

Elements of Family Security between Jurisprudence and Law

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This research delves into a topic of great importance concerning the family and its security. It highlights the components of family security in both Sharia law and civil law by examining the provisions of Islamic jurisprudence and statutory laws, particularly the Algerian legislation governing family matters. It extracts the components and foundations of family security from these provisions, revealing that family security is a broad concept only comprehended through the convergence of its components, which evolve and change according to the dynamics of time, place, and the nature of society, and everything that impacts the stability of the family. Furthermore, it becomes apparent that these provisions include security rules and highly effective components in achieving robust family security, fundamentally rooted in authentic Islamic principles subsequently embraced by statutory laws. These components have accompanied the family through various stages of its formation, represented in the engagement and its associated provisions, the marriage and its requisite conditions and elements, and the resulting consequences. The regulations governing these provisions, conditions, and consequences are deemed exemplary security standards.

Keywords: Components - Security - Family.

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Introduction:

In Islamic Sharia and civil legislation, the family is endowed with a series of legal and legislative provisions aimed at protecting its members and satisfying their diverse needs, and achieving housing, psychological stability, and happiness for them as individuals, spouses, and families...; in other words, achieving their family security in its various manifestations. Security is the foundation of life, and with it, social organizations of all kinds are established, starting with the individual, then the family, passing through groups, and ending with larger human entities of civilizations and peoples. Since the family is a fundamental structural entity upon which all human components are built, it was necessary to provide it with distinctive legislative protection to safeguard its security and stability by protecting the entities that emanate from it. Therefore, the family has been privileged in various legislations to be targeted with security, protection, and immunity, through the provisions and legal guarantees established for it, ensuring its security and guaranteeing its

members a happy, secure, and stable life, in which they enjoy all the elements of comfort, protection, and facilitation. From this perspective, this research comes under the title:

"Components of Family Security between Sharia and Law."

Importance of the Topic:

The importance of the topic is highlighted by its direct relevance to the most significant unit in society, namely the family. It sheds light on a critically sensitive aspect crucial for protecting this unit, namely its security and the underlying components within a familial system characterized by rapid evolution and emerging challenges. As the family is intricately linked to a rapidly evolving and changing social system, social transformations related to the family necessitated a reevaluation of protecting this cornerstone by updating and enhancing its security components to address modern shifts and rapid changes that directly or indirectly threaten family security, both in the short and long term.

Research Problem:

Family security is a religious and legal imperative pursued by all divine and statutory systems to achieve and establish it optimally, granting the family sufficient protection to fulfill its religious and legal responsibilities. Pursuant to this goal, a set of provisions and principles has been adopted to ensure this security. This research aims to address a significant question posed by this topic: "What are the components of family security in Sharia and law? Can the provisions established by Islamic Sharia and statutory laws regulating families be considered components of family security?"

Research Objectives:

The research aims to achieve several objectives, including:

- Highlighting the components of family security in Sharia and law, using the Algerian Family Law as a model.
- Explaining the most important components of family security included in the legal and religious provisions governing families.
- Demonstrating the commitment of Islamic Sharia and statutory laws to legislate everything that enhances family security and protects it from dispersion and dissolution.

Research Methodology:

The research relies on two main methodologies:

- Inductive methodology: Tracing and identifying the most important components of family security in Sharia and law.
- Deductive methodology: Through in-depth research and meticulous examination of the teachings of Islamic Sharia and the principles of family law to establish and enhance family security through regulations and provisions.

Research Plan:

In pursuit of addressing the research problem and achieving its predetermined objectives, the research is structured into three main sections: Introduction: First Section: Understanding the concept of family security components. Second Section: Family security components in Islamic Sharia. Third Section: Family security components in statutory law. Conclusion: Summarizing the main findings and recommendations.

First Section

Concept of Family Security Components

Subsection One:

Definition of Family Security Components

To clarify the terminological meaning of family security components, we will first explain the descriptive compound "family security," which consists of the words "security" and "family." To elucidate the meaning of this compound, we will delve into the meaning of each term separately to subsequently determine the intended meaning of the compound phrase.

First: Definition of Security: We will elucidate the meaning of the word "security" linguistically and terminologically as follows:

1. *Linguistic definition of security:* Security is the absence of fear (1). It is said: He was secure, meaning he was reassured and did not fear (2). Security from evil means safety. Security is defined as the absence of expecting harm in the future. Its essence is the tranquility of the soul and the disappearance of fear (2). With the disappearance of fear and the advent of reassurance, a person can live securely, free from any threat to his life and property.
2. *Terminological definition of security:* It is the feeling of peace and trust, and the dissemination of confidence and love, after individuals do not betray each other and corruption is eradicated. This is achieved by removing anything that threatens stability, meeting physical and psychological requirements to ensure the ability to continue life peacefully and securely (4).

Second: Definition of Family: The terminological meaning of family does not differ from its meaning in language, and it can be explained as follows:

1. *Linguistic definition of family:* In language, family means the fortified shield (5). It refers to the group to which a person belongs and lives under its care (6). It is also used to refer to a man's lineage and his household, including his wife, children, and paternal relatives (7,8).
2. *Terminological definition of family:* It is the social unit consisting of spouses and children, and may include grandparents and some relatives (9).

In light of the foregoing, we can say that family security is: "The assurance of family members (parents, children, and relatives) regarding their lives, possessions, and freedoms, and their freedom from fear of any direct or indirect threat, whether from within or outside the family, enabling them to lead a secure life in which they enjoy full rights and freedoms."

Thirdly: Definition of Family Security Components:

1- Definition of Components Linguistically: Components are the plural of "component"; it refers to everything that constitutes or comprises the body, apparatus, or project of essential elements contributing to its establishment, existence, and effectiveness (10). Such as "components of life, beauty..., urban components..."(11) Components of living are its foundation, and the completeness of the body is based on it. The basis of everything's integrity is what it is established upon (12). It is what one lives by and depends on (13).

2- Definition of Family Security Components Terminologically: Based on the meaning of components in language and in light of the previous definition of family security, we can say that the meaning of family security components refers to: "The total pillars and essential material and moral elements upon which family security is built, strengthened, and sustained, as long as they exist and persist, avoiding the risks of negativity and deliberate loss of its security. This is achieved through adherence to legal, Sharia, and sound social values in forming and upbringing families and caring for them (14).

The family members cooperate to achieve the best interests of the family, which benefits them all. Therefore, family security depends on the availability of its components, and any deviation from these components poses a threat to family security and negatively impacts its members. Each individual cannot invest his effort and thought in creativity or think about any action that contributes to the family's development, whether it be economic, social, cultural, or political, etc. ... Instead, he will be frustrated and weakened because he exhausts his energy thinking about ways to ensure security for himself and his family, ensuring a decent life and material and moral protection."(15)

Therefore, the components of family security provide individuals with comprehensive protection, enabling them to exercise their rights and actively participate in building the family through various forms of contribution, whether social, economic, educational, cultural, or otherwise, all of which benefit every member of the family. These components also empower individuals to think critically, make decisions, and take control of their affairs, allowing them to showcase their abilities, creativity, and intellectual skills. By utilizing these skills in family development and safeguarding its entity and security, positive and constructive interactions and productive cohesion among family members are fostered. This positively influences the family's behaviors internally and externally, contributing significantly to promoting a culture of dialogue and opinion exchange among family members, avoiding the imposition of specific beliefs, and fostering a sense of trust and unity among them as they share household responsibilities, cultivate a spirit of cooperation, and assume responsibility without relying on others. Consequently, their happiness is fulfilled, and their security is established. The strength of the Muslim community is reinforced by their collective strength and security (16), as the strength of the community stems from the strength of the family (17).

Based on the aforementioned in this discourse, it can be concluded that the components of family security encompass everything that protects the family, preserves its cohesion, and provides it with the suitable environment to fulfill its role in life. These components vary in significance and relevance depending on their availability and the severity of their absence. Therefore, family security is contingent upon the convergence and cohesion of its components, which is a relative and non-constant matter. These components are inherently changeable and evolving, making the

achievement of complete and comprehensive family security a relative issue tied to the availability of these components. However, it can be said that there are fundamental components characterized by a greater degree of stability, which we will attempt to highlight their importance in jurisprudence and law within the following two sections.

The Second Section

Components of Family Security in Islamic Law

Islamic law has taken comprehensive care of the family with precise and thorough regulations. It has adopted a method in constructing the family that considers all aspects of family members, both material and spiritual. Each member is obligated to specific duties and granted certain rights. The law has established principles of security and protection for the family through regulations and judgments. Most of these regulations concern marriage and its prerequisites and consequences. Therefore, in this topic, the most important legal provisions establishing a strong and cohesive family system, which are considered the most important and prominent components of family security, will be discussed as follows:

First Branch: Legislation of Marriage and Regulating its Laws

Allah has legislated marriage due to the great benefits it brings to family security and preservation against decay and disgrace. The evidence from the Quran, Sunnah, and consensus converge on the legitimacy of marriage, encouraging and urging those who are capable and fearful of falling into sin to marry. Maintaining one's chastity through permissible means and protecting oneself from temptations are obligations. This is only achieved through marriage, which serves as a foundation for family security and stability. In marriage, sexual desires are fulfilled in the best manner, and the risk of diseases is mitigated, providing peace and tranquility to the body, and preventing the temptation of engaging in forbidden acts. Marriage also satisfies the innate desire for parenthood and motherhood, fostering feelings of affection, compassion, and tenderness. It strengthens family bonds and enhances love among relatives (18).

Among the religious evidence that emphasizes marriage as one of the most important components of family security are verses such as: "Marry those that please you of [other] women, two or three or four" (Quran, 4:3), "And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty" (Quran, 24:32), and "And Allah has made for you from yourselves mates and has made for you from your mates sons and grandchildren and has provided for you from the good things" (Quran, 16:72).

قوله تعالى: (فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَى وَثُلَاثَ وَرُبَاعَ) [النساء: 03]، كذلك قوله تعالى: (وَأَنْكِحُوا الْأَيَامَى مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ) [النور: 32]، كذلك قوله I: (وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ) [النحل: 72]؛

It is evident from these verses that they explicitly encourage and recommend marriage, citing the benefits and advantages it brings in preserving the family and achieving its security (19).

Moreover, many honorable Prophetic traditions have been narrated encouraging marriage, such as what was reported from Abdullah ibn Mas'ud (may Allah be pleased with him) that he said: "We were young men with the Prophet ﷺ and had nothing, so he said to us: 'O young men, whoever

among you can afford it, let him get married, for it is more effective in lowering the gaze and guarding one's chastity. And whoever cannot afford it, then he should fast, for it will be a restraint for him (20)." The clear indication from this hadith is that the Prophet Muhammad ﷺ encouraged and emphasized marriage, indicating some of its objectives that are considered pillars of family security, including lowering the gaze, protecting chastity, and preserving lineage (21).

And in order for this marriage to be one of the strongest pillars of family security, the noble Sharia has surrounded it with a set of regulations that increase its strength to become one of the most prominent and strongest elements (22). The Sharia stipulated guardianship in marriage and witnessing it as a means of preserving it and safeguarding the family from loss and neglect, and as a means of protecting the family's security and affirming its rights (23). The Prophet ﷺ said, as narrated from Ali ibn Abi Talib: "There is no marriage without a guardian and two just witnesses. (24)" The Sharia also stipulated the announcement and publicizing of marriage and prohibited its concealment and secrecy. Aisha (may Allah be pleased with her) reported that the Messenger of Allah ﷺ said: "Announce this marriage and perform it in the mosques, and strike the drums for it. (25)" In this announcement and drum beating, there is further caution and care in formalizing the marriage, and protection of the consequences and rights associated primarily with family security and the preservation of its components (26).

The Second Branch: Legislation of Marriage Proposal

The marriage proposal is a precursor to marriage and a promise of it, and Allah legislated it before the formalization of the marriage contract so that each of the spouses knows their partner, and the decision to marry is made with guidance and insight (27). This is done by approaching the intended woman or her guardians, expressing the desire to marry her, and negotiating with them regarding the terms of the contract and their demands (28). This is because the marriage contract is made for permanence and continuity, as it is the most serious contract for its participants (29). Therefore, its preliminaries are of significant importance, not less dangerous than the contract itself. This stage (the engagement phase) can be considered one of the most prominent components of family security due to the significant and decisive decisions that rely on it and directly impact the family's future security and stability. During this phase, there is sufficient acquaintance between the engaged couple and their families, and each party confirms acceptance of the other in accordance with Sharia principles. Additionally, agreements are made regarding all essential matters related to married life to avoid any disputes or conflicts, which have been resolved.

Therefore, many evidences from the Prophetic tradition have been mentioned to regulate this stage and to establish its rulings, considering it a significant factor for family security and stability, if not the most important factor. This is because it is the primary foundation upon which the family is built. When the foundation is strong, the structure is sturdy, and vice versa. Among these rulings is that Islamic law urges each spouse to see their potential partner to become familiar with their qualities and appearance, and for mutual acceptance to occur between them. It was narrated from Anas ibn Malik that Al-Mughirah ibn Shu'bah wanted to marry a woman, so the Prophet ﷺ said to him, "Go and look at her, for it is more fitting that love should be established between you.(30)" Similarly, the lenient Sharia encourages the selection of a religious woman and a religious man because this quality remains steadfast in both the man and the woman. It encourages them to fulfill

their rights and obligations and has a positive impact on protecting the family and enhancing its security. Abu Huraira reported that the Prophet ﷺ said, "A woman is married for four things: her wealth, her lineage, her beauty, and her religion. So choose the religious one, may your hands be rubbed with dust.(31)" It was also narrated from him that he said, "When someone proposes to you and you are satisfied with his religion and his character, then marry him. If you do not do so, there will be mischief and widespread corruption on earth.(32)"

To further emphasize and strengthen the engagement in marriage as one of the strongest pillars of family security, Islamic law has granted women the freedom to choose their spouse and the right to accept or reject a suitor. A woman cannot be married without her consent and approval (33). Ibn Abbas reported that the Prophet ﷺ said, "A previously married woman is more entitled to herself than her guardian, and a virgin must be asked for her consent, and her silence is her consent.(35)" Many jurists have also stipulated competency in marriage and marrying competent men and women, so that neither spouse feels inferior or dominant towards the other, thus destabilizing the family by neglecting their duties and obligations (36). Aisha reported that the Messenger of Allah ﷺ said, "Choose for your semen, marry the competent, and marry them to one another.(37)" Meaning, do not place your semen except in a pure lineage, and choose from women those who are religious, righteous, and of noble descent and pure lineage. This is a clear indication of the requirement of competence and a response to those who do not consider it important (38).

Branch Three: Legislation of Spousal Support

Spousal support is what the husband provides for his wife and children in terms of food, clothing, shelter, and related necessities, ensuring their sufficiency in accordance with custom (39). It is obligatory upon the husband towards his dependents, as stated by Allah: "Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]." [Quran 2:233], and also: "Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way." [Quran 65:6]. Furthermore, Allah says: "Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it." [Quran 65:7].

لَقَوْلِهِ تَعَالَى I: (وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا) [البقرة: 233]، وقوله أيضا: (أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وَجْدِكُمْ وَلَا تُضَارَّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَتَمَّرُوا لَكُمْ بِمَعْرُوفٍ) [الطلاق: 06]، وقوله Y: (لِيُنْفِقَ ذُو سَعَةٍ مِنْ سَعَتِهِ وَمَنْ قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا) [الطلاق: 07].

All these verses indicate the obligation of the husband to provide for his wife and dependents according to his means and capabilities (40). From the Prophetic tradition, it is narrated from Jabir ibn Abdullah that he said: "The Messenger of Allah (peace be upon him) addressed the people at the Farewell Pilgrimage, saying: '... and upon you is their provision and clothing in kindness...'" (41) This Hadith clearly indicates the obligation of the husband to provide for his wife, including food, drink, and clothing, according to what is customary among people. The wealthy should spend according to his wealth, and the poor according to his poverty (42).

Undoubtedly, economic factors have become a fundamental component of family security, as they form the basis of married life. The concept of commitment and family formation is inherently linked to the husband's ability to fulfill the financial responsibilities placed upon him as a burden for the family. Therefore, the husband's insolvency and inability to support those under his care hinder the formation of a family. In such a situation, family security is jeopardized, especially in our time when the financial needs of families have become diverse and extensive. What was once considered luxury in the past has now become a necessity, and the absence of these luxuries poses a real threat to family security and leads to clear imbalances in its system. For this reason, scholars unanimously agree on the obligation of spousal support from the husband towards his dependents, and the judge may compel him to do so if he refuses without justification when requested by the wife. Since she is bound to the husband by virtue of the marriage contract and prohibited from leaving the marital home without his permission for earnings, it is incumbent upon him to provide for her and her children, ensuring their sufficiency and the sufficiency of those who provide for them in terms of food, clothing, shelter, and all necessities (43).

Branch Four: Legislation of Marital Rights

Islamic law has established a set of marital rights and obligated each spouse to fulfill their obligations towards the other, thereby building the family on solid foundations that secure the fulfillment of their rights. Therefore, each spouse is required to understand their rights and responsibilities towards the other party, to avoid intentional or unintentional injustice. For as much as one spouse falls short in their duties, it deprives the other party of their rights. This shortfall leads to disruptions in relationships, deprivation of needs, and disturbances in interaction and communication between spouses. Indeed, the outcome of this is the disintegration of the family and the loss of its security. Fulfilling these duties, on the other hand, leads to positive interaction between spouses, good communication, which in turn leads to the development of family relationships. This encourages the fulfillment of duties, sacrifice, and healthy competition among family members, bringing happiness and security to all involved in fulfilling their obligations (44).

Numerous evidences from the Quran and Sunnah urge both spouses to fulfill their marital duties without delay or neglect. For example, Allah says: "And due to the wives is similar to what is expected of them, according to what is reasonable." (Quran, 2:228) This verse emphasizes that women have rights over men just as men have rights over women, as commanded by Allah. Thus, each of them should fulfill their obligations towards the other with kindness and fairness (45). This includes proper companionship, adornment, and everything that fosters mutual affection and preserves the family's security and stability (46).

Moreover, Islamic law, in its wisdom, distinguished between these rights according to gender, inclinations, and the nature of differences between men and women. It urges men to be patient with their wives, treat them kindly, and remind them of their virtues, even if they dislike certain traits, and to seek what they love in them (47). The Prophet Muhammad (peace be upon him) said: "A believing man should not hate a believing woman; if he dislikes one of her traits, he will be pleased with another." Likewise, women are encouraged to treat their husbands kindly, dedicate themselves to serving them, and strive to please them within the bounds of what is permissible (48).

The Prophet Muhammad (peace be upon him) said: "If I were to command anyone to prostrate to another, I would command the wife to prostrate to her husband.(49)"

The Fifth Branch: The Duty of Raising, Caring for, and Educating Children

After the Islamic Shariah emphasized the importance of choosing righteous spouses, considering them as the primary role models for the children who will result from their marriage, and that children acquire virtuous values primarily from their parents through imitation or emulation, which is considered one of the most important factors in building the child as the strongest components of family security, considering that children are the product and extension of the family. In addition to these precautions, Islamic Shariah has established a comprehensive approach to raising children, a healthy upbringing that enhances family stability and secures it. It did not neglect any aspect of the child's life, directing parents to take care of his spiritual, physical, psychological, and mental needs by setting a set of principles and educational rules that are capable of refining every part of the child's personality, thus creating a strong individual who possesses the qualities that qualify him to face life's challenges and maintain his own balance and his family's stability.

Among these principles, Islamic Shariah directed parents to raise the child properly from birth, taking care of him and overseeing all his affairs, including managing his food, clothing, and sleep, as well as caring for his physical, psychological, and mental health, and familiarizing him with Islamic manners such as greeting with peace, respecting others, visiting relatives, visiting the sick, and teaching him the etiquette of eating, drinking, sleeping, and other general social manners. All these manners leave their impact on the child by refining him, cultivating him, and developing his social relationships with his relatives and community on the basis of mutual respect and full trust, and practicing his life with a positive spirit. Therefore, Islam warned against anything that leads to the child's negativity and isolation, and called for everything that strengthens his social relationships and enhances the bond of love and cooperation between him, his family, and his community (50). Islam also guided parents on ways to build the child's self-confidence by praising him, praising him with words of praise, encouraging him with gifts and rewards, and urging him to do good deeds; all of which have a great impact on his righteousness and integrity (51).

In this regard, Islam warned against the consequences of associating with bad companions and the negative influence of bad company on the child's behavior. It guided parents to choose righteous companions for their children, as it is a sufficient reason for the upbringing of the Muslim child in a proper upbringing based on enjoining good and forbidding evil (52). In this regard, the Prophet Muhammad warned against the companion of evil, saying: "The example of a good companion and a bad companion is like that of the seller of musk and the blower of the bellows. As for the seller of musk, then either he will grant you some, or you buy some from him, or you enjoy a good smell from him. And as for the blower of the bellows, then either he will burn your clothes or you will get an offensive smell from him." (53) This warning against the companionship of evil is also mentioned in the wise reminder in the Quran, where Allah says: "And [mention] the Day when the wrongdoer will bite on his hands [in regret] he will say, 'Oh, I wish I had taken with the Messenger a way. Oh, woe to me! I wish I had not taken that one as a friend. He led me away from the remembrance after it had come to me. And ever is Satan, to man, a deserter.'" [Quran, 25: 27-29] (54).

قوله •: وَيَوْمَ بَعْضُ الظَّالِمِ عَلَى يَدَيْهِ يَقُولُ يَا لَيْتَنِي اتَّخَذْتُ مَعَ الرَّسُولِ سَبِيلًا يَا وَيْلَتَى لَيْتَنِي لَمْ أَتَّخِذْ فُلَانًا خَلِيلًا لَقَدْ أَضَلَّنِي عَنِ الذِّكْرِ بَعْدَ إِذْ جَاءَنِي وَكَانَ الشَّيْطَانُ لِلْإِنْسَانِ خَذُولًا [الفرقان: 27-29]

Thus, the task of choosing companionship has been made one of the responsibilities placed on the Muslim family through the process of family upbringing, as stated in the Quran: "And those who believed and whose descendants followed them in faith - We will join with them their descendants, and We will not deprive them of anything of their deeds. Every person, for what he earned, is retained." [Quran, 52: 21].

لَقَوْلِهِ •: وَالَّذِينَ آمَنُوا وَاتَّبَعَتْهُمْ ذُرِّيَّتُهُمْ بِإِيمَانٍ أَلْحَقْنَا بِهِمْ ذُرِّيَّتَهُمْ وَمَا أَلَتْنَاهُمْ مِنْ عَمَلِهِمْ مِنْ شَيْءٍ كُلُّ امْرِئٍ بِمَا كَسَبَ رَهِينٌ • [الطور: 21].

In addition to the concern of Islamic Shariah and its urging of parents to raise their children with various etiquettes, it also urged them to enrich their children's minds with knowledge and refine their talents. It emphasized providing them with the weapon of knowledge. Shariah mandated upon fathers the education of their children, making it a fundamental right for them. The Prophet Muhammad (peace be upon him) said: "Your child has a right upon you. (55)" This means that parents are obligated to discipline and educate their children in both religious and worldly knowledge. This education is obligatory upon the father and all guardians even before the child reaches puberty. It is also obligatory upon mothers if there is no father, as it falls under the realm of upbringing (56). To ensure that education is beneficial and molds the child into a foundational element for preserving the security of their family, knowledge should be imparted gradually and progressively. It is also crucial to choose a righteous and competent teacher to educate and instill good manners in the child (57). As Muhammad ibn Sirin said: "This knowledge is a religion, so be cautious of whom you take your religion from." (58) This is because children are prone to imitation and are greatly influenced by those around them. The teacher is the closest person to them after their parents, so their influence on the minds and personalities of their students is significant (59). By adhering to these Shariah guidelines, a child will undoubtedly be raised with balanced and comprehensive upbringing, making them a righteous individual in their society and family, contributing to the stability of their family's security.

In conclusion, these provisions set forth by Islamic Shariah to organize the family and regulate its system and security are just a glimpse of the extensive protective measures for families, which are considered essential components of sound familial security. These measures protect the family and ensure its stability at various stages of its formation, whether during engagement, marriage, or post-marriage and its associated obligations like providing for the family and raising children. Undoubtedly, these provisions and their comprehensive and meticulous regulation demonstrate the keenness of Islamic Shariah to protect the family, preserve its stability, and employ all means to achieve familial security in its highest form.

The Second Section: Components of Family Security in Positive Law

The components of family security in the law are diverse, and the perspectives of positive legislations on these components vary. However, they all agree on legislating everything that regulates the family, establishes its security, and ensures its stability. As an example of this legal legislative care for the components of family security, I will shed light on the provisions of the

Algerian Family Law, which can be considered among the most prominent components of family security in the law, as most Arab and foreign personal status laws contain similar provisions.

First Branch: Legislation of Marriage and Regulation of its Rules and Conditions

The provisions of statutory law converge on the legality of marriage and its regulation of conditions and rules, where the contract of marriage in statutory laws has received special attention, unlike other contracts. One of the prominent aspects of this attention is subjecting it to objective and formal conditions. These conditions are considered among the most important security components for the preservation and protection of the family. The majority of Arab statutory laws, along with Islamic Sharia in its various schools, have agreed on these conditions. Most statutory laws have specified two formal conditions that are not explicitly mentioned in Islamic Sharia but have become necessary due to changing times and circumstances. The first of these conditions is that the majority of Arab statutory laws require the authentication of the marriage contract before a notary public or a civil status officer after providing the necessary documents. Then an official document is issued to prove this marriage, thereby giving the marriage an official status that safeguards it from manipulation or denial (60).

Similar to statutory laws that require the authentication of marriage contracts administratively, the Algerian legislator has also required the authentication of marriage contracts before a legally authorized entity. Article 18 of the Algerian Family Law states: "Marriage is contracted before a notary public or a qualified legal officer...(61)" Additionally, Article 22 of the same law elaborates on how to prove the marriage contract in case of registration or non-registration, and the authority responsible for registering unregistered marriage contracts. This article states: "The marriage contract is proved by an extract from the civil status register, and in case of non-registration, it is proved by a judicial decision. The judgment confirming the marriage must be registered in the civil status immediately upon request from the public prosecutor's office. (62) " It is evident that the Algerian legislator has aimed to secure the interest in documenting the marriage contract, ensuring the family's security, and avoiding risks and uncertainties that may arise before and after the contract, such as claims for dowry, maintenance, divorce, inheritance issues, deception, and fraud, which often occur in marriages not legally recognized (63).

It is worth noting that this procedure of documenting the marriage contract in an official entity does not contradict Islamic Sharia provisions. Sharia itself has emphasized the documentation of this contract, describing it as a solemn covenant (64).

قوله تعالى: (وَقَدْ أَفْضَى بَعْضُكُمْ إِلَى بَعْضٍ وَأَخَذْنَ مِنْكُمْ مِيثَاقًا غَلِيظًا) [النساء: 21].

However, as customary practice, marriages are often solemnized before another entity, namely the religious marriage contract performed in mosques after the contract is authenticated in official authorities or vice versa. This leads to another issue of duplication of the contract, as it is concluded before two different entities, both of which validate the contract, posing a challenge that the Algerian legislator, like other legislations, has addressed by unifying the entity before which marriage contracts are concluded for further regulation and organization of this fundamental component. In general, documenting the marriage contract in the law is considered one of the most important safeguards for protecting the family from disputes and misunderstandings that may arise during marriage. This legal procedure can be considered one of the foremost and essential

components of family security that helps spouses avoid the risk of uncertainty and deception before completing the marriage contract.

As for the second condition, which contemporary positive laws have singled out as part of the necessary formal conditions for concluding a marriage contract, it is "undergoing medical examination before marriage." Most positive laws require presenting a medical certificate before marriage as a condition among the necessary formalities for completing the contract (65). The obligation to undergo medical examination in most positive laws is attributed to the growing phenomenon of divorce due to the discovery by one of the spouses, after marriage, of physical defects that prevent the achievement of the purpose of marriage or can achieve the objectives of marriage, but with great difficulty not usually encountered in a healthy marriage. For example, the Algerian legislator stipulated this condition, as stated in Article (07 bis) of the Family Law, which states: "Those seeking marriage must provide a medical document, not older than three (03) months, proving their freedom from any disease or any factor that may pose a risk conflicting with marriage. It is necessary for the notary or the civil status officer to ensure, before issuing the marriage contract, that the parties undergo medical examinations and are aware of any diseases or factors that may pose a risk conflicting with marriage. This is indicated in the marriage contract ...(66)"

This text clearly shows the Algerian legislator's keenness on the necessity for both parties intending to marry to undergo medical examination, reflecting its great belief in the importance of the health aspect in the stability of the family and its impact on family security. In fact, this condition imposed by most positive laws is considered one of the most important components upon which family security relies in later times, due to multiple considerations, primarily the high divorce rates due to diseases and defects often discovered after the marriage, as well as the concealment of defects by one of the parties, and the prevalence of infectious and chronic internal diseases, which prevent the achievement of the purpose of marriage and their development as never before. All these reasons and others justify the validity of imposing this procedure before concluding the marriage contract. Moreover, facilitating this examination procedure, given the medical and technological advancements, allows for its implementation without any significant obstacles.

Most importantly, this procedure does not conflict with the objectives of marriage legislation nor contradicts any established legal ruling. Rather, most contemporary Muslim scholars consider it permissible and in accordance with Islamic law. There is no contradiction with Sharia, nor does it undermine trust in God, as it is a form of taking precautionary measures. It can be countered against those who argue against its validity by saying that there was no need to discuss this issue in the past, given the honesty of early (67) Muslims in disclosing defects, the lack of scientific advancement enabling such examinations, and the absence of the internal diseases and epidemics that show their complications after marriage - which have evolved over time, as evidenced by doctors. In short, there is no doubt about the legitimacy of this procedure as long as it does not contradict the major objectives of Islamic marriage, and because it enhances family security, stability, and protection from risks that may arise for both parties after marriage.

The second branch: Legislation of Engagement

The majority of Arab legislations have stipulated the engagement within the Personal Status Law, considering it a preliminary stage preceding the conclusion of marriage, and they regulated its

provisions and conditions within a set of articles. This is evident in the Algerian Family Law in Article (05), which states: "The engagement is a promise of marriage...(68)" The Algerian legislator aims to realize the wisdom behind legislating engagement in marriage, which is the acquaintance, closeness, sense of security, and tranquility between the betrothed and their families that lead them to conclude the marriage contract with conviction and satisfaction, after examination and study, which significantly increases the success rate of their marriage. This positively reflects on the family's security and stability, as it is built on agreement, harmony, and making correct decisions at the beginning of its stages.

If it becomes apparent to the betrothed and their families during the engagement stage that there is no agreement between them and they lean towards the possibility of marriage failure if it occurs, they can refrain from completing this stage by concluding the marriage contract. They can stop at this point and withdraw from this engagement, which they find to be more harmful than beneficial if it results in marriage (69). This is the nature of engagement; it is considered a prelude and preparation for the marriage contract, and it does not entail any consequences of marriage. It is nothing more than a promise of marriage, not a contract, and it does not have any legal effects. This is what the Algerian legislation has indicated, similar to other legislations that regulated engagement (70). It is stated in Article (05) of the Algerian Family Law, previously mentioned: "The parties may withdraw from the engagement (71)" The Algerian legislator intended with this provision to realize the objectives of the legitimate engagement, which primarily aim to ascertain the suitability of the spouses for commitment and their marriage success rate, which constitutes a fundamental element for the security of their family.

Since engagement is a promise of marriage and both parties have the right to withdraw from it for a reason justifying such action, the law has surrounded it with a set of guarantees that ensure the fulfillment of rights for its participants and compensate for any harm if one party causes damage to the other by withdrawing. Most contemporary legislations have adopted the principle of allowing compensation for damages resulting from withdrawing from the engagement if such withdrawal causes harm to one of the parties. This is evident in Article (05) of the Algerian Family Law, which states: "...If withdrawal from the engagement results in material or moral harm to one of the parties, compensation may be awarded..." (72) Not every withdrawal from the engagement is a valid reason for compensation unless it is associated with actions that caused harm to one of the betrothed parties. Compensation can be awarded based on the principle of liability for negligence (73). These principles reinforce the objectives of engagement in marriage and serve as strong assurances to make engagement one of the main components of family security and essential pillars for building a stable family.

The third branch: Legislation of Spousal Maintenance

All Arab Personal Status Laws consider spousal maintenance as one of the financial rights granted to the wife by the husband under the marriage contract. They have detailed provisions regarding spousal maintenance and its conditions, considering it one of the components of family security that cannot be waived or compromised under any circumstances, as it would disrupt the family and threaten its security. This is evident in the Algerian legislation within Article (74) of the Family Law, which states: "The husband is obliged to provide for his wife by maintaining her or

summoning her to his place..." It is clear that this article, along with its counterparts in other Arab legislations, views maintenance as a duty incumbent upon the husband towards his wife. Any breach of this obligation jeopardizes the security of his family and subjects him to legal accountability for failing to fulfill this duty. The wife has the right to demand it before the judiciary. In this regard, Article (80) of the Family Law states that the wife: "is entitled to maintenance from the date of filing the lawsuit, and the judge may rule on her entitlement based on evidence for a period not exceeding one year before the filing of the lawsuit. (74)"

Additionally, the Algerian legislator, similar to other Arab legislations, stipulates that the maintenance of children, including their food, clothing, housing, education expenses, and other necessities of life, is the responsibility of the husband. For example, Article (75) of the Algerian Family Law states: "The father is obliged to provide for the child unless he is unable to do so financially. This obligation applies to boys until they reach the age of majority and girls until they get married, or as long as the child is incapacitated due to mental or physical disability or pursuing education, and it ceases with self-sufficiency through earnings." (76)

Furthermore, the Algerian legislator specified the components of child maintenance within the same law. Article (78) states: "Maintenance includes food, clothing, medical care, housing, and its rent, and what is considered necessary according to custom and tradition." (77) It is evident that the Algerian legislator values the importance of maintenance as a requirement for family security. Hence, the detailed provisions and obligations imposed on the husband, as well as the identification of essential components, aim to achieve family security, protection, and stability.

Furthermore, Algerian legislation is keen on enhancing this family security component by enacting measures and precautions to ensure the provision of maintenance even in cases where the husband is unable to provide it due to certain circumstances. The responsibility of providing maintenance in such cases is entrusted to the wife, considering her as the second most important pillar in the family institution after her husband. This is evident in Article (76) of the Family Law which states: "In case the father is unable to provide, the mother shall be responsible for the children's maintenance if she is capable of doing so. (78)" This article reflects the Algerian legislator's commitment to securing the maintenance of children and covering their financial needs. The legislator recognizes that their maintenance, including food, shelter, clothing, medical care, and other necessities, is among the obligations imposed on spouses, constituting essential material components for family security. Any deviation from this obligation places the children at risk of homelessness, deviance, and delinquency, directly undermining family security and exposing the family to disintegration and dissolution.

Branch Four: Legislation of Marital Rights

All statutory laws, including Algerian legislation, have recognized rights and responsibilities of spouses towards each other to enhance family stability and build a cohesive and secure family. These marital rights vary in personal status laws, but most of them converge on fundamental rights, primarily revolving around each spouse's right to fair and good treatment from the other spouse, and their right to participate in and make important decisions affecting the family's fate and security. These rights also include the spouse's right to treat their parents and relatives kindly by the other party, the right to visit their parents and relatives, communicate with them, and receive them according to custom and tradition, along with other fundamental and detailed rights

recognized by most legislations in various formulations. For example, Article (36) of the Algerian Family Law stipulates that spouses must:

- 1- Maintaining marital ties and duties of shared life.*
- 2- Interacting with kindness, mutual respect, affection, and mercy.*
- 3- Cooperating in the interest and care of children and their proper upbringing.*
- 4- Consulting in managing family affairs and family planning.*
- 5- Treating each other's parents and relatives with kindness, respect, and visiting them.*
- 6- Upholding family ties and dealing with parents and relatives with kindness and good manners.*
- 7- Visiting each other's parents and relatives and hosting them with kindness (79).*

It is evident from this article that the Algerian legislator, believing in the importance of family stability and its role in enhancing family security, has established these rights, obligating each spouse to adhere to them in exchange for the commitment of the other party. In fact, these rights are merely Islamic norms established by Islamic law, clarified, detailed, and integrated into Muslim families' customs since the inception of the Islamic state. These norms were recognized and practiced in Muslim families not long ago and did not need any regulation. However, with the expansion and mixing of Islamic communities and the weakening of the religious impulse governing Muslim families and the absence of Islamic culture, many Muslims have abandoned these norms. This has led to a clear disruption and significant deterioration in Muslim families, prompting Arab and Islamic legislations to regulate these norms and obligate each spouse to protect the family and preserve its security.

Branch Five: Legislation of Amicable Methods for Resolving Family Disputes

Differences between humans are natural, so marital disputes are normal no matter how much harmony and compatibility a couple may have, as this is part of married life. However, disputes between spouses may escalate, leading to hurtful words or actions, as unpleasant speech is the origin of most conflicts (80). Since restraining speech during disputes to a moderate level is difficult, neither party knows what they will say or do, and the situation may lead them, as is often the case, to legal proceedings, disputes, denial of rights, loss, and undermining of trust between them. This can destabilize their family security and cause them financial and psychological losses. To prevent this, statutory laws have established some amicable pathways for settling family disputes, ensuring the preservation of family security, and protecting its dignity (81). These pathways serve as a barrier to separation, a way to overcome mistakes, and guide the family to achieve its goals and strengthen its security. These pathways and methods in the law are varied, with reconciliation and arbitration being the most prominent among them.

For example, the Algerian legislator has recognized some amicable ways to settle family disputes, specifying the activation of reconciliation within the personal status law in several articles within the family law. The judge is mandated to initiate reconciliation efforts before proceeding with such lawsuits as a mandatory procedure, and to document his reconciliation efforts and their outcomes resulting from multiple attempts (82). One such provision is stated in Article (49) of the Family

Law, which renders divorce procedures between spouses void if not preceded by several attempts at reconciliation. It states: "Divorce is not established except by a judgment after several attempts at reconciliation conducted by the judge, not exceeding a period of three (03) months from the date of filing the lawsuit (83). The judge must prepare a report documenting the reconciliation efforts and their outcomes, signed by the court clerk and the parties involved."

Similarly, the Algerian legislator, like most statutory laws, has established an arbitration system in personal status matters to settle family disputes and enhance family security (84). Article (56) of the Family Law stipulates: "If the dispute between spouses intensifies without proven harm, two arbitrators shall be appointed to reconcile between them. The judge shall appoint the arbitrators, one from the husband's relatives and one from the wife's relatives, and these arbitrators shall provide a report on their mission within two months. (85)"

It is evident from these provisions that the Algerian legislator is keen on reinforcing the reconciliation system in family disputes and achieving family security through various amicable means. Therefore, when discord arises between spouses and no harm is proven, the judge must appoint arbitrators to reconcile between them (86). The arbitrators must exert effort in investigating and identifying the cause of discord and endeavor to reconcile, considering each party's willingness and inclination towards reconciliation. They must submit a report on their mission within two months, whether successful or not, to ensure no delay in their task and to ensure they diligently study the causes of the conflict and propose suitable solutions.

Finally, it can be concluded that Arab statutory laws, like the Algerian legislator, have been significantly influenced by Islamic law in the addressed matters, which are among the most significant components of family security. They have legislated marriage and regulated it with formal and objective provisions. They have also recognized engagement and its purpose of verifying the suitability of the engagement, as well as the husband's obligation to provide for his wife under the marriage contract, considering it one of the wife's financial rights. They have also established common rights and obligations for both spouses aimed at enhancing family stability. Moreover, they have legislated amicable pathways to resolve family disputes to protect family security and stability, which are essentially Islamic pathways par excellence. In essence, these laws have strived to legislate components that uphold family security on its principles and protect the family from disintegration and loss.

Conclusion

After completing this research and discussing the aspects related to the components of family security in both Sharia and law, we have arrived at several conclusions. Additionally, we have provided some recommendations as follows:

a. Research Findings:

1. The concept of family security encompasses various material and moral pillars aimed at protecting families and their members, preserving their security, cohesion, and stability, and providing them with conducive environments for creativity, excellence, decent living, and the desired sense of tranquility within family security.

2. Achieving comprehensive family security is a relative issue subject to the convergence of security components characterized by change, development, and unpredictability due to their correlation with the variables of time, place, societal nature, and lifestyle patterns.

3. The Islamic Sharia's organized provisions regarding families at all stages of formation represent effective components of family security. These provisions start with engagement, encompassing its regulations, followed by marriage with its conditions, requirements, ensuing effects, spousal financial support, spouses' and children's rights, and other Sharia provisions. All these rulings establish solid rules and authentic components that ensure robust family security.

4. Contemporary legislative frameworks have endeavored to enact measures that protect families and preserve their security. They have drawn from Islamic Sharia in building family security components. This is evident in marriage regulations with their essential and formal conditions, financial systems for families, and protective measures in cases of discord, through legislating these amicable channels for conflict resolution, which are among the strongest pillars of family security.

b. Research Recommendations:

1. Given the significant evolution and rapid changes in contemporary family and societal systems, legislative frameworks must keep pace with these developments by periodically updating and reinforcing family security components to align with the evolving dynamics in families and societies.

2. We recommend researchers and specialists in personal status jurisprudence to give greater importance to the subject of family security and its constituent components. They should update the Sharia and legal studies in this field and keep abreast of all new developments concerning contemporary family relationships. This is essential to guide academic studies related to family security towards addressing the appropriate direction for the nature of these relationships and the evolving developments.

3. We advise all relevant state institutions involved in family and social upbringing, as well as all social actors, to mobilize all their energies and capabilities to establish a robust family security framework in the long term. This can be achieved through raising awareness among individuals and families about the importance of family security, the necessity to develop its components, and the commitment to its pillars, whether at the individual or collective level. This is directly linked to the safety of families and their members and the importance of family security in building strong, safe, and cohesive communities.

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