

Written by: Assistant Professor Abdul Oahar Azizi
Translated by: Assistant Professor Abdul Oahar Azizi

Nikah, Marriage and Circumcision Bylaw; in a Glance

Abstract

Afghanistan had the best meet and applicable laws for getting rid of unfavorable customs in age-old. This has included the various laws' drafting and applying. Amongst these, there was a bylaw named "Nikah, marriage and circumcision bylaw" including provision of engagement and avoid unnecessary expenses of marriage. Therewith, this bylaw had symphonious and meet contents of marriage that had legalized the marriage and prevent respective disputes.

This paper will begin with the commencement of engagement and end with the regulations of Ghazi Amanullah Khan's reign that applicable on spousal relationship.

Forward

Family is the main basis of society, and is formed by marriage "Nikah". After marriage, a household is formed, children are born, generations are produced, lustful desires are fulfilled, and society is extended. Provided that a family is perfect, society would be perfect; and when the society has become perfect, the country would advance quickly.

Ghazi Amanullah Khan had taken family into account within his broad legislation reforms, and had drafted a law for forming a desirable household to manage the family, reform society, and get rid of obstacles preventing the country's advancement.

End of research: The main aim of this paper is to describe the bylaw that was applicable at that time, and explain to a modern generation that almost a century ago Afghanistan had the ideal regime, which was legally established and contained rules and regulations. Additionally, it will be explained that King Amanullah Khan has commenced improvement of Afghanistan with family reformation. In addition, analyzing and understanding the initiatives in legislation systems, that were developed almost a century ago, is the critical subject. Finally, to this end, it is assumed that these rules and regulations must be explained.

Research importance: as we know, Afghanistan had a desirable regime almost a century ago, and its ruler was committed to developing the country; hence, it is necessary to explain and describe this bylaw.

Research methodology: the research has been conducted with a descriptive-analytical method.

Marriage, introduction of the bylaw, end of the bylaw, provisions of the bylaw regarding polygamy, engagement, reconciliation through the exchange of girls, consideration of widows and other women as inheritance, the compelling to or

preventing of widows getting marry, pre-marriage expenses, regulations regarding mullah's (religion scholars) legalizing of the marriage, and other critical subjects have been explained in this paper. Finally, the paper has been concluded by concluding thoughts and suggestions, and finished by references.

1- Introduction to Nikah, marriage and circumcision bylaw

In the reign of King Amanullah Khan, not only the first ever constitution ratified, but also other bylaws were drafted, and further bylaws were developed to strengthen legislation flow. Among these bylaws, *the Afghan women's rights protection bylaw*, and *household regulations*, which included arrangement for marriage, engagement, and Walwar (money that has been taken by bride's family for marriage expenses), were ratified. (7: 19p)

In the reign of His Majesty Amanullah Khan, a council was determined for drafting bylaws. Mr. Yosef Hewaddost says: Amanullah Khan commenced the following reforms and transformations.

He has established the Legislator Council in the country. This council is named State Council. The aforementioned council, in which half of the members were elected and half were appointed by the King, was accounted for valuable functions such as: drafting and amending laws (bylaws) consecutively;

drafting governmental bills; scrutinizing bills of law and propounding to the King to sign state bills after ratification by council of the ministries; budgeting; strengthening relations, and perusing agreements and conventions of Afghanistan with foreign countries. (12: 280p)

The term Canon (law) was not used at that time, and “Nizamnamah” was used instead. A bylaw was drafted on (1 June 1919), which was named “*Nikah, marriage and circumcision bylaw*”. The bylaw has consisted of twenty two articles and has been signed by Mawlawi Abdul Hai, the head of the Supreme Court of Afghanistan. Mawlawi Muhammad Said, member of Loya Jirga (Supreme Council), Mawlawi Abdul Khaliq Siddiqi Dewbandi, member of Loya Jirga, Mawlawi Guldost, member of Loya Jirga, and Mawlawi Muhammad Rafeeq member of Loya Jirga. In addition, the bylaw has been sealed by the official stamp.

A law named “*Marriages Law*” has been enforced in the last few months; however, it has not been published through the official gazette. Additionally, according to Afghanistan Ministry of Justice, they are drafting a law named “*Family Law*”, which may include some provisions o “the *Marriages Law*”. The current law, which has recently been enforced, has banned Walwar, and has provisions regarding marriages at wedding halls and hotels. The aforementioned bylaw says: there must not be more than 500 guests, and the cost for

person's meal must not be more than AFN 400. However, there is no evidence regarding the enforcement of "the *Marriages Law*", and according to BBC, it has not been published on the MOJ's website yet; however, it has been published in the official gazette, and is enforced. (6: BBC).

Before to discuss the rules and regulations of "*Nikah, marriage and circumcision bylaw*", first, marriage must be defined.

2- Marriage

Marriage is an agreement that is ordained by legislators to utilize spouse-relationship between both spouses and to legitimize the fruition and enjoyment of each other, and to specify the rights and the obligations among them. (11: 9p).

The above definition has two points, first, marriage is an agreement that allows enjoyment between husband and wife; second, marriage specifies mutual rights and obligations between both spouses. The mutual rights and obligations are being developed by marriage. However, genealogy and reproduction as well as forming a household are the main aims for which marriage is legalized and legitimized, but the above definition does not have any of these aims.

Afghanistan's Civil Code, which was ratified in 1976, defined marriage as follows: marriage is an agreement that legitimizes combination of a male and a female to form a family, and

manages the rights and obligations of the both parties. (5: 60th article)

The above definition consisted of three points: legitimizing the utilization of both sides, and forming family as well as the rights and obligations of both parties.

3- The end of Nikah, marriage and circumcision bylaw

In 1921, a critical step was taken; a bylaw named *Marriage and Engagement* was drafted. Before that, in the reign of Amir Abdul Rahman and Amir Habibullah Khan, some steps were already taken; however, Amanullah Khan's measurements were significant and comprehensive. Conducting a marriage in childhood and with close relatives was considered contrary to Islam. According to the new bylaw, widows were free from sovereignty of their ex-spouse's relatives. Amanullah Khan followed his father's steps. The expenses of the marriage such as Walwar were banned. In addition, the right for a female to appeal in the court was approved. If her spouse does not observe Islamic rules, she could appeal for her rights. (10: 217p)

The end of the bylaw can be sought in its introduction. In the introduction; however, there is no title with the name of "end" or "aim", but within the context of the introduction, the end of the bylaw was indicated. As it is obvious in Afghan society that the majority of disputes between families are caused by

intra-family relations, and a big part of such conflicts referred to marriage-related expenses, Ghazi Amanullah Khan supposed that this basic part of the society must be without disputes and violations. On the other hand, a family is the basis of a society; if the family would perfect, society would be perfect, and vice versa. Hence, for perfecting and reforming of the society, the bylaw has been drafted.

The end of the bylaw is obviously explained in its introduction: since the majority of the conflicts arise due to marriage-related expenses and cruelty towards women, , the following regulations are being drafted: to get rid of cruelty, to resolve conflicts, and to mainstream equally the rights of women that conform to Islamic Sharia and Hanafi jurisdiction. (4: introduction)

4- The provisions of the bylaw regarding polygamy

Islam allows a man to get married up to four women at the same time, and according to his own choice. However, it is not a concrete right, and has terms and conditions. The justice is an important condition for this purpose. Whenever a man can fulfill justice among his spouses, he can marry more than one woman. Allah (swt) says in Holy Quran:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ
وَرُبَاعَ ۖ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَلِكَ أَدْنَىٰ ۖ أَلَّا تَعُولُوا (A1)

Nisa: verse3

Meaning: And, in case you fear that you will not act equitably towards the orphans, then marry such women as is good to you, two, three, four, (Literally: in twos and threes and fours) then, in case you fear that you will not do justice, then one (only), or what your right hands possess. That (way) is likelier you will not be in want (Or: you will have too many dependents). (2: 426-428pp)

In this holy verse, it is clearly insistent on justice, which is considered as a main principle for polygamy. The first article of the mentioned bylaw has taken into account the above principle of “justice”, and the aforementioned verse has been referenced as proof. The bylaw then added, “If a Muslim acts against the order of Allah (swt), he or she will be harmed in both worlds (Dunya and Akhira). Based on the command of Allah (swt), we order; hey my citizens! Be committed to the above order, then you can marry two, or three, or up to four wives. If there is fear of injustice, then marry just one spouse, because having more than one spouse without justice is considered as sin.” (4: article one)

The above article allows Afghan citizens to practice polygamy, as long as he is just. If a man has more than one spouse, and is not just among them, the court can punish¹ him. In addition, if

¹ In Islam there are two types of punishment; specified punishment, and unspecified punishment.

Hodod and Qisas (revenge of murder) are specified punishment and couldn't be fewer or more, the

a person has more than one spouse, and he bans his spouse/s to complain against him in court, he will also be punished. The second article says: “a man having two, three, or four spouses, and who cannot meet the conditions of Islam regarding justice, and when court receives a law suit, he will be punished based on evidence. In addition to the injustice mentioned above, if a man prevent his spouse from applying justice in court, or her protector restricts her from applying justice in court, he might be convicted with punishment (4: article 2).

In this article, the punishment is ambiguous. Additionally, the scale of justice and equality are also immeasurable. Since it is not specified, which kind of blunder was considered as injustice or how it can be proved as injustice, it is strongly uncertain and remains doubtful. In addition, unspecified punishment is also not determined and does not have any set measures; however, judges have been provided with full authority to make any decision regarding unspecified punishment.

It is supposed that in the reign of Ghazi Amanullah Khan, a tax was placed on men who had more than one spouse. Mohammad Akbar Kargar pointed out: “in the reign of Ghazi Amanullah Khan a marriage law (bylaw), or Nikah bylaw, was

second one is in full authority of judge, and bylaw of Nikah, marriage and circumcision ordained such punishment for above arrangements.

drafted to encourage the single-marriage, and a bond and tax was placed for the second-marriage. Having a marriage certificate was the basic requirement, but it was not in correspondence with Islam.” (10: 219p)

Moreover, Mr. Mohammad Akram Othman also illustrated taxing polygamy; however, the bylaw did not have any regulations regarding fining or penalizing and taxing polygamy. He says: And those who had more than one spouse, must be taxed. Thus a man is compelled to pay taxes because of polygamy. The bylaw was efficient in terms of avoiding more than one spouse, and dozens of hundreds of men were satisfied with one wife due to taxes. In a brief, the aforementioned law (bylaw) had the following provisions in order to support women in:

A; The manner and state of wedding (marriage agreement), and giving Mahr (money for the marriage on behalf of man to women) were illustrated in the marriage certificate according to government regulations;

B; allowing women to file² for divorce and marry another husband after divorce;

C; honoring the consent of both sides. (8: 116p)

² There is nothing in the bylaw like this provision, it isn't obvious that Mr. Mohammad Akram Othman got such information from which resource.

According to Hanafi scholars, a young girl can marry with her guardian's permission and no one can prevent her; however, both parties have the right to either accept or refuse the engagement. This issue was also included in the bylaw: "under-age-marriage is allowed." (4: article 3) However, the upcoming context of this article shows that under-age-marriage had been forbidden. The bylaw further says: As it is clear that under-age-marriage causes disputes between people, it has been abolished. This context shows that Ghazi Amanullah Khan had banned the under-age-marriage, but people could have protested against this provision, and he was compelled to revert his last decision and allowed under-age-marriage. Moreover, Dr. Mohammad Akram Othman has written out: "it is also forbidden to marry a younger girl, thanks to His Majesty's {Amanullah Khan's} struggles" (8: 115p). He further writes in the footnote: this law was abolished in 1924, since religious scholars and right-wing politicians pressured Amir. (8: footnote, 115p).

5- Engagement

Afghanistan's civil law considered engagement as a promise of marriage and both parties are granted the right to withdraw (quit). "Engagement is a promise of marriage and both sides of such agreement can withdraw." (5: 64article)

Engagement has been discussed in the bylaw of Nikah; however, it has not been defined or introduced. There were some regulations regarding engagement in the bylaw that legalized engagement and had terms and conditions about over-expenses. In general, the 4th article of the bylaw was about engagement and titled “Sherni Khory”. This article further mentioned “Henna Night” had some restrictions on it. It would be better to be quoted this article: “First of all, there is a party called engagement, in which sweets are distributed. Later on, a night is selected for henna and is called (Henna Night); that morning, people gather together and have a marriage party. Because it was trouble for the both parties, and unwanted and an unnecessary expenses, and a strong potential of arising conflicts, the engagement party, is abolished. It means that if an individual wants to marry, both parties and their relatives must sit together and discuss the marriage party. Thus, in the engagement party, there will not be as many relatives needed; and only religious scholars and witnesses are allowed to engage in this party, without them all types of marriages are prohibited. When the marriage party concluded with the aforementioned rules, was an adult bride must be handed over immediately to the groom; and provided that she is underage, she is allowed to reside at the house of her guardian or executor. When both parties are satisfied, marriage

can be enjoyed between the parties with relish in union (union spouses) and blessing in posterity.” (4: 4article)

6-Reconciliation through the exchange of girls

There is a bad tradition in Afghan society where they exchange girls to reconcile or compensate for a crime. It is injustice that a male has committed a crime –(brother or son) ,but a female –(sister or daughter)- is punished for that crime. Islam has accepted this principle for a long time and it has been made compulsory. Allah (swt) says:

قُلْ أَعْيَرَ اللَّهُ أَبْعَى رَبًّا وَهُوَ رَبُّ كُلِّ شَيْءٍ وَ لَا تَكْسِبُ كُلُّ نَفْسٍ إِلَّا عَلَيْهَا وَ
لَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَى ثُمَّ إِلَىٰ رَبِّكُم مَّرْجِعُكُمْ فَيُنَبِّئُكُم بِمَا كُنتُمْ فِيهِ تَخْتَلِفُونَ
(an am: 164 verse)

Meaning: Say, "Is it other than Allah I should desire as a lord while He is the Lord of all things? And every soul earns not [blame] except against itself, **and no bearer of burdens will bear the burden of another.** Then to your Lord is your return and He will inform you concerning that over which you used to differ."

In the above verse, the principle of personalized crime is obvious. Every individual is responsible for his/her deeds. A person must be given a punishment if he/she commits a crime and the punishment can neither be moved to another person nor can the other person be considered the criminal.

Furthermore, Afghanistan's panel code has also accepted such principle and included in its 9th article as follows: "a crime is a personal deed and the punishment allocated for the crime is not transferable to others." (3: article 9).

Additionally, reconciliation through the exchange of girls is also inhumane, and it is considered as a bad custom. Human beings must combat to prevent and get rid of this phenomenon. It is also good news that this custom is abolished in Afghan society since the reign of King Amanullah Khan.

In the reign of King Amanullah Khan, this bad custom was taken into account alongside with other unfavorable traditions to be removed. The exchange of girls for reconciliation was strongly prohibited and forbidden according to the sixth article of the bylaw, and was considered as the worst tradition. "Reconciliation through the exchange of girls or considering women as an inheritance or property is absolutely prohibited and abolished" (4: article 6).

7- Considering women as inheritance

Unfortunately, along with other unwanted customs, it is supposed that women should be inherited. Sometimes, women are considered as personal property' even she is considered as non-human. Ghazi Amanullah Khan struggled to eradicate such customs, and these traditions were banned through *Nikah, marriage, and circumcision's bylaw*. The sixth article of the

bylaw prohibited and abolished considering women as inheritance. The article says, "...inheriting women forcefully and considering women as property is absolutely prohibited and abolished". (4: article 6)

In addition, there is another bad custom, in which a widow has to marry one of the closest relatives of her ex-spouse, and she is also considered as property; fortunately, inheriting widows and compelling them to marry had been prohibited. The seventh article says: "no one should prevent a widow or a divorced woman from marriage by force" (4: article 7).

8- Pre-marriage expenses

Some traditions impose a series of expenses on the groom and bride. For instance, fiancé is compelled to give and carry some presents to the fiancée's house, or the bride's family should host the groom in some special events. Such traditions cause onerous expenses that might be challenging for both parties to tolerate.

Amani government has taken into account these traditions of huge-expenses and drafted appropriate provisions through the bylaw, which will be describe herein.

A- Barat and Eid gifts: Barat's gifts are presents, which the family of the fiancé gives to the family of the fiancée before Ramadan (the month of Fast). These gifts are for the bride. Eid gifts are those, which the family of the fiancé or the

fiancé himself brings to the fiancée or her family during Eid days, which includes baked goods, fruits, and nuts. The bylaw prohibited the fiancé and his family from bringing Barat and Eid gifts for the bride or her family. The eighth article prevented such tradition as follows: “Barat and Eid gifts, which re brought to the family of the bride, are abolished”. (4: article 8)

B- Sweets of the Engagement: Sometimes a sweet is distributed during the wedding. Nowadays this tradition is changed, and chocolates replaced former sweets; these chocolates are brought on behalf of the fiancé to the household of the fiancée, and are distributed. This custom of distributing sweets is not a new one; however, it is difficult for some families to afford it. To this end, the bylaw includes such customs, and has determined a scale for the expenses. The bylaw prohibited the family of the fiancé from bringing more than 1750 grams sweets to the family of the bride. The 10th article says: “the sweets of engagement could not be more than 875-1750 grams” (4: article 10).

C- Mahr: Mahr is an amount of property or money that the family of the fiancé grants to the fiancée for marriage. Mr. Abdul Qaader Adalatkhwah defines Mahr as follows: “Mahr is an Arabic term and its Persian equivalent is Kabin. There are other words in the Holy Quran, which mean Mahr.

For instance, Saddaq, Faridha and Ajr. Descriptively, “Mahr is a wealth, which is granted by the husband to his spouse, and must be given immediately or in installment while both spouses enter into the sexual relations through a legal marriage contract” (9: 9,10 pp). The bylaw has also set the value of Mahr to prevent potential losses. The 11th article of the bylaw states: “for all categories, the Mahr could not be more than AFN 30. Sherbaha, Walwar, Qaleen, and Toyana are abolished” (4: article 11).

In the above article, there are four other things alongside Mahr. Sherbaha, Qaleen and Walwar are equivalent to each other and are granted by the family of the fiancé to the family of the fiancée. Walwar is usually the same to Mahr; however, both of them differ from each other. Mahr is taken during the wedding and is the absolute right of the bride, while Walwar is taken before the marriage and is given to the father or guardian of the fiancée. Some of Walwar would be spent, while the remaining part is considered as the right of the family of the fiancée. Further, Toyana is also mentioned, and is defined as the expenditures, which the family of the fiancé gives to the family of the bride for the marriage party. The Pashtu equivalent term is “Khwara”, which was abolished in the reign of Ghazi Amanullah Khan. This caused huge losses for Afghans. Thus for the welfare

and prosperity of Afghans, Ghazi Amanullah Khan included such bad customs in the bylaw to develop Afghanistan.

D- Bride's clothes: The bride's clothes must be prepared by the family of the groom. It means if a fiancé wants to marry, he must buy clothes for his fiancée alongside other expenses. Purchasing the bride's clothes was also inserted in the bylaw to simplify the marriages and avoid hostilities. The 12th article says: "the clothes, which have been given to the bride are as follows: -

- Upper-class people: four suits of silk-cloth, four suits of woolen-cloth, and cotton-cloth;
- Middle-class people: three suits of silk-cloth, four suits of woolen-cloth, and cotton-cloth;
- Lower-class people: three suits of woolen-cloth, and cotton-cloth;
- There must not be more clothes than mentioned above; however, it could be fewer by the agreement of the both sides in case of poverty. (4: article 12).

In the above article, the quantity of suits on behalf of the groom to the bride shows that Ghazi Amanullah wanted to prevent unnecessary expenses as well as provide a better life for the groom and the bride in the future. In most areas of Afghanistan, there are plenty of onerous pre-marriage expenses, and are becoming burdens for the family of the

groom. Instead of having a better and luxurious life, they are facing disputes and have to repay their loans.

Moreover, the family of the bride also gives clothes and dowry to the groom. This is an ancient tradition. The bylaw also prohibited such expenses and presents, and each type of suit that the groom is given by his father-in-law's family, are absolutely forbidden. It would be better to quote the 13th article of the bylaw: "the suits or clothes of the groom, which are given by the family of the bride, are absolutely prohibited" (4: article 13)

E- Dowry: a dowry includes the things that a bride carries with herself from her father's house to the house of her husband.

Mahr is necessary for the husband due to his wife's honor and to the dignity of marriage. Mahr is not in exchange of the dowry. Likewise, there is not any religious proof that Mahr is an exchange of the dowry or any other house furniture that the father of the bride grants her at the time of marriage. Hence neither the bride nor her father or other guardians are responsible for the dowry. On the contrary, the dowry- as a part of the whole alimony as well as all necessities of home- is the responsibility and obligation of the husband based on Islamic Sharia. (11: 201p)

According to Islamic Sharia, this is the obligation of the husband, because the bride and all equipment come to his

home. However, some families will, in order to tighten the familial bonds, help the family of the groom purchase the equipment of the house, or to not deprive their daughter, her parents supply her with some house equipment.

It is not compulsory, however; it is only the choice of the family of the bride to present the dowry to the family of the groom. Unfortunately, it has become like a compulsory custom, and sometimes it is necessary for the fiancée's family to buy house equipment, which might be difficult for lower-classes families. This is an ancient tradition, and Ghazi Amanullah Khan included these changes in the bylaw of *Nikah* to strengthen the economy of the family and avoid unnecessary expenses.

The 14th article of the bylaw states the dowry and says that if a bride receives any dowry or presents from her father, mother or her guardian, it is clearly hypocrisy. Hypocrisy is forbidden in Islam and all deeds of hypocrisy are unacceptable to Allah (swt). Whenever the family of the bride buys a dowry for their daughter, it can be a contest among relatives and is considered hypocrisy. Thus, this type of the dowry is prohibited during marriage. If the parents of the bride want to buy something for their daughter after marriage, there is not any restriction.

It is worth mentioning that these terms, conditions, and restrictions are referred only to pre-marriage and during the

wedding. But those expenses, presents, gifts, which the groom or his family gives to the bride after marriage, were not prohibited. The 15th article ordered such provisions.

9- Regulations regarding binding marriages by Mullah

In Islam, Mullah binds some crucial ceremonies such as weddings, funerals, and so on. Mullahs, or religious scholars, are involved in such issues. Nikah-marriage agreement or wedding- is legally bound by Mullah, who also gives the sermon. To this end, *Nikah, marriage and circumcision bylaw*, contained a provision for Mullahs.

First of all, there was an amount of money to be given by the groom to Mullah. Mullah receives a gift or some money for binding a marriage, and this has become a compulsory tradition in some areas. In order to enforce that everyone gives a specific amount of money within the range of AFN 5-20 to Mullah, the specific regulations had been drafted. The 17th article states: “Mullah cannot receive more than AFN 5-20 for legally binding a marriage.” (4: article 17)

Another topic, which has been taken into account in the bylaw, was forced marriage. Sometimes, without considering the consent of the groom and the bride, Mullah finalizes the marriage; however, without consent of both parties, the marriage is not valid. A marriage is an agreement, and the civil code of Afghanistan defines agreement as follows: “agreement

is the conformity of the acceptance of the second party with the offer of the first party, unless against the law.” (5: article 497, clause 1).

In the above article, it is clear that the consent of both parties is the primary source of an agreement.

The consent of both parties for marriage has been explained in *the bylaw*. According to the bylaw, if any Mullah had bound any weddings without consent of both parties, this marriage is considered forced marriage, and Mullah will be punished. The 18th article orders: “if a person wants to marry an under-age boy or girl without his or her consent, he is considered an oppressive person, and the Mullah, who bound the wedding, must be punished” (4: article 18)

The last part of the bylaw was about unspecified punishment that provincial or high courts of the local and regent governments had been authorized for convicting and executing. The severity for unspecified punishment has not been determined in *the bylaw*, and it is the authority of the judges to sentence and convict any person, according to his or her personality.

10- The henna night and Walima (food provided for the wedding party)

Before the wedding party, relatives of the groom and the bride have a party of henna. After the Nikah is bound, the bride is

brought to the house of the groom; afterwards the family of the groom has a party with fruit and beverages. Due to differences in Afghan traditions, the Walima is sometimes given the same night as the henna ceremony, in sometimes before the wedding, as well as after the marriage. *The bylaw* made provisions for the Walima and for the henna night. Generally, this type of Walima is prohibited, unless the groom consents; and compulsory Walima is strongly prohibited. In addition, *the bylaw* made provisions for sweets and banned the given of unnecessary. Further, a provision was drafted in *the bylaw* prohibiting people from bringing sweets into their houses.

The 16th article states: “Provided that a groom wants and consents to have a Walima party, he is allowed. That is, unless there is an excess of sweets and fruits, which the guests could bring home.” (4: article 16).

Conclusion

Afghanistan had fitting and unique laws almost a century ago, which met the terms and conditions of that period. Rules and regulations of the Ghazi Amanullah Khan Era, which were drafted within a framework of bylaws, corresponded to Islamic Sharia, as well as Hanafi sect.

Unfortunately, for a long period of time, there have been huge expenses for engagement; however, Ghazi Amanullah Khan attempted to get rid of such bad traditions.

In addition, he recognized as a National Hero of Independence, and developed foreign relations. Amanullah Khan was committed to reinforce reform, and endeavored to have discipline and rule of law in Afghan society.

Suggestions

Taking into account the current huge expenses and onerous Walwar, the government is suggested to utilize practices of Ghazi Amanullah Khan Reign, and legalize such expenses through legislations.

Ministry of Justice (MoJ) is suggested to finalize the draft of “*the family law*” and move forward with its legalization. In addition, the MoJ is suggested to publish “*the marriage law*” through its official gazette, which raises public awareness and avoids unnecessary expenses.

References

1. The Holy Quran.
2. Translation and Tafseer of the Holy Quran, first volume chapters 1-15, publication of Khadim-ul-Haramain Sharifain.
3. Afghanistan. Penal code, Ministry of justice, Kabul, 1396 (2017).

4. Afghanistan. Nikah, marriage and circumcision bylaw, Kabul factory "Rafeeq company" press: Kabul, 1306 (1927).
5. Afghanistan. Civil law, Ministry of Justice, Kabul, 1388 (2009).
6. BBC. The tumultuous law "wedding ceremony law" has been ratified (16/1/1397). Available at: <https://www.bbc.com/pashto/afghanistan-43657621> {Accessed: 5/3/1398}.
7. Da Afghanistan, Ihsanullah, «Amani Reign; Afghanistan renaissance era», translated by Mohammad Akbar Wardak, Ghazi Amanullah Khan the star of independence, Danish publications: Peshawar, 1384 (2005).
8. Othman, Mohammad Akram. «King Amanullah Khan struggled in ground of social reforms and public reaction», Ghazi Amanullah Khan the star of independence, Danish publications: Peshawar, 1384 (2005).
9. Adalatkhwah, Abdul Qaader. Family law, second volume, third edition, Sarwar Sadat publications: 1396 (2017).
10. Kargar, Mohammad Akbar. «Ghazi Amanullah Khan and modernism», Ghazi Amanullah Khan the star of independence, Danish publications: Peshawar, 1384 (2005).

11. Nayel, Abdul Qaader. Family law according to Fiqah and law, first volume, second edition, Tamadun Sharq publications: Kabul, 1396 (2017).
12. Hewaddost, Yousef. «a lettered Amanullah Khan», «Ghazi Amanullah Khan and modernism», Ghazi Amanullah Khan the star of independence, Danish publications: Peshawar, 1384 (2005).