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Juristic Principles Governing Family Life

ABSTRACT:

Muslim jurists commonly hold the opinion that Islamic Sharia governs every aspect of a Muslim's life due to the belief that Islam is a holistic religion and way of life. As such, the Sharia has the capacity to respond to many challenges faced by Muslims in any era and context. Indeed, family life and all the components which surround this institution are thus governed by Islamic Sharia. Any questions or legal matters pertaining to family life such as marriage can be understood and answered by the Sharia via the opinion of an astute and qualified Muslim jurist through his or her *ijtihād* (exerting one's utmost effort to extrapolate an Islamic ruling from the Qur'an, Sunna, reason/*aql*, and consensus/*ijmā*).

In this paper I argue that there are certain juristic principles within the Qur'an and Sunna which can be used as a way to maintain and govern all aspects of family life through a jurist's *ijtihād*. Through this method of *ijtihād*, new issues and questions can be dealt with adequately which are raised by Muslims living in an ever-changing modern society.

Moreover, I shall demonstrate the effectiveness of certain juristic principles which can be utilised in governing family life which I shall refer to as "family law" and how *ijtihād* leads to further developing an overall Islamic Sharia. Further deliberations on other principles shall be examined in depth to add further nuances to my research.



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BIO:

Professor Mohaghegh Damad completed his seminary studies at the Fayziyeh School in Qom, Iran, where he achieved the status of a mujtahid by the age of 25. Amongst his notable teachers are 'Allāma al-Ṭabāṭabā'ī and Ayatollah Murtaḍā al-Muṭahharī, under whom he studied Islamic philosophy. His studies in Islamic Jurisprudence and Legal Theory were conducted by the likes of Ayatollah Mohammed Reza Golpaygani and Ayatollah Murtaḍā Ḥā'irī al-Yazdī. Parallel to his seminary education, Professor Mohaghegh Damad pursued secular academic studies, obtaining a degree in Islamic Philosophy and a Masters in Islamic Jurisprudence, both from Tehran University, before going on to earn his PhD in Law at the University of Louvain-la-Neuve, Belgium. He is the Dean of the Department of Islamic Studies at The Academy of Sciences of Iran, and a Professor of Law and Islamic Philosophy at Tehran University. He is recognised as one of the world's most influential Muslims by The Muslim 500 for his scholarly work. In October 2010, at the Pope's behest, Mohaghegh Damad addressed the Synod in the Vatican and he was honoured as a prominent figure of Humanities in Iran at the 8th Farabi International Award ceremony in 2017.