upon the husband a duty to maintain the wife, and he could not unilaterally terminate that duty (Stones, 2006). The wife could, however, lose or suspend her entitlement through certain conduct. This issue became particularly significant where she deserted the husband or committed adultery. During the continuation of such conduct, her right to maintenance could be suspended, but it could revive once the conduct ceased (Stones, 2006). A wife who lived separately because of the husband's misconduct or who was compelled to leave the home because of his ill-treatment, without fault on her part, retained her right to maintenance. A significant development occurred in 1978 through legislation governing applications for maintenance in magistrates' courts. When a wife sought financial provision for herself and the children, the court considered such factors as her employment, income, property, assets, and state benefits, including insurance and pension entitlements. A physically capable wife who refused employment without reasonable justification could not necessarily insist upon complete financial dependence on the husband.

Following the enactment of the Family Law Act 1996 and the report of the commission on family law and the grounds for divorce, the rules governing maintenance underwent substantial transformation. The general legal obligation of the husband to maintain the wife during marriage was weakened, and the position shifted toward individual responsibility, under which each spouse might be expected to provide for his or her own needs unless they agreed that family maintenance would be shared. Where either spouse expressly undertook, in the marriage agreement or subsequently, to maintain the

other, such an undertaking could be legally enforceable (Stones, 2006). The limited attention of the newer legislation to spouses' financial and legal relations during marriage, particularly the absence of an automatic obligation on the husband to support the wife, constitutes one of its most notable features. The apparent legislative objective was to leave the regulation of spouses' financial and legal affairs to the spouses themselves, allowing them to determine the allocation of living expenses through private agreement.

4. Conclusion

A comparative examination of the legal developments in the distinct systems of Iran and England demonstrates that, although the sources of legal rules and the foundations of legitimacy in the two jurisdictions arise from fundamentally different premises, their responses to social realities reveal an implicit convergence toward a new model of legal governance. In the English legal system, the transition from authority-based models toward partnership-based frameworks has resulted directly from the interaction between liberal-individualist doctrine and cultural transformation within the family structure. In this process, law has moved away from functioning as a rigid and predetermined regulator and toward acting as a facilitator of autonomous individual choice. The gradual dismantling of traditional structures and their replacement with private agreements has effectively redefined family law from a duty-based regime into a consensual one, within which equality is understood not as a command imposed from above but as the outcome of individual freedom of choice.

The Iranian legal system presents a different but equally significant trajectory. Unlike England, where legal modernization proceeded through a gradual departure from traditional doctrines, Iranian law has sought to redefine spousal relations through internal mechanisms and the dynamic capacities of Islamic jurisprudence. This transformation may be described as the emergence of modernity within tradition. It demonstrates that legislators and jurists have used legal mechanisms such as stipulations incorporated into the marriage contract and reforms to family-protection legislation to establish a balance between preserving foundational legal structures and responding to new social demands. In Iran, spousal partnership has therefore developed not

through the complete elimination of traditional authority but through its moderation and regulated contestation, thereby creating greater space for the independent exercise of the will of both women and men through contractual instruments.

Viewed more broadly, the findings indicate that the concept of authority in family law is being transformed in both systems. Whereas the effectiveness of family law was historically measured by the law's capacity to impose order and control spousal conduct, contemporary effectiveness is increasingly assessed by the extent to which the legal system can accommodate voluntary agreements. Despite divergent ontological foundations—namely, the secular and individualist orientation of English law and the religious and community-oriented orientation of Iranian law—social realities and changing gender roles have moved both systems toward a shared point: the transition from prescriptive models to participatory frameworks.

Ultimately, this study maintains that the future development of family law in both jurisdictions depends less upon sweeping structural reform than upon the further development of contract-based legal mechanisms. Each legal system, in accordance with its cultural and religious capacities, must seek an appropriate balance between structural stability and the dynamism of individual autonomy. In England, this balance requires the protection of individual rights against the pressures inherent in intimate relationships. In Iran, it requires the creation of legal mechanisms capable of guaranteeing spouses' participatory rights and their financial and personal autonomy without undermining the foundations of the family. The central mission of contemporary family law is therefore no longer the management of authority but the management of partnership: a partnership in which rights and obligations are defined and implemented not through traditional hierarchies but through dialogue and agreement between the two principal members of the family.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

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