

JURISPRUDENCE REVIEWS DOWRIES IN ISLAM AND IRANIAN LAW

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Abstract:

Marriage contract dowry is one of the special effects that have been extensive discussions. Particular importance that issues relating to marriage and dowry in the society, and sometimes the sensitivity of the people, Makes the study an extra charm to the issue of dowry marriage proposal and finds high statistical Today prisoners dowry, registration authorities scrambling examined To take action to prevent the effects of large dowry and a better life couples; however, in this regard, 53958/34/1 the number of instructions on 2006 issued by the Organization Registration of Property Deeds and of the country and were sent to the offices of marriage and divorce and to official figures gave afford the extent condition and was adopted as a strategy to control dowries. According to the instructions required notaries offices were officially married, the provisions stipulated in the marriage contract two conditions 13 and 14 for couples and families and has brought The parties to the contract (couples) one of the two types of demand dowry or as a stipulation select afford the extent And hereby assume the "abstainer of the pair" in Article 2 of the law be changed methodology sentences taxes on the dowry and dowry reduce the number of prisoners In this study examines the legal rights of dowry in Islam and Iran.

Keywords: dowry, stipulation, afford

Introduction

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Seal Arabic words in Persian as the "cabin" is called. Condensation of the infinitive (affection) and the literal meaning (affection) is used and the cash and in kind are provided at the time of marriage, the obligation of man. In the Qur'an, the word exactly as unused stamp and equivalent terms used, such as: (alms) in verse 4 of Surah An-Nisa (or obligation) in verse 227 of Surah Baqarah or (Ajr) in verse 24 of Surah Nisa, the word means truth in charity and truth Because the man to relish his desire for marriage to the woman submitted the financial and schools means donation And gifts and donations is granting the seal's gift from male to female and the mean wage is brick. In the Qur'an, the word exactly as unused stamp and equivalent terms used, such as: (alms) and (schools) in verse 4 of Surah An-Nisa (or obligation) in verse 227 of Surah Baqarah or (brick) in verse 24 of Surah Nisa, the word means truth in charity and truth If the affection to the woman were given as donation only And at the same time after Islam was removed and both words were synonymous.

Affection in the so-called legal

According to the latest jurisprudence as well as most authors only and subject to conditions that are not stamped notes and has protested defined, for example, owner says: " All Muslims have a dowry, in kind, or have had, a utility, education and workmanship Surah and the pair sits and foreign, not an estimate of dowry in the few and not the abounding the-like, but consensual. "

But it should be noted that in ancient times the two words meaning "seal affection " not because of financial stamps that were paid to the father or his family,

Dowry in civil law and doctrine

Most of Imamieh jurists to follow the civil law did not define the seal has kept quiet about it. Therefore, to address this deficiency scholars to define their seals:

The late Dr. Syed Hasan Imam had said in October the definition of "is not defined by law from affection, but the material turned out to be the stamp, the stamp tax which couples to marry, to wifeacquisition provides".

It seems that the above definition are not without drawbacks, because the property is both acquisition and suggests it is not mere give certain acquisitions.

J. Langueroudi definition of such seals have said: "Seals (On weight River) tax that is equal to the customs and habits of the husband to his wife at the time of marriage or commitment to giving it the stamp must be owned by husband and wife ". This definition also has drawbacks, such as a seal against customs and habits knows that this statement is clearly incorrect.

As loving and based it primarily as provided by law and then verify it's authentic Islamic sources Or "wife's ability to take possession of the dowry," it is not possible for couples having a special situation (such as foreign nationality) does not have the possibility of immovable property.

Foundations Legal dowry

Although the Syndicate seal the marriage, and although she could not marry condition like any other property owner to give its seal, but marriage is not imaginable without the seal, the fact the book of Allah and the Sunnah of the Prophet (PBUH) and confirmed traditions is.

Holy Quran outlines the different aspects of love and determination and necessity has been stamped and given the importance of the Quran to seal sign affection on human life.

But it did not mention the word literally stamped with the multiple interpretations such as, Affection provision, statute, brick, school finance has introduced the right.

First verse: God says in Surah Nisa, Verse 4: And the dowry of their wives to their complete satisfaction. But if he's willingly gave it to you, lawful and wholesome on you. "The words of affection and schools have been taken from this verse that seems most explicit verse is especially affection. Added words (charity), the pronoun "yet" indicates that warrant the necessity of paying Affection on the tradition of marriage between people is common. They each object has a tax value of the property or put affection for his wife.

Dowry wife Away

1. dowry absent wife to divorce

According to Article 1082 of the Civil Code, upon marriage, the wife of ownership is based on all seals. Of course, if the wife has the right to demand all your love, or to absence of dowry in the marriage contract has been agreed and is also located nearby.

2. dowry missing wife after divorce

As we know, marriage is the validity of such contracts. Possessory financial aspects of the contract, so in effect, the seal is one of bilateral ownership of a domestic woman. Article 30 of the Civil Code and the orders of the ownership of their property rights and profit capture all species, except in cases where the law has exceptions, "known as the rule."

The woman may, before affection husband to give him the grab handles as if it will sell or loss. Article 1082 of the Civil Code that says: "Upon conclusion of the woman is the owner of the seal can be any type of capture that she may".

Dower of the woman does not divorce unless no effect on divorce as Article 1092 of the Civil Code to be real close, says: "If a husband to divorce his wife intercourse, the woman will be entitled to half affection and ..."

What is discussed analytically, the possession of the woman's dowry and the effect is near where it should be according to the provisions in Article top. The woman's ownership of the dowry upon marriage, but not the same. Affection of her property to all. But female ownership than half fixed and half the reversible property of the husband before the divorce is. Close by is stabilizing, according nearby property condition of the woman is the other half of Affection.

With regard to the above it is concluded that the missing wife after divorce (if the divorce) is the owner of her dowry, and in the event of a close, it's all right to reclaim the property is absent.

If the absent wife dowry death sentence hypothetical absent

Husband died no effect on certain kind of dower, and if the seal has not surrendered during the lifetime of the husband, the wife can demand all of it after the death of her husband, Because the marriage is entitled to a certain kind of dower caused him to fall right or a part of it, some

scholars believe that if one spouse dies before the As in the case of divorce is a certain kind of dower bisection.

But this opinion is contrary to and in accordance with Article 1092 of the Civil Code famous jurists based on the famous set only if the husband divorces his wife before the woman is entitled to half Affection and this is a rule exception and should be extended to the feet.

After missing wife if the hypothetical death sentence even before the close is entitled to all the dowry.

Affection agreement

According to Article 1078 of the Civil Code is anything that has economic value and ownership of the property is to be said and can be sealed, and as a rule it can be said: The man becomes the property may Affection placed, whether of the outside world, such as patents and goodwill existing or credibility or value of intellectual creativity and innovation. So are things as stamps may be: the same is given (such as certain home) or total (like a pile of wheat) or religion (eg, checks and promissory notes) and can also financial rights (eg, royalties) or benefit (such as learning science or interests garden) or do certain work (like building a house) is. It seems interpretation of religious texts in the state legislature Article 1078 of the Civil Code to the effect that taxes have anything that we can put the seal harvest is correct, the traditions and the taking into account the religious texts, also or benefit be stamped and it is from this that the dowry should not have put things solvent and haram to solvent is prohibited. The convention that bind men and women on the Affection is a contingent contract, The contract on the property, which is separate from the main contract of marriage but the marriage is and the basic conditions for the validity of transactions must be observed in the deal, so what is determined as the Affection general conditions The transaction shall be as follows:

Taxes to

The economic value and can be traded on the swap contract as a financial return for the contract and received in return. Article 1078 of the Civil Code in this regard says: "anything that can affection taxes and can not be owned," he says. Therefore, we conclude a cane, wheat and burnt match stick and seal air as it can not be determined due to lack of finance.

For possession being

Women should be able to take possession of the dowry, the common property and endowments as a seal can not be determined and also because of the arrest of property or other rights can not be owned because of the acquisition can not be placed seals. Except with the consent or creditors entitled Civil Code Article 1078 of the Civil Code Part II we are about to take possession of the states. cemeteries and roads will not be able to appointment as a dowry.

Determinacy of the

In accordance with Article 1079 of the Civil Code: " Affection must meet between parties to the extent that their ignorance, are known." Given the amount of sex and yet it is clear, given some weight by the sometimes view and sometimes with a number or specific area, so non-specific value of a piece of land or an unknown number of goods in a shop can not be.

Appointed as a seal. Of course these Shi'a jurists that if science briefly to the affection proper seal is achieved for both parties agreed to seal determine if a home Not necessarily be mentioned characterization and middle ground can be determined for submission to the woman's house But others disagree with this and believe that although sex is unknown, but because of ignorance fix not only the dowry given sex stamps will be void. But others disagree with this and believe that although sex is unknown, but because of ignorance fix not only the dowry given sex stamps will be void.

Delivery power

Husband should be able to give as dowry money she is determined, the condition of the text of Article 348 of the Civil Code, we inferred. As a result, fish floating in the sea or a bird flying in the sky can not be stamped. However, if the tax that is able to submit it to the woman's husband is not his wife be able to bill can be sealed. For example, the golden nugget that will not be drowned at sea and elusive stamp is placed, Of course, if your woman by being able to submit diver and could put the gold affection from the bottom rung is true.

Specification

This condition has been inferred from Article 190 of the Civil Code, as defined in this Article, the validity of the transaction is one of the basic conditions and the time affection transactions is subject to the provisions of the ways, then, between two or more things must be determined not

hesitating between does not doubt. For example, a car than 5 cars in the shows in the form of wavering can not be stamped.

Rational and legitimate interest

This requirement is not mentioned explicitly in the law on Affection under Article 215 of the Civil Code, but in a rational and legitimate interests of the clauses about the transaction, and as a dowry to abide by the provisions of the basic elements of trading then it should also have these conditions. The wisdom of interest between society and intellectuals have to accept it and the legitimacy of the law it is forbidden. So things like alcohol, drugs or pork due to the lack of legitimacy of the transaction and the lack of interest in the intellectual and religious as they can be sealed.

Exist

If the seal is also certain to be present at the time of marriage , If it turns out to be the same after the conclusion of the contract was not available at the time appointed will be invalidated. This condition can be inferred from Article 361 of the Civil Code. For example, if the dowry apparatus is a car that will be included in a contract and later found the car at the time of the contract not exist. Or has gone wrong and this woman is appointed in accordance with Article 1100 of the Civil Code are entitled to get the price or the like.

Property of husband

The husband is the seal should be given financial property, real property other course that can be stamped with the owner's consent, but if the contract without the permission of the owner was blunt And with his permission is appointed and there shall be revoked his permission. In case of cancellation affection or price it should be like her husband.

Religion and dowry

And the general concept of religion means the property that the personal obligation of toys is fixed for another reason. He who is busy obligation "owed" to the opposite side and "creditor" means.

Moreover, "the religion" may borrow or one of the optional activities such as putting it as sales contract, the price in the contract of credit, rent or lease contract is the dowry in marriage. Religion can also cause involuntary matters such as liability is compulsory and like it.

Results:

Financial conviction couples to nonpayment of dowry and dowry increasing the number of prisoners has become a social problem and also the sense of frustration among young people toward marriage and the marriage rate has been reduced. If the contract specified payment in affection, Can be in cash or goods, with or without time period (time) and demand or as a lump sum or installments and take place only if the dowry is (no time) or on demand, a woman has a right of lien as long as the husband of the woman can not pay dowry to his spouse refuses all if the affection is not mentioned in the contract. And the entry has been made, the husband is required, and if the seal has been set to pay his wife and the husband before the close to leave his wife, and if the stamp is set, pays half the dowry to his wife. Couples can not forbid law provisions contained in the contract are not included; Such as granting the right to housing to the wife, if a particular trait or condition law in some cases to the divorced wife of his own. May prove what the will of the parties not to impose this solution on the parties in the marriage contract is the right choice? The answer to this claim lies in the purpose of these guidelines If so, these guidelines will be unsuccessful in achieving their goals and if so, what need is there to set and communicate these instructions? Although affordability is a matter which the wife must be proved through the law, then their demands for dowry will be able to collect. But the constant demands for dowry is something other than afford and do not need to prove financial ability does not owe and forecasts the situation at the time of the affection demand away from justice and would violate women's rights are creditor for dowry. Religious dowry for couples as it is obliged to pay the debt. Article 2 of the law of the implementation of financial sentences, the right to demand the arrest of the debtor to the creditor at the time of payment and acquisitions Innocence recognized and Separate the part of creditors that seek to excuse them from marriage will be interpreted in the sense of limiting the rights of women. For example, if the wife is no mention in the documentconcluding , a commercial document indicating the employment obligation couples receive from them, Right to apply Article 2 of the law of the implementation of financial sentences and detention owe (couples) will have but a wife who did not use this approach In

applying Article 2 of the latter will be difficult to collect his bride! So this leads to distrust women to official documents, in particular document isconcluding .

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