

Women's Rights in Divorce from the Perspectives of Imami and Hanafi Jurisprudence: With Particular Reference to Contemporary Challenges

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1. Round 1

1.1. Reviewer 1

Reviewer:

The introductory paragraph identifies “social, economic, and cultural transformations,” “changes in gender roles,” and “global discourses on human rights and equality,” but does not operationalize these concepts or explain how they have altered the legal position of divorced women. The authors should identify the specific transformations relevant to the analysis, such as women’s labor-force participation, changes in household economic contributions, recognition of psychological abuse, expansion of judicial divorce, or the emergence of international equality standards. Without this clarification, the contemporary context remains descriptive rather than analytically integrated into the research problem.

The introduction asks, “what mechanisms have been envisaged to protect women’s rights in divorce?” and “to what extent have these mechanisms functioned effectively,” but the article does not clearly formulate separate research questions, propositions, or evaluative criteria. The authors should state the research questions explicitly at the end of the introduction and specify the indicators used to assess “effectiveness,” such as accessibility, evidentiary burden, judicial enforceability, financial adequacy, procedural duration, or independence from the husband’s consent. This revision is essential because the current analysis often asserts that one school provides “broader” or “greater” protection without demonstrating how that conclusion was systematically reached.

In the methodological paragraph beginning with “This article adopts a descriptive-analytical approach and a library-based method,” the research method is described too briefly to permit evaluation or replication. The authors should explain how jurisprudential and legal sources were selected, which classical and contemporary texts were included, how Hanafi and Imami authorities were classified, and what criteria were used to determine the “authoritativeness” of sources. The method should also clarify whether the comparison is doctrinal, functional, historical, or based on contemporary statutory applications. A transparent source-selection and analytical procedure would significantly strengthen the scientific credibility of the study.

In the paragraph stating that “the wife also has access to various legal mechanisms for release from marital life,” the article should distinguish between rights that a woman possesses independently and mechanisms dependent on the husband’s prior authorization or consent. Judicial divorce based on hardship differs fundamentally from delegated authority to divorce, while *khul’* often depends on the husband’s acceptance of financial consideration. Grouping these mechanisms together risks overstating the extent of women’s autonomous authority. The authors should evaluate each mechanism according to independence, evidentiary requirements, financial cost, and judicial enforceability.

The discussion of women’s financial rights in Imami jurisprudence states that “remuneration for domestic services and consolatory payment” have been recognized in contemporary legal systems, but it does not adequately distinguish their jurisprudential basis, statutory conditions, or legal nature. The authors should clarify whether remuneration is based on an implied contract, unjust enrichment, respect for labor, statutory entitlement, or proof that the services were performed at the husband’s request without gratuitous intent. Consolatory payment should likewise be separated conceptually from dower, maintenance, and remuneration. This distinction is particularly important because the manuscript later treats these rights as evidence of the greater protective capacity of Imami jurisprudence.

In the section “Divorce in Hanafi Jurisprudence,” the analysis should engage more directly with authoritative Hanafi doctrine rather than describing Hanafi law primarily through general Islamic legal concepts. The manuscript refers to *istiḥsān*, custom, *khul’*, delegated divorce, and annulment, but it does not explain the internal Hanafi classifications of *ṭalāq*, *tafwīḍ*, *khiyār al-bulūgh*, judicial separation, defects, non-maintenance, or harm. The authors should identify which remedies belong to classical Hanafi doctrine and which derive from later statutory reform influenced by other Sunni schools. This is essential to avoid attributing modern legislative innovations directly to classical Hanafi jurisprudence.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The section “Jurisprudential Foundations of Women’s Rights in Divorce” combines Qur’anic evidence, Prophetic and Imami traditions, consensus, reason, jurisprudential maxims, and the objectives of the *Sharī’a*, but does not distinguish how these sources function differently in Imami and Hanafi legal methodology. For example, reason has a formal doctrinal status in Imami jurisprudence, whereas *qiyās* and *istiḥsān* are particularly important in Hanafi jurisprudence. The authors should present the methodological architecture of each school separately before comparing substantive divorce rules. Otherwise, the discussion risks treating Islamic legal theory as methodologically uniform despite the article’s comparative purpose.

In the paragraph discussing verse 231 of *Sūrat al-Baqara* and the instruction to “retain them on equitable terms or release them in a proper manner,” the authors infer a general “principle prohibiting abuse of the right to divorce.” This interpretation is plausible, but it requires more precise jurisprudential substantiation. The authors should explain whether this principle is explicitly recognized by classical Imami and Hanafi jurists, derived through contemporary purposive interpretation, or reconstructed by the authors. Distinguishing textual meaning, juristic doctrine, and contemporary normative interpretation would prevent the analysis from conflating exegetical claims with positive jurisprudential rules.

The paragraph addressing “The no-harm maxim,” “the maxim negating hardship and distress,” “the principle of justice,” and “the principle of fidelity to contractual stipulations” needs deeper doctrinal analysis. The authors should explain the legal conditions, scope, and limits of each maxim rather than merely listing them. For instance, the relationship between the maxim of no harm and judicial divorce is contested and may depend on whether the maxim negates a harmful rule, establishes an affirmative remedy, or authorizes judicial intervention. Similarly, the maxim of hardship and distress should be differentiated from ordinary inconvenience, financial difficulty, and severe marital harm. This doctrinal clarification is necessary for a rigorous legal analysis.

In the section “Divorce in Imami Jurisprudence,” the sentence defining divorce as “the removal of the bond of permanent marriage through a specific formula” is useful, but the discussion should distinguish more carefully between *ṭalāq*, judicial dissolution, annulment, *khul’*, *mubārāt*, termination of temporary marriage, and dissolution resulting from defects or other legal

causes. At several points, the manuscript uses “divorce,” “annulment,” and “dissolution” in ways that may obscure important doctrinal differences. A terminological table defining these institutions in Imami and Hanafi jurisprudence would improve conceptual accuracy and prevent the comparison from resting on non-equivalent legal categories.

The statement that the divorce formula “must be pronounced through an Arabic formula” should be qualified and supported through a more nuanced account of juristic disagreement and contemporary legal application. The authors should clarify whether the Arabic-language requirement is unanimously accepted among Imami jurists, whether inability to pronounce Arabic creates exceptions, and how national legal systems based on Imami jurisprudence handle registration and judicial pronouncement. The current formulation presents a complex jurisprudential issue as an unqualified universal rule.

The classification of divorce into “revocable,” “irrevocable,” “khul’ and mubārāt,” and “judicial divorce” mixes classifications based on legal effect, substantive cause, and institutional mechanism. Khul’ and mubārāt are generally forms of irrevocable divorce, while judicial divorce refers to the procedure or authority through which dissolution occurs. The authors should reorganize this section using a coherent taxonomy, such as classification by revocability, initiating party, legal basis, or mode of pronouncement. The present arrangement may confuse readers and weakens the analytical structure of the article.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.