

شبهات پیرامون حقوق خانواده در ترکیه و پاسخ‌های علامه جوادی آملی

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چکیده

اطلاعات مقاله

هدف: این پژوهش با هدف واکاوی و پاسخ‌گویی مستدل و نظام‌مند به شبهات نوپدید پیرامون حقوق خانواده اسلامی در بستر تحولات اجتماعی و ساختار حقوقی مدنی ترکیه معاصر، بر پایه منظومه فکری، حکمی و فقهی آیت‌الله العظمی عبدالله جوادی آملی تدوین شده است.

روش‌شناسی: رویکرد حاکم بر این مطالعه، توصیفی-تحلیلی و مبتنی بر مطالعات اسنادی و کتابخانه‌ای، ریشه‌شناسی واژگان در متون اصیل لغوی، استنادات قرآنی و روایی و کاربست روش اجتهادی جامع‌نگر عقلانی، عرفانی و فقهی در آثار علامه جوادی آملی است.

یافته‌ها: یافته‌های تحقیق اثبات می‌کند که احکام مالی به ظاهر چالش‌برانگیز نظیر مهریه، دیه و سهم‌الارث زن، فاقد هرگونه جهت‌گیری تبعیض‌آمیز یا نگرش فرودستانه به جایگاه زن هستند. در هندسه معرفتی اسلام، مهریه هدیه‌ای الهی، نماد پیوند عاطفی و نشانه تکریم منزلت زن است و هرگز بهای استمتاع جسمانی یا ابزار تملک به شمار نمی‌آید. همچنین ناهمسازی در مقدار دیه و سهم‌الارث زن و مرد، معلول مسئولیت انحصاری مردان در تامین هزینه‌های معیشتی و اداره مالی خانواده است؛ در حالی که زن در مالکیت دارایی‌های خود استقلال تام داشته و هیچ تعهد مالی بر عهده ندارد.

نتیجه‌گیری: شبهات رایج در فضای ترکیه برآمده از نگاه‌های تقلیل‌گرایانه، غفلت از مبانی هستی‌شناختی و تفکیک نکردن ارزش وجودی روح از قوانین جبران خسارت اقتصادی است. چارچوب اجتهادی علامه جوادی آملی با بازخوانی مقاصد شریعت، هماهنگی کامل احکام خانواده با عدالت‌تکوینی و کرامت انسانی را اثبات می‌نماید.

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مقدمه و بیان مسئله

جامعه معاصر ترکیه به عنوان بستری تلاقی‌یافته میان میراث عمیق تمدن اسلامی، سنت‌های دیرپای عثمانی و دگرگونی‌های ساختاری ناشی از ورود مدرنیته و استقرار نظام حقوقی عرفی، در دهه‌های اخیر به کانون مباحثات پردامنه در قلمرو حقوق خانواده و جایگاه مدنی زنان بدل گشته است. پس از اصلاحات حقوقی آغاز سده بیستم و جایگزینی قوانین شرعی با نظام حقوق مدنی برگرفته از الگوهای غربی، نهادهای قضایی این کشور معیار برابری مطلق عددی را در احکام مدنی مستقر ساختند. در پی این تحولات و گسترش گفتمان‌های نوگرا، جریان‌های فمینیستی و رسانه‌های جمعی، پاره‌ای از احکام مسلم فقه اسلامی نظیر مهریه، تفاوت دیه زن و مرد، تسهیم ارث، انحصار اولیه حق طلاق در دست شوهر، حضانت فرزندان و مفهوم پندپذیری در روابط زوجین با موجی از تردیدها و نقدهای بنیادین مواجه گردید.

منشأ عمده این شبهات، ناآشنایی با مبانی فلسفی و نظام‌مند شریعت، فروکاستن کرامت انسانی به محاسبات مادی و سنجش احکام قدسی با الگوهای حقوق بشر مدرن است. در فضای عمومی و دانشگاهی ترکیه، این شبهات غالباً با ادعای تبعیض‌گرایی علیه زنان و ساختار مردسالارانه فقه تبلیغ می‌شوند. همچنین مواجهه مهاجران پایمند به احکام سنتی با قوانین برابرطلبانه ترکیه، به این چالش‌های ارزشی دامن زده است. علی‌رغم نگرش پژوهش‌های متعدد درباره حقوق خانواده در جمهوری ترکیه، تحلیل تطبیقی این پدیده‌ها با اتکا به منظومه فکری حکیمان برجسته معاصر مغفول مانده بود. از این رو، این پژوهش با بهره‌گیری از دیدگاه‌های آیت‌الله العظمی عبدالله جوادی آملی که پیونددهنده عقلانیت فلسفی، بینش عرفانی و اجتهاد اصیل قرآنی است، به تبیین مستدل، منطقی و معرفت‌شناختی این احکام پرداخته است تا حقیقت عدالت‌محور شریعت اسلامی در حوزه خانواده آشکار گردد.

روش‌شناسی و مبانی تحلیلی

پژوهش حاضر از حیث هدف در زمره تحقیقات بنیادی-تبیینی و از نظر شیوه اجرا مبتنی بر روش توصیفی-تحلیلی و پژوهش‌های کتابخانه‌ای و اسنادی است. در این بررسی، ابتدا مفاهیم کلیدی از جمله مفهوم شبهه، خانواده، مهریه، ارث و دیه از طریق لغت‌پژوهی در منابع دست‌اول فرهنگ‌نامه‌ای مورد ریشه‌شناسی دقیق قرار گرفته است. سپس با کاوش در متون تفسیری و فقهی علامه جوادی آملی به ویژه آثاری چون تفسیر تسنیم و زن در آینه جلال و جمال، منظومه تحلیلی ایشان استخراج و در مواجهه با شبهات جامعه معاصر ترکیه به کار بسته شد.

مبنای روش‌شناختی علامه جوادی آملی بر جامع‌نگری میان عقل برهانی، شهود معنوی و نقل معتبر قرآنی و روایی استوار است. در این نگرش، احکام شرعی تابع مصالح و مفاسد واقعی و مبتنی بر حکمت تکوینی خداوند دانسته می‌شوند. بر این اساس، تحلیل حقوقی بدون شناخت ساختار وجودی انسان، تفکیک ساحت روح از کالبد مادی و درک منظومه تکالیف اقتصادی غیرممکن است. این روش‌شناسی توانسته است میان واقعیت‌های زیستی-اجتماعی و غایات متعالی آفرینش توازنی استوار برقرار سازد.

یافته‌ها و تبیین‌های حکمی - فقهی

یافته‌های این پژوهش در محورهای سه‌گانه شبیهات مالی و حقوقی به شرح زیر دسته‌بندی و اثبات گردیده است:

نخست؛ حقیقت مهریه و نفی نگرش ابزاری: منتقدان در ترکیه شبهه افکنده‌اند که مهریه بهایی برای تملک جسمانی و دستمزد بهره‌مندی جنسی است. علامه جوادی آملی با اتکا به واژگان قرآنی نظیر «نحله» (بخشش پاک‌دلانه و رایگان) و «صداق» (نشانه راستی در مهرورزی)، اثبات می‌کند که مهریه هرگز جنبه معاوضه تجاری ندارد. در عقد نکاح، زن وجود یا بدن خود را نمی‌فروشد، بلکه پیوند زوجیت، حقی متقابل و سرچشمه آرامش روحی است. مهریه عطیه‌ای الهی به عنوان نماد تکریم زن و نشانه وفاداری و صدق نیت مرد در بنا نهادن کانون خانواده است. ایشان میان مهریه قدسی و سنت پیامبر (پانصد درهم نقره) با مهریه‌های سنگین عرفی تفکیک قائل شده و تأکید می‌کند که افزونی‌های نامتعارف، خروج از معنویت دین و ورود به عرصه تفاخر و مسابقه مادی است.

دوم؛ فلسفه دیه و تفکیک ارزش وجودی از زیان اقتصادی: شبهه تفاوت دیه زن و مرد که در جامعه ترکیه به عنوان نشانه‌ای از فروودستی ارزش جان زن انگاشته می‌شود، با تبیین تمایز ساحت‌های وجودی پاسخ داده می‌شود. علامه جوادی آملی تصریح دارد که در نظام هستی‌شناسی اسلام، زن و مرد از نظر حقیقت روح، ظرفیت تقرب الهی، قابلیت دریافت فیوضات معنوی و طی مدارج کمال انسانی در برابری کامل قرار دارند و تقوا یگانه ملاک برتری انسان‌هاست. دیه هرگز معیاری برای قیمت‌گذاری جان یا روح متعالی آدمی نیست؛ چنان‌که دیه رهبر یک جامعه با یک کارگر عادی کاملاً برابر است. دیه صرفاً یک جبران خسارت اقتصادی و مادی برای کانون خانواده در پی فقدان بازوی تأمین معاش است. از آن‌جا که در نظام اسلامی، بار تأمین تمامی مخارج خانواده منحصر بر عهده مرد قرار دارد، فقدان او شوک ویرانگر مالی برای بازماندگان پدید می‌آورد و از این رو دیه بیشتری برای او لحاظ شده است تا بقای اقتصادی خانواده تضمین گردد.

سوم؛ مهندسی نوین نظام ارث و عدالت توزیعی: در برابر شبهه نابرابری سهم الارث، تحلیل متن آیات قرآن نشان می‌دهد که خداوند سهم زن را اصل و مبنای اندازه‌گیری قرار داده است (سهم مرد، معادل سهم دو زن). تفاوت در ارث‌بری، انعکاس توازن میان حقوق و تکالیف مالی است؛ زیرا مرد موظف است مهریه، نفقه زن و فرزندان و هزینه‌های بستگان نیازمند را بپردازد و زن از هرگونه تعهد مالی برای امرار معاش معاف است و مالکیت مطلق بر تمامی دارایی‌ها و ارث خود دارد. در تحلیل علامه طباطبایی و علامه جوادی آملی، مرد اسما دو سوم ثروت را به ارث می‌برد اما صرفاً یک سوم آن را به نفع شخص خود مصرف می‌کند و دو سوم دیگر را ناگزیر به مصرف زن و فرزندان می‌رساند؛ در حالی که زن یک سوم را به ارث می‌برد ولی در عمل از دو سوم مجموع دارایی‌ها بهره‌مند می‌گردد. این نظام توزیعی نمونه‌ای برجسته از عدالت ماهوی و حمایت همه‌جانبه از استقلال اقتصادی زن است.

نتیجه‌گیری و افق‌های کاربردی

برآیند این تحقیق روشن‌گر آن است که شبهات وارد بر حقوق خانواده اسلامی در ترکیه و جوامع مدرن، معلول نگرش‌های جزیره‌ای و جدا ساختن احکام فقهی از پیکره حکمت و اخلاق اسلامی است. هنگامی که منظومه شریعت به مثابه نظامی به هم پیوسته نگریسته شود، نه تنها هیچ‌گونه نقصی در رعایت حقوق زن مشاهده نمی‌شود، بلکه انسجام احکام مالی در پاسداشت جایگاه کرامت‌محور بانوان جلوه‌گر می‌شود.

رویکرد عقلی-اجتهادی آیت الله العظمی جوادی آملی نشان داد که تمایزات حقوقی نه به معنای تبعیض، بلکه عین عدالت حکیمانه و تناسب با تکالیف عینی حیات اجتماعی است. این الگوی پاسخ‌گویی می‌تواند به عنوان چارچوبی کارآمد برای بازخوانی انتقادی قوانین در جوامع اسلامی، اصلاح نگرش‌های دانشگاهی و ارائه مبانی استوار دینی در گفتگو با چالش‌های معاصر حقوقی و اجتماعی در سراسر جهان اسلام مورد بهره‌برداری قرار گیرد.

Doubts Regarding Family Law in Turkey and Ayatollah Javadi Amoli Response

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ABSTRACT

This article aims to investigate the emerging doubts surrounding Islamic family law within the cultural and social context of contemporary Turkey, specifically analyzing the responses of Ayatollah Abdullah Javadi Amoli to these inquiries. The primary focus of this study lies in the jurisprudence surrounding the rights and financial entitlements of family members, investigating contentious themes such as the bride-gift (mahr), bodily injury compensation (diyyah), and female inheritance. Through a profound philosophical and teleological analysis of Islamic jurisprudence (fiqh) and the ontological status of women in the Islamic worldview, this research demonstrates that these rulings are far from discriminatory. Instead, they are established upon divine justice, cosmic wisdom, and a pragmatic assessment of socio-economic realities. Specifically, the payment of mahr is recontextualized as a symbolic token of honoring the woman rather than a transaction of her sexual agency, while the differentials in blood money (diyyah) and inheritance are analyzed through the lens of asymmetric economic burdens and family maintenance. Using a descriptive-analytical methodology rooted in library research and textual exegesis, the study first clarifies key concepts of "doubt" and "family," briefly outlining the structural transformation of the Turkish family. Subsequently, the most prominent financial and social doubts are evaluated and refuted using Quranic verses and the exegetical insights of Ayatollah Javadi Amoli. The scholarly innovation of this research lies in its comparative focus on a specific modernist-secular society (Turkey) and its rigorous application of Javadi Amoli's intellectual framework to supply logical, textually grounded solutions to contemporary challenges.

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1. Introduction

In societies such as Turkey, which are simultaneously influenced by Islamic teachings, deep-seated Ottoman traditions, and strong secular and modernist currents, the issue of family law—particularly women's rights—lies at the absolute core of social, cultural, and jurisprudential debates. Within this socio-historical milieu, certain Islamic rulings have been subjected to skepticism, intense critique, and systemic misunderstanding. These contentious issues include the bride-gift (*mahr*), bodily injury compensation (*diyyah*), inheritance, the husband's unilateral right to divorce (*talaq*), child custody and guardianship, the exegetical interpretation of the physical discipline clause in the "striking verse" [Qur'an 4:34] (*fadribuhunn*), and the temporary prohibition of women's remarriage during the post-divorce waiting period (*'iddah*).

Some of these doubts stem from a fundamental unfamiliarity with the jurisprudential (*fīqhi*) and philosophical structures of Islam. Conversely, other objections are animated by the apparent discordance between classical Islamic rulings and modern human rights standards or Western concepts of gender equality. These debates are heavily amplified in the Turkish public sphere, finding wide expression in media channels, digital social networks, and academic circles. Consequently, a discursive climate has emerged that frequently portrays Islamic family rulings as inherently oppressive, patriarchal, or structurally discriminatory against women.

Moreover, several books, and articles have been written on topics family law in Turkey, among which are: Family laws of the Turkish republic (Feroze, 1962), Families in Turkey (Nauck & Klaus, 2005), Aftermath of a revolution: A case study of Turkish family law (Yildirim, 2005), The family in Turkey: The battleground of the modern and the traditional (Cindoğlu, et al, 2008), Review of explicit family policies in Turkey from a systemic perspective (Çarkoğlu, et al, 2012), Islamic family law in secular Turkish courts (Yilmaz, 2014), The changing concept of 'family' and challenges for family law in Turkey (Örücü, 2016). Meanwhile, no comparative study has been carryout on perspectives of Ayatollah al-Uzma Abdullah Javadi Amoli and family law in Turkey.

Therefore, in this study, a systematic effort is made to leverage the precise intellectual contributions and analytical perspectives of Ayatollah al-Uzma Abdullah Javadi Amoli, who is universally regarded as one of the most prominent Twelver Shia authorities (*maraji'*) and profound contemporary Islamic philosophers. By doing so, we present a scientifically rigorous, textually documented, and rationally sound response to these doubts. Ayatollah Javadi Amoli's methodology—which seamlessly integrates rational (*'aqli*), mystical (*'irfani*), and jurisprudential (*fiqhi*) exegesis of the Holy Qur'an and the Prophetic Sunnah—provides a clarifying intellectual framework for a correct, holistic understanding of Islamic family jurisprudence. Ultimately, this approach serves to dismantle pervasive misconceptions and reconstruct the justice-oriented core of Islamic jurisprudence concerning women's rights within modernist Muslim societies such as Turkey.

2. The Doubt Surrounding the Bride-Gift (*Mahr*) to Women

Prior to evaluating the theological and legal doubts regarding *mahr*, it is critically important to trace the etymological origins of the term and survey its Qur'anic context. Lexicographers such as Ibn Faris identify *mahr* as a word of classical Arabic origin [Ibn Faris, 1399 AH, vol. 3, p. 339]. Ibn Faris demonstrates that the term *mahr* contains two core semantic roots: first, it denotes a reward, compensation, or wage paid in exchange for a specific object or service; and second, it serves as a noun for a young animal, specifically a foal [ibid., vol. 5, p. 281]. Furthermore, lexicographical treatises cite secondary cultural usages, including the definition of "red wheat" [Ibn Manzur, 1405 AH, vol. 5, p. 186].

Certain modern scholars suggest that the etymology of *mahriyeh* can be traced to the Hebrew word *mohar* and the Syriac root *mahra*, both of which convey the meaning of "a bridal gift." It subsequently migrated into the Arabic lexicon as *mahr*. In the technical vocabulary of Islamic jurisprudence (*fiqh*), *mahr* is defined as a specific property or asset of financial value that is transferred from the husband to the wife at the time of the solemnization of the

marriage contract, or an asset whose payment the husband explicitly binds himself to fulfill (refer to Tarmanini, 1977, p. 66). In the Persian language, its functional equivalent is historically designated as *Kabin* [Khatami, 1382 Sh, vol. 3, p. 3129]. Thus, *mahr* manifests as an Arabic term that has acquired a diverse spectrum of legal and cultural applications across distinct linguistic geographies.

It is notable that the specific word *mahriyeh* does not appear explicitly in the text of the Holy Qur'an. Nevertheless, the underlying concepts, structural mechanics, and legal directives that affirm its absolute legitimacy and mandatory enforcement are detailed across multiple verses. In the contemporary legal landscape of Turkey, the rapid expansion of feminist movements, the institutional consolidation of secular civil society, and the ideological friction between traditional religious norms and Westernized civil codes have generated sharp intellectual debates surrounding the philosophy of *mahr* and its implications for marital relationships. Within this critical discourse, two primary doubts have achieved significant prominence:

1. The Instrumental and Lust-Oriented Doubt: This doubt asserts that a woman receives *mahr* as a transactional wage or compensation for being the instrument of a husband's physical gratification. According to this highly critical perspective, the payment of *mahr* is structurally reduced to a form of "financial prepayment" for sexual access to the female body. By accepting the *mahr*, it is argued that the woman effectively sells her sexual consent, transforming herself into a physical commodity purchased to satisfy male desire. Modernist critics in Turkey argue that this legal structure is fundamentally incompatible with human dignity, gender equality, and modern ethics. To justify this claim, they frequently cite Qur'anic passages, such as: "*So for whatever you enjoy [of marriage] from them, give them their due compensation...*" [Qur'an 4:24]. They allege that the Qur'an itself legitimizes sexual relations under a transactional framework of material payment, equating the marriage covenant to a commercial contract and sexual exploitation.

2. The "Hidden Ownership" Doubt: This doubt posits that *mahr* serves as a mechanism of "hidden ownership" over the woman. Under this framework, the husband's financial outlay secures a permanent property right over the woman's physical agency, establishing access that is grounded not in continuous, mutual, and free consent, but rather in a fixed and legally binding financial transaction. In Turkish television broadcasts, social media platforms, and academic journals, these arguments are regularly deployed to claim that traditional Islamic jurisprudence is in irreducible conflict with women's autonomy, self-determination, and personal dignity.

2.1 Mahr: A Divine Gift, Not a Material Transaction

In response to these reductionist claims that interpret *mahr* as a "sexual wage" and reduce the sacred marital bond to a gendered commercial transaction, we must analyze the philosophical and jurisprudential framework of Ayatollah Javadi Amoli. His intellectual paradigm not only refutes the commodification of women, but actively illuminates the metaphysical sanctity of the family and the ontological dignity of human beings.

Ayatollah Javadi Amoli observes that the Holy Qur'an utilizes highly specific terminology to describe the financial gift transferred to the wife, employing words such as *nihlah* (free gift), *saduqat* (tokens of truthfulness), and *ajr* (compensatory reward). Reflecting deeply on the word *nihlah*—which classically denotes a gift offered spontaneously, with pure goodwill and without any expectation of material return—Javadi Amoli emphasizes that *mahr* is a divine, non-transactional gift that God has made obligatory upon men to transfer as an expression of love, respect, and deep honor. Far from representing a financial "purchase price" for sexual access, *mahr* stands as a material testament to the man's sincerity and his commitment to a sacred metaphysical covenant.

To reinforce this point, the term *sadaq* is introduced within Qur'anic culture as a synonym for *mahr*. Derived from the root of truthfulness (*sidq*), it signifies that the bride-gift is an index of the husband's sincere intention and moral fidelity, rather than a

commercial exchange. Ayatollah Javadi Amoli explicitly states: *"Within the covenant of marriage, the woman does not sell anything to the man such that the mahr could be interpreted as its transactional price."* Rather, the structural formation of the family and mutual sexual fulfillment are reciprocal rights shared equally by both spouses [refer to Javadi Amoli, *Jame'eh dar Qur'an*, p. 69]. Hence, the assertion that marriage is a commercial purchase is an ideological distortion that misinterprets the legal mechanics of the contract.

Furthermore, Javadi Amoli maintains that the secular and non-sacred conceptualization of the family is the root cause of these distorted interpretations. Secular frameworks view marriage through the narrow prism of material pleasure-seeking or patriarchal domination. Conversely, the Holy Qur'an declares that the family is divinely instituted upon the ontological foundations of love, mutual tranquility, and mercy: *"And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy..."* [Qur'an 21:21]. If the sole purpose of marriage were transactional pleasure, *mahr* could indeed be reduced to a tool for purchasing access. However, in Islamic metaphysics, it is an instrument of honoring (*ikram*) the woman and realizing a deeply committed spiritual union.

2.2 Mahr: A Symbol of Justice, Not a Tool of Domination

One of the most precise jurisprudential arguments advanced by Ayatollah Javadi Amoli involves the strict demarcation between the divine, sacred core of *mahr* and its customary (*'urfi*), socially inflated additions. In a landmark jurisprudential decree (*istifta'*) concerning whether the excess value of a massive *mahr* is subject to the Islamic wealth tax (*khums*), he ruled: *"If the mahr exceeds the customary Prophetic Sunnah amount (Mahr al-Sunnah, equivalent to 500 silver dirhams), the excess portion is classified as ordinary property subject to khums. This is because that which God has determined is a divine and sacred gift, whereas any excess added due to social custom or material competition distances itself from that original sanctity and is subject to ordinary financial regulations"* [refer to Javadi Amoli, 1391

Sh, *Istifta'at*, p. 79]. This legal distinction reflects Islam's highly balanced approach to material wealth and human dignity. It validates the woman's entitlement to a symbolic *mahr* as a token of honor, while warning that material excess degrades the spiritual essence of marriage, transforming it into a theater of financial accumulation (*takathur*) and socio-economic rivalry.

In the historical practice (*seerah*) of the Prophet of Islam (PBUH) and the Infallible Imams (PBUT), *mahr* was consistently kept at a modest and symbolic level. The *mahr* of Lady Fatima Zahra (SA) was fixed at five hundred silver dirhams. According to a authentic narration from Imam Muhammad al-Baqir (AS), this moderate benchmark was divinely ordained to serve as an enduring model ("*Sunnah*") for the Islamic community [refer to Al-Nuri, 1987, vol. 15, p. 63, h. 17542]. In stark opposition to contemporary practices that weaponize *mahr* as a tool of financial pressure or legal coercion, Ayatollah Javadi Amoli warns that excessive *mahr* is an explicit departure from the Prophetic model, signaling an embrace of materialism and a violation of Islamic spiritual values. In conclusion, the claim that *mahr* is a "sexual wage" is an analytical error born of non-religious premises and a profound misunderstanding of the systemic architecture of Islamic law.

3. The Doubt Surrounding the Half Blood Money (*Diyyah*) for Women

One of the most intensely contested and debated topics within Islamic jurisprudence (*fiqh*) and the legal frameworks of several Muslim-majority nations is the classical ruling that the blood money (*diyyah*) of a woman is half that of a man. For decades, this ruling has been a focal point of intense legal criticism, public protests, and reformist review. This issue is particularly critical in contemporary Turkey, where the national legal architecture is grounded in constitutional secularism and Western civil law. In this modernist context, the traditional Sharia ruling has entirely lost its social legitimacy and legal application.

According to the classical consensus of several Islamic schools of law, a woman's blood money in cases of homicide or severe bodily injury is evaluated at half the financial rate of a man's. Historically, this ruling was formulated within pre-modern social structures, wherein women were almost entirely dependent upon the male members of the family for financial protection and rarely participated as independent economic agents. However, in modern Turkey, the national legal landscape is vastly different. Following the profound legal reforms initiated in the early twentieth century under the leadership of Mustafa Kemal Atatürk, Sharia laws were completely excised from the state legal system. In its place, the Swiss Civil Code was adopted as the foundational matrix for Turkish family and civil law. Consequently, under modern Turkish jurisprudence:

1. Absolute equality exists between men and women in the domains of bodily injury compensation, inheritance, legal testimony, and criminal sentencing;

2. All citizens, regardless of gender, enjoy identical civil, constitutional, and penal rights;

3. The theological concept of "*diyyah*" has no legal status within the Turkish judiciary. Instead, physical, economic, and moral damages are calculated strictly through modern civil liability and insurance frameworks.

Why, then, does this jurisprudential doubt remain highly prominent within Turkish public discourse? The phenomenon is driven by complex migration patterns. Turkey has welcomed a large number of Muslim immigrants and refugees from neighboring nations that continue to enforce traditional Sharia-based personal status laws. When these individuals encounter Turkey's egalitarian legal system, they frequently experience a profound sense of cultural confusion and value conflict. Simultaneously, certain conservative religious movements inside Turkey actively campaign to revive traditional jurisprudential codes, a push that is met with fierce resistance from progressive lawyers, feminist organizations, and civil society advocates. This tension highlights a deep systemic friction between traditional jurisprudence and the modern human rights framework. Thus, in a country like Turkey, where the constitution strictly

separates religion and state and guarantees absolute gender equality, the concept of half-diyyah is viewed as an archaic violation of justice. Critically analyzing this doubt provides a vital platform for deeper academic dialogue regarding the urgent necessity of reforming traditional jurisprudence and honoring the intrinsic dignity of women in the Islamic world.

3.1 Exegetical and Philosophical Refutation: Ayatollah Javadi Amoli

In responding to the argument that half-diyyah signifies that Islam evaluates the ontological worth and human dignity of a woman as inferior to a man, we can utilize the sophisticated philosophical framework of Ayatollah Javadi Amoli. His analysis completely rejects reductionist, anti-egalitarian views of women. Instead, it demonstrates that *diyyah* is a strictly material, economic measure, and in doing so, he underscores the necessity of a dynamic, context-aware reading of Islamic jurisprudence.

Ayatollah Javadi Amoli begins by establishing a fundamental axiom of Islamic theology: all Sharia rulings are strictly teleological, designed to secure objective benefits (*masalih*) and prevent objective harms (*mafasid*). Every divine decree contains a specific wisdom (*hikmah*). While human reason (*'aql*) may find it difficult to grasp the totality of divine wisdom, we can utilize a sound intellect, empirical realities, and the recorded teachings of the Infallible Imams (PBUT) to reconstruct the rational basis of these laws. Crucially, there is no verse in the Holy Qur'an that explicitly declares: "*A woman's blood money is half of a man's.*" The Qur'an's references to retribution (*qisas*) state: "*the female for the female*" [Qur'an 2:178]. While this verse is not directly about *diyyah*, classical jurists derived the blood money differential by synthesizing this text with the general principle of "*a life for a life*" [Qur'an 5:45] and specific historical context.

The actual source of the half-diyyah ruling is found in the Hadith literature. For example, Imam Ja'far al-Sadiq (AS) is recorded as stating: "*The blood money of a woman is half of the blood money of a man*" [refer to Al-Hurr al-Amili, 1989, vol. 19, p. 151]. Similarly, Sunni Hadith collections record: "*The blood money of a woman is on the half of the blood money of a man*" [refer to Al-Muttaqi al-Hindi, 1981, vol. 15, p. 57].

To unravel the philosophy behind this differential, Javadi Amoli emphasizes that Islam and the Holy Qur'an maintain absolute, uncompromising equality in the intrinsic human value and spiritual status of men and women. The sole criterion for superiority before God is spiritual virtue and piety: *"Indeed, the most noble of you in the sight of Allah is the most righteous of you..."* [Qur'an 49:13]. If Islam were a purely materialist ideology that evaluated human worth solely through economic metrics, a half-diyyah ruling would indeed imply that women possess half the value of men. However, in Islamic metaphysics, human value is located in the immaterial soul (*ruh*), faith, and spiritual perfection. Historically, while Moses (AS) was a Prophet of God, Lady Maryam (SA) also received direct divine revelation (*wahy*). The path to spiritual perfection is equally open to both genders. *Diyyah*, conversely, is a purely economic ruling that pertains to the physical and material dimension of human existence. It compensates for the loss of physical labor, not the loss of a soul. To illustrate this, the physical *diyyah* of the supreme leader of an Islamic society is legally identical to the *diyyah* of an ordinary worker [Qur'an 2:178].

To comprehensively understand the economic rationale of *diyyah*, Ayatollah Javadi Amoli categories human existence into three core dimensions:

1. The Spiritual Dimension: Here, men and women are ontologically identical, with both having equal access to divine proximity and the "good life" (*hayat tayyibah*): *"Whoever does righteousness, whether male or female, while he is a believer - We will surely cause him to live a good life..."* [Qur'an 16:97]. This absolute equality is reinforced in Surah Al-Ahzab [verse 35].

2. The Intellectual/Educational Dimension: Islam makes no distinction between genders in the pursuit of knowledge. The Prophet (PBUH) declared: *"Seeking knowledge is an absolute obligation upon every Muslim"* [Wasa'il al-Shia, vol. 19, p. 151], and over forty Qur'an verses mandate intellectual advancement without gender bias.

3. The Economic Dimension: This is the exclusive location of the *diyyah* differential. Islam has established asymmetric socio-economic obligations based on the physical and psychological

capacities of each gender. Under Sharia, the absolute financial maintenance (*nafaqah*) of the wife and children is the exclusive legal obligation of the husband. Consequently, the death of a husband inflicts an immediate financial vacuum upon the household, leaving dependent children without a legal breadwinner. No such reciprocal financial burden is legally created by the death of the wife.

Even in modern societies that claim total gender convergence, wage gaps and structural differences in economic output persist. Due to the biological realities of pregnancy, childbirth, breastfeeding, and primary childcare, women spend immense energy on vital maternal tasks that do not produce direct, quantified financial output. Conversely, men possess greater physical capacity for high-risk, heavy-labor, and high-income tasks. Therefore, the loss of a male breadwinner causes a far greater financial catastrophe for the family unit, and a higher *diyyah* is mandated to compensate for this material loss [Kanz al-Ummal, vol. 15, p. 57]. While some modern women are breadwinners, laws are formulated to address the dominant social reality (*al-ghalib*) rather than exceptional cases.

Ayatollah Javadi Amoli concludes that the *diyyah* differential is a direct reflection of these asymmetric economic roles, rather than value-based discrimination. In Islamic society, the heavy physical and financial burden of the family rests upon the man, while the primary responsibility of the woman is the cultivation and management of the family hearth. Consequently, the death of a man inflicts a severe economic shock upon the family, and his *diyyah* must scale to reflect this economic role [see Javadi Amoli, *Zan dar Ayeneh-ye Jalal va Jamal*, pp. 400-401]. Asymmetric rules represent justice, whereas treating unequal economic outputs identically constitutes injustice. If a legal system were to mandate identical *diyyah* for both genders without regard for their radically different legal responsibilities (with the man solely responsible for family maintenance), it would violate divine justice. Thus, the half-*diyyah* is a highly rational, economic mechanism of civil compensation, entirely decoupled from human value and ontological dignity.

4. The Doubt Surrounding the Half Inheritance Share for Women

One of the most persistent and deeply challenged topics within Islamic legal discourse is the rule that a woman's share of inheritance is half that of a man. This Sharia decree has been a subject of continuous questioning and protest by legal scholars, feminist activists, and even some contemporary reformist jurists. In Turkey—a nation with a Muslim-majority population that is governed by a strictly secular constitution—inheritance laws have been formulated using a radically different paradigm based on absolute gender equality. In its sweeping legal reforms, Turkey set aside classical Islamic inheritance rules and approved civil codes that mandate absolute mathematical equality in the division of estates.

This domestic legal reality in Turkey has intensified public skepticism regarding the Sharia principle of half-inheritance. Critics argue that from a modern human rights perspective, mathematical equality in inheritance is far more rational and equitable. They claim that the traditional socio-economic roles that historically justified a larger share for men have been completely dismantled in modern urban societies. In Turkey, the Civil Code's guarantee of identical financial rights has led many to characterize traditional Islamic inheritance rules as an outdated form of gender-based discrimination. This raises a fundamental academic question: is the traditional Islamic inheritance differential compatible with the contemporary economic, social, and cultural realities of the modern Muslim world, or does it require systematic re-evaluation? Consequently, this debate has become a focal point of intense discussion across legal, sociological, and theological circles.

To address this question scientifically, we must first trace the semantic and legal evolution of the term "inheritance" (*irth*). Linguistically, *irth* originates from the classical Arabic root *waritha* (وَرِثَ). In ancient texts, it appears interchangeably as *wurth* or *irth* with a kasrah under the initial hamzah [see Jawhari, vol. 1, p. 295]. Lexicographers define inheritance as the origin of a thing, or that which remains from the original substance of an object [see Zubaydi, vol. 3, p. 164]. Raghīb al-Isfahani clarifies that

inheritance denotes the automatic, legal transfer of property from one individual to another without the necessity of a contract, covenant, or mutual agreement [see Raghīb al-Isfahānī, *Mu'jam Mufradat Alfaz al-Qur'an*, p. 863]. In modern legal terminology, the word preserves this core meaning. Sheikh Baha'i defines inheritance as "*the legal entitlement of the survivors of a deceased person to his estate or to any legal rights belonging to him*" [Baha'i, Muhammad ibn Husayn (d. 1031 AH)]. This is confirmed by modern civil jurists such as Jafari Langaroudi [1363 Sh, *Huquq-e Madani: Irth*, vol. 1, p. 20] and classical jurists like Shahīd al-Awwāl in *Al-Lum'ah al-Dimashqiyyah*. Thus, inheritance refers to the legal mechanics governing the post-mortem transmission of property and rights to blood or marital relatives.

4.1 Women's Inheritance Rights in the Holy Qur'an

The Holy Qur'an categorically establishes that women, like men, possess independent individual, legal, and economic rights, including the absolute right to inherit property. In Surah An-Nisa, verse 7, the Qur'an explicitly states: "*For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much—an obligatory share*" (*naseeban mafroodan*). By declaring inheritance as an "obligatory share," the Qur'an established a mandatory, non-negotiable legal right, directly dismantling the patriarchal customs of the pre-Islamic Jahiliyyah era, which systematically deprived women and children of all inheritance [refer to Tusi, 1431 AH, *Al-Tibyan*, vol. 3, pp. 120-121].

Subsequently, in Surah An-Nisa, verse 11, the Qur'an introduces the general mathematical rule governing the inheritance shares of children: "*God instructs you concerning your children: for the male, what is equal to the share of two females*" (*yuseekum Allahu fee awladikum li-al-dhakari mithlu haddi al-unthayayn*). The classical exegetical authority Sheikh al-Tusi demonstrates that this verse is universal (*amm*), encompassing all children left by a deceased person, such that in the division of the estate, each son's share is mathematically equivalent to the share of two daughters [ibid., vol. 3, p. 129].

However, a profound literary and structural feature of this Qur'anic phrasing must be highlighted. The Qur'an states the ruling on women's inheritance independently and autonomously from men, verifying their independent legal personality. Crucially, in the mathematical phrasing of the rule, the Qur'an establishes the female's share as the primary baseline of measurement, and then defines the male's share relative to it, stating: "*for the male, what is equal to the share of two females.*" Had the Qur'an intended to treat the female's inheritance as a mere derivative or subordinate branch of the male's, the text would have phrased the rule as: "*for the female, half the share of the male.*" It deliberately avoided this phrasing. This specific rhetorical style served two primary functions: first, it decisively rejected the deeply entrenched Jahiliyyah belief that women had no right to inherit; and second, it generates a purposeful question in the mind of the reader: who, and in what historical epoch, established the female's inheritance share as the absolute standard of measurement, such that the male's share must now be calculated as twice its value? [see Javadi Amoli, *Tasnim*, vol. 17, pp. 511-512].

4.2 The Philosophy of Asymmetric Inheritance Shares

The Holy Qur'an presents the mathematical difference in inheritance shares between men and women as a wise, divinely balanced structure regulated by the perfect knowledge of God. As Surah An-Nisa, verse 11 concludes: "*...You know not which of them is nearest to you in benefit. This is an obligatory ordinance from Allah...*" Human intellect, with its structural limitations, cannot predict future events or determine which heir will utilize inherited wealth in a socially and morally optimal manner.

The primary structural driver of the inheritance differential is the asymmetric allocation of financial burdens within the family. Under Islamic law, men bear the exclusive, mandatory responsibility for providing all family expenses—including housing, food, clothing, education, and the personal maintenance (*nafaqah*) of the wife. Conversely, women are legally exempt from all financial contributions to the household; they maintain exclusive ownership of their personal

wealth, and function primarily as consumers and beneficiaries of the family's assets. Furthermore, historical and legal traditions recognize that men are more frequently tasked with high-risk wealth administration. Accordingly, the larger inheritance share allocated to men is mathematically designed to offset their heavy legal liabilities, aligning perfectly with divine justice and economic balance.

This rational explanation is extensively validated in the Hadith literature. For example, the scholar Yunus ibn Abd al-Rahman recorded that he asked Imam Ali ibn Musa al-Reza (AS): *"Why was the inheritance of a female established as half the share of a male, despite her physical weakness and limited economic opportunity?"* The Infallible Imam replied: *"Because God has placed the financial maintenance of women entirely upon the shoulders of men, and has made men responsible for providing their livelihood."* In another canonical tradition, the Imam explains that the male's double share is necessitated by specific civil and military duties—such as military defense (Jihad) and paying bodily injury compensation (*diyyah*) on behalf of extended family members (*'aqilah*)—legal liabilities from which women are entirely exempt [refer to Al-Kulayni, 1987, vol. 5, p. 78].

In the history of Islamic scholarship, this topic has generated a rich spectrum of intellectual views. Traditionalist commentators, such as Fakhr al-Din al-Razi in his interpretation of Surah An-Nisa [verse 12], argued that the male's larger share reflects an inherent ontological superiority of men over women, viewing it as a divine privilege [see Al-Razi, *Al-Tafsir al-Kabir*, vol. 9, p. 220]. In contrast, progressive jurists reject this view, arguing that the double share is not a privilege, but a heavy legal warning to observe absolute justice and financial responsibility toward women. They note that Islam simultaneously provides women with unique compensatory mechanisms, including mandatory *mahr*, absolute *nafaqah*, and total exemption from civil liabilities [see Mashhadi Qomi, *Kanz al-Daqa'iq*, vol. 4, p. 377].

The classical modern commentator Muhammad Rashid Rida argued that the double share is justified by the psychological dominance of emotion over intellect in women, a claim that has been

widely rejected by contemporary Islamic scholars who assert that emotional differences have no legal bearing on inheritance shares [see Rashid Rida, *Al-Manar*, p. 406]. Conversely, Ayatollah Muhammad Hadi Ma'rifat emphasizes the historical context of the Qur'anic revelation. In an era when women were viewed as property and entirely barred from inheritance, Islam radically recognized their independent right to inherit. To ensure the stability of the family, it calibrated their share to reflect the heavy financial duties of men. Ma'rifat cites a narration from Ibn Abbas, showing that the patriarchal pre-Islamic society accepted this ruling with extreme difficulty, actively petitioning the Prophet (PBUH) to repeal it because they could not tolerate daughters inheriting wealth [see Ma'rifat, 1392 Sh, pp. 161-162].

Allameh Muhammad Husayn Tabataba'i, in his monumental exegesis *Al-Mizan*, presents a highly sophisticated economic defense of the inheritance structure. He argues that while the man is legally charged with the management of wealth (which requires rational administration), the actual consumption of wealth is designed to favor the woman. Since the husband is legally mandated to pay for his wife's maintenance, the woman's apparent income deficit is fully compensated. Tabataba'i demonstrates that under Islamic law, the net economic equation is completely reversed: the man legally owns two-thirds of the inherited estate but is the consumer of only one-third, whereas the woman legally owns one-third of the estate but is the consumer of two-thirds. Thus, the division of inheritance is grounded in a deep understanding of psychological and economic dynamics, matching rational property preservation with emotional and material enjoyment [see Tabataba'i, *Al-Mizan*, vol. 4, pp. 350-354].

This perspective is strongly supported by Grand Ayatollah Naser Makarem Shirazi, who emphasizes that the actual material benefit enjoyed by women under Sharia is mathematically double that of men, proving that Islamic inheritance is a protective, pro-female structure [see Makarem Shirazi, *Tafsir-e Nemouneh*, vol. 3, pp. 290-292]. Similarly, the author of *Al-Furqan*, Muhammad Sadeqi Tehrani, notes that a man is legally bound to provide maintenance in three distinct

capacities—as a father, a son, and a husband—while a woman receives maintenance in all three. To address specific cases where a daughter requires additional financial support, Tehrani highlights that the Qur'an provides flexible mechanisms such as the voluntary bequest (*wasiyyah*) to adjust the distribution of the estate [see Sadeqi Tehrani, 1402 AH, vol. 6, pp. 276-281]. Lastly, the contemporary philosopher Morteza Motahhari demonstrates that the inheritance differential is not an expression of gender bias, but rather a flexible legal tool that yields different, highly equitable outcomes under distinct social and economic conditions [see Motahhari, 1371 Sh, *Nezam-e Huquq-e Zan dar Islam*].

4.3 Ontological Balance: The Synthesis of Ayatollah Javadi Amoli

In his profound philosophical synthesis of this issue, Ayatollah Javadi Amoli contrasts the materialist framework of Western legal systems with the spiritual, balanced framework of Islam. He argues that within Islamic law, the woman's inheritance share is the absolute core and baseline of the division process. Crucially, Javadi Amoli demonstrates that the inheritance differential is not a static, dogmatic decree. Instead, it is a dynamic, justice-based structure that is continually evaluated against the actual responsibilities, capabilities, and socio-economic duties of each gender within society.

Furthermore, Javadi Amoli maintains that Sharia establishes a perfect, harmonious balance between nominal property ownership and actual material consumption within the family. While the female's nominal inheritance share is half that of the male, her actual economic enjoyment and material standard of living are far greater. This is because she retains complete, exclusive control of her inherited wealth while simultaneously enjoying a legal right to full maintenance from her husband's estate. Thus, the apparent mathematical inequality is resolved into a higher, substantive equality that protects the financial security of women and maintains the organic integrity of the family unit [refer to Javadi Amoli, *Zan dar Ayeneh-ye Jalal va Jamal*, pp. 345-347].

5. Conclusion

In conclusion, this research demonstrates that the legal doubts raised against Islamic family law within contemporary Turkey are primarily driven by superficial textual readings, secularist gender assumptions, and a systematic neglect of the rich metaphysical and socio-economic context of Islamic jurisprudence. The responses of Ayatollah Abdullah Javadi Amoli—grounded in a rigorous synthesis of textual exegesis, rational philosophy, and spiritual metaphysics—do not merely answer these objections. Rather, they provide a comprehensive framework for deepening our understanding of religious principles and reconstructing a modern, justice-oriented image of the Islamic family.

Furthermore, applying these intellectual responses to the specific social context of contemporary Turkey demonstrates the immense value of this study. As a nation with a rich Islamic heritage that has been heavily influenced by Western secular legal frameworks, Turkey represents a vital laboratory for analyzing and resolving the legal and cultural challenges facing the family institution in the modern world.

6. Research Suggestions

Following this systematic investigation of family law, it is clear that significant research gaps remain. To build upon the findings of this study, we propose the following research directions:

1. Conducting extensive comparative studies across other major Muslim-majority nations—such as Iran, Indonesia, Malaysia, and Egypt—to trace the interaction of Sharia and civil codes;
2. Adapting these rigorous scholarly arguments into modern digital and social media formats to maximize their educational impact within the public sphere;
3. Expanding this analytical methodology to investigate other highly contested family law topics, such as divorce, child custody, and legal guardianship (*wilayah*);

Developing comprehensive academic textbooks and university-level courses to equip the younger generation with the intellectual tools required to evaluate these modern doubts critically.

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