



Research Paper

The Position of Aryan Marriage Contract in Islamic Family Jurisprudence System

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Abstract

As Islam emerged and spread in Iran, many Iranian customs and traditions underwent serious changes in personal and social relations. The marriage contract is one of the social contracts that have taken a new form due to these changes. However, in recent years, some young Iranians returning to their previous traditions replaced the shar‘ī marriage with a new marriage called “Aryan marriage contract” (aqd-i āriyā’ī) to set their marriage bond. After a while, due to the belief that it is illegitimate, it was banned in marriage offices. Using the analytical descriptive method, this article explains and analyzes the content of this contract and its legitimacy based on the teachings of Islam. Through reading this article, it would be clear that the mere emergence of the Aryan marriage contract and some differences in the appearance of its implementation with the shar‘ī marriage are not considered as proof of its illegitimacy; this contract enjoys the basic elements of creating a marriage bond in Islam, that is, it is correct and legitimate.

Keywords:

Aryan contract, ancient contract, marriage contract, family jurisprudence.

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Extended Abstract

1- Introduction

Keeping ancient traditions as a part of the national values of humanity has always been considered. Islam has also confirmed some of these traditions and emphasized adherence to them. In the meantime, Nikah, as one of the common traditions throughout history, has undergone many changes many times. Therefore, determining the boundary between marriage and adultery has always been the focus of nations and divine religions. In particular, the history of Iranians shows that they always adhere to marriage ceremonies and send their sons and daughters to the house of fortune with certain rituals and observe the boundary between marriage and adultery. With the advent of Islam in Iran, the quality of the performance of the marriage contract changed and Sharia marriage became popular among the people; But recently, among a group of young Iranians, there has been an increase in the desire to enter into a new marriage under the name of "Aryan marriage", which differs from the Sharia marriage in its execution form. The reason for the acceptance of this form of marriage can be summarized in motivations such as preserving the mother tongue, the possibility of executing the marriage by the couple themselves and without the presence of a lawyer, emphasizing the need for loyalty instead of financial obligations, and having the emotional meaning of the words of the marriage in contrast to the sexual meaning of the concubine of Islamic marriage. However, the governing bodies have considered this contract as illegitimate and, in this regard, declared its

implementation in official marriage offices prohibited and illegal. The desire of some young Iranians to hold a marriage ceremony based on Aryan marriage instead of Sharia marriage on the one hand and its legal restriction and prohibition by the governing institutions on the other hand, prompted us to analyze the content of the common Aryan marriage and compare it with Sharia marriage. to evaluate the legitimacy of this contract. In this regard, we first take a look at the marriage situation in ancient Iran. Since, according to the claim of Aryan marriage supporters, this marriage is the heritage of ancient Iranians, we felt it necessary to compare the texts of two ancient marriages and modern Aryan marriage. In the following, while analyzing the content of the Aryan marriage, we will examine its pillars and conditions, and finally, by examining the evidence of the legitimacy of this marriage, it will be explained in jurisprudence. It is worth mentioning that despite the promotion of this contract in the Iranian society and some people's opposition to it due to its illegitimacy, this issue has not been noticed by legal and jurisprudential researchers and no jurisprudential research has been written in this regard so far. Therefore, the current research is considered necessary and innovative in its own way.

2-Method

Using the analytical descriptive method, this research explains and analyzes the content of this contract and its legitimacy based on the teachings of Islam.



3-Result

The results of this research show:

- 1- Although the Aryan marriage has many differences with the Sharia marriage, due to its greater harmony with Iranian culture and customs, in recent years, it has met with increasing favor among Iranians. Among the reasons for the increasing acceptance of Aryan marriage by young couples, the unique features of marriage ceremony are compared to Sharia marriage. In addition to benefiting from the beautiful and melodious words of the Persian language, in the Aryan marriage, explicit words are used that directly indicate the will of the couple to start a joint life with each other, while the words of the sharia marriage are in Arabic and unfamiliar to Persian speakers. In the Aryan marriage, the marriage contract is the responsibility of the couple. Men and women repeat the words of the conjugation following the agreement and have a direct role in accepting the provisions of this agreement. While the implementation of the Sharia marriage formula is mostly left to the lawyer due to Iranians' lack of mastery of the Arabic language, and couples, without any understanding of the meaning of these words, are content to declare their inner consent to the marriage contract.
- 2- The content of the Aryan contract emphasizes the necessity of loyalty, affection, both physical and mental of the couple, while most of the words used in the Sharia marriage formula remind the couple's

commitment to maintain their sexual relations. This issue is one of the reasons why Iranian women and girls turn away from Sharia marriage. In Iranian culture, a woman is the epitome of cuteness and a man of need. An Iranian woman is ashamed to use these words to express her consent to marriage and may consider it to be beneath her dignity. Especially, in a sharia marriage, a woman is required to be a concubine. There is no mention of financial obligations in the Aryan contract. Necessary agreements about the seal are made before the contract and do not enter into the text of the contract. While the Sharia (temporary) marriage form is more than an expression of the spiritual and emotional rights and duties of the couple towards each other, it is a reminder of the couple's financial obligations in the matter of dowry. The juxtaposition of sexual and financial obligations in the Sharia contract form creates the illusion of their exchange in the marriage contract.

- 3- The content of the Aryan marriage, with repeated emphasis on fidelity as a mutual duty of the couple, recognizes the monogamy system as the most natural form of the social-legal institution of marriage and a fundamental value in Iranian culture. What's more, in Iranian custom and culture, loyalty has a more limited concept than its Sharia concept. A man's remarriage with other women is considered a breach of fidelity, while in jurisprudential terms, the couple's legitimate relationships outside the



family framework do not conflict with his fidelity.

- 4- Despite the positive and prominent features that we observed in the Aryan marriage, the existence of some omissions and shortcomings that clearly indicate the haste and lack of scientific and research background in the selection of the text and ceremonies of this new marriage cannot be denied. Contrary to the opinion of its fans, this marriage has nothing in common with the ancient marriage and it is part of the text of a poem by one of the contemporary Iranian poets. Some of the words used are Arabic and do not fully correspond to the purpose of preserving the Persian language and culture. The oaths before and the prayers after the marriage also lack a specific background as well as Shariah and legal guarantees. In their commitments, couples swear by the seasons of the year instead of religious sacraments. In some of the customs and ceremonies of this marriage, the rules of Shariah have not been fully observed. As an example, a man and a woman, before signing the contract of intimacy, hand in hand make the contract of marriage. However, it should be said that such actions and rituals are only a sin and are

subject to the obligation of sanctity and are not a reason for the illegitimacy of the marriage. In this way, it can be said that the Aryan marriage, subject to the avoidance of forbidden provisions and the absence of disturbance in public order, has other pillars and conditions of validity of the marriage in the Islamic religion, such as the parties to the marriage, their intention and consent to the marriage, and also a concubine who expresses this will.

4-Conclusion

By reading this article, we can see that the mere emergence of the Aryan marriage and some differences in the appearance of its implementation with the Sharia marriage are not considered as proof of its illegitimacy; This contract has the basic elements of creating a marriage bond in Islam, it is correct and legitimate.

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6-Authors contribution

Mehdi Ejtihadi, the other author of this article, is a doctoral student in jurisprudence and fundamentals of Imam Khomeini's law and thought at the Imam Khomeini and Islamic Revolution Research Institute.

7-Conflict of Interest

Authors declared no conflict of interest