SEYED MOHAMMAD GHARI SEYED FATEMI,
MUNZELA RAZA, AHMAD KAOURI AND ABBAS RAMJI

A Purposive Approach to Islamic Marriage: A Re-assessment of Q. 30:21

> And one of His signs is that He created for you spouses from among yourselves so that you may find tranquillity in them. And He has placed between you compassion and mercy. (Q. 30:21)

In Islamic jurisprudence, marriage is largely considered a contractual relationship between two parties, with no concern as such for the spirit, virtue, and psychology behind matrimonial laws. This is due to a reluctance on the part of jurists to apply a purposive (*maqāṣidī*) approach in the derivation of law given the uncertainty in ascertaining such purposes in the first place. Based on the Qur'anic verse cited above, this paper will argue for *sakīna* (tranquillity) as a specific purpose, in service of more general essential and complementary purposes that help to reveal and establish the spirit behind Islamic law. Such a purpose, in relation to marriage, has been neglected even among orthodox *maqāṣidī* proponents of Islamic law that concentrate mostly on general macro purposes.

In the first instance, the validity of seeing *sakīna* as a purpose from the Qur'an will be established and the pertinent verse will be positioned alongside others to build a clearer picture of the institution of marriage in Islam itself. Then psychological and behavioural data will be brought to show the detrimental effect of marriages lacking in tranquillity upon the spouses themselves as well as any children involved. Following this, the application of both strands will meet in the realm of legal theory where *sakīna* will be proposed as an *ʿilla* as well as a *maqṣad* to flesh out the broader concept of the institution of marriage. It can then be further argued that a marriage that no longer fulfils this purpose is not consistent with the focal purpose of marriage as conveyed by the Qur'an. Reference will also be made to seeing *sakīna* as a *ḥikma*, that is, the wisdom behind the ruling, a view which reflects current mainstream understanding.

THE CONTRACTUAL NOTION OF MARRIAGE IN ISLAMIC JURISPRUDENCE

According to Islamic jurisprudence, marriage is a contract with both essential and non-essential aspects. In the Imāmiyya, the essential aspect of marriage is only the offer initiated by the female party using a specific formula and the acceptance of it by the male party. Another key, but non-essential part of this contract is the stipulation of the dower (*mahr*) by the female party. The *mahr* is a specified material recompense that the wife asks for upon completion of the recitation of the marriage formula. It is considered a fundamental right of the wife which is obligatory upon the husband to fulfil. Although not the case in the Imāmiyya, *mahr* is generally held to be a consideration (*'iwadh*) in contract law, which signifies receiving something in lieu of another thing. In the Imāmiyya, *mahr* is not a consideration and so is not an essential aspect. The essential aspects remain the offer and acceptance of entering into a marriage. Sufficient to signify offer is for the female to use the words '*ankaḥtu*' or '*zawwajtu*', meaning 'I wed you …', as part of her formula. For the man, it is sufficient that he merely states, '*qabiltu*', meaning 'I accept', to signify acceptance. Upon such mutual utterances, the marriage is believed to be valid and in effect. Due to the contractual nature of marriage, both parties are permitted to stipulate certain conditions in the contract. Such conditions can serve to determine the balance, power, and privilege in the contractual relationship and in modern Muslim societies is a method by which to make the marriage contract more egalitarian. This can be seen in the cases of women initiating divorce proceedings. In Islamic jurisprudence, divorce remains the unilateral privilege of the husband with the woman only having recourse to it in exceptional circumstances,[1] a fact which creates a significant imbalance in the marriage. Such an imbalance can be mitigated by giving the wife the power of attorney to divorce on his behalf and shift the balance towards the centre.

Although utilisation of the 'conditions' component in marital contracts can help towards a more equitable approach to Islamic marriage, such a conception of marriage, namely, a legal, contractual conception, does little to take into account the philosophy and purpose behind marriage and can even overlook and ignore its sentimental and sacramental nature.

1 S. Mohammad Ghari S. Fatemi, 'Autonomy and Equal Right to Divorce with Specific Reference to Shi'i *Fiqh* and the Iranian Legal System', *Islam and Christian–Muslim Relations* 17, no. 3 (2006): 284.

THE QUR'ANIC CONCEPTION OF MARRIAGE

Unlike the jurisprudential contractual notion of marriage, the Qur'anic conception of marriage is not just one of legal contract. Rather, marriage is a sacred union that fuses two individuals who share in their origin and humanity,[2] as well as worldly burdens and function, as a source of mutual adornment[3] and security.[4] Not only does the Qur'an stress the need for marriage, it goes on to emphasise the manner of interaction between the two parties – both when there is dispute present and not. There is consistent reference to dealing with kindness and amicability in the case of when reconciliation is not possible, namely, divorce,[5] with any attempt at harm during this process being labelled a transgression and violation of God's laws.[6] Rather importantly, kindness and amicability is stressed as the default baseline in dealings between spouses in general.[7] The purpose behind this sacred union can be gleaned from the verse relevant to this paper, namely: 'And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy.'[8] Kindness, mercy, and affection, then, can be thought of as the values underlying an Islamic marriage, the purpose behind which is to create tranquillity and peace in both partners (see Table 1).

Table 1. Some Qur'anic verses related to marriage and interaction between spouses	
4:1	O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women.
2:187	They are a clothing for you and you are a clothing for them.
7:189	It is He who created you from one soul and created from it its mate that he might dwell in security with her.
30:21	And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy.
4:19	And live with them in kindness.

2 Q. 4:1. All Qur'anic translations are from Saheeh International (https://quranenc.com/en/browse/english_saheeh).

3 Q. 2:187.

4 Q. 7:189.

5 Q. 2:229.

6 Q. 2:231.

7 Q. 4:19.

8 Q. 30:21.

2:229	Divorce is twice. Then [after that], either keep [her] in an acceptable manner or release [her] with good treatment.
2:231	And when you divorce women and they have [nearly] fulfilled their term, either retain them according to acceptable terms or release them according to acceptable terms, and do not keep them, intending harm, to transgress [against them].

NOTION OF SAKĪNA IN QUR'ANIC TEACHINGS

Etymologically, *sakīna* derives from the Arabic root *s-k-n*, which means to be still, tranquil, peaceful, and at rest. The concept of tranquillity (*sakīna*) is heavily rooted in Islamic scripture with numerous verses of the Qur'an referencing this human state and its bestowal by God unto man as a type of divine aid and blessing,[9] as means of strengthening and enhancing faith,[10] as a sign of God granting man kingship,[11] and, in the case of this paper, the purpose behind matrimony in Islam (see Table 2).

Table 2. Some Qur'anic verses related to *sakīna*	
2:248	And their prophet said to them, 'Indeed, a sign of his kingship is that the chest will come to you in which is **assurance** from your Lord and a remnant of what the family of Moses and the family of Aaron had left, carried by the angels. Indeed in that is a sign for you, if you are believers.'
9:26	Then Allah sent down His **tranquillity** upon His Messenger and upon the believers and sent down soldiers [i.e., angels] whom you did not see and punished those who disbelieved. And that is the recompense of the disbelievers.
9:40	If you do not aid him [i.e., the Prophet – Allah has already aided him when those who disbelieved had driven him out [of Makkah] as one of two, when they were in the cave and he [i.e., Muḥammad said to his companion, 'Do not grieve; indeed Allah is with us.' And Allah sent down His **tranquillity** upon him and supported him with soldiers [i.e., angels] you did not see and made the word of those who disbelieved the lowest, while the word of Allah – that is the highest. And Allah is Exalted in Might and Wise.
48:4	It is He who sent down **tranquillity** into the hearts of the believers that they would increase in faith along with their [present] faith. And to Allah belong the soldiers of the heavens and the earth, and ever is Allah Knowing and Wise.

9 Q. 9:26, 9:40.
10 Q. 48:4.
11 Q. 2:248.

48:14	Certainly, was Allah pleased with the believers when they pledged allegiance to you, [O Muḥammad], under the tree, and He knew what was in their hearts, so He sent down **tranquillity** upon them and rewarded them with an imminent conquest.
48:26	Allah sent down His **tranquillity** upon His Messenger and upon the believers and imposed upon them the word of righteousness, and they were more deserving of it and worthy of it. And ever is Allah, of all things, Knowing.
30:21	And of His signs is that He created for you from yourselves mates that you may find **tranquillity** in them; and He placed between you affection and mercy.

Muḥammad Ḥusayn al-Ṭabāṭabā'ī states in his *al-Mīzān fī tafsīr al-Qur'ān* that *sakīna* is a state particular to the heart of man, and a state which materialises 'when a man is of a stable mind and is not perturbed in taking a firm decision'.[12] This, he argues, happens when there is congruity between man's method of reasoning and his aims in life. If his reasoning is employed to achieve actions that are beneficial and a source of felicity for himself as well as the good of the society at large, then his action and thinking is of the type that it engenders tranquillity in the heart. If, however, he is mired in his low desires and preoccupied with this world, indecision and confusion will reign supreme and there will be little in the way of tranquillity for this person. *Sakīna* for al-Ṭabāṭabā'ī, then, is a virtue indicative of a wise man with a firm will and when present in an individual is a sign of strong faith in God. He goes further to state that *sakīna* can also be understood as a divine spirit or something which associates with a divine spirit to bring man aid and give him peace and tranquillity, as in the case of Q. 9:40 (see Table 2).

From the verses mentioned above, then, it appears that *sakīna* is a state of inner peace and tranquillity which in the case of all verses but one appears to be conferred *upon* man by God as a favour and a means to attaining ease. The exception to this hierarchical endowment is the *sakīna* in Islamic marriage, which is to be attained and mutually sourced when two souls enter into matrimony with each other. *Sakīna*, for the purposes of this paper, therefore, will be translated as a state of peace, tranquillity, and serenity.

MARRIAGE AND TRANQUILLITY IN QUR'ANIC TEACHINGS

There appears to be unanimous agreement among exegetes that spousal relationships are created for the purpose of each spouse finding tranquillity in the other. Such a tran-

12 Muḥammad Ḥusayn al-Ṭabāṭabā'ī, *al-Mīzān fī tafsīr al-Qur'ān* (Beirut: Mu'assasat al-A'lamī li-l-Maṭbū'āt, 1932), 2:289.

quillity, they state, is to be acquired by human beings finding completeness through their spouses, and through harmonising as if they are a unified whole, that is, through mutual respect, kindness, compassion, loyalty, and love (see Table 3).

In his exegesis, al-Faḍl b. al-Ḥasan al-Ṭabrisī (d. 548/1153) can be seen in support of the idea that tranquillity is the purpose of God's creation of spouses for man. In his commentary on Q. 30:21, he states that the words 'that you may find tranquillity in them' imply 'so that you find peace with her and ease with each other'.[13] Al-Rāzī (d. 606/1209) adds to this by stating that what in fact allows such a tranquillity to manifest is that women were created of the same genus as men, stating that 'if two differing genera existed, one would not find tranquillity within the other as its spirit is not secured with it and its heart does not incline to it'.[14] The possibility of tranquillity seems, then, to be contingent on belonging to the same genus. Muḥammad Sayyid al-Ṭanṭāwī (d. 2010) echoes al-Rāzī in this stating that men and women are more inclined to each other due to belonging to the same 'kind' and even goes further to state that tranquillity is the purposive intention behind God's creation of spouses.[15]

For the late Muḥammad Ḥusayn Faḍlallāh (d. 2010), marriage signifies a relationship which is a 'living expression that transcends the physical tranquillity that seeks what satisfies the hunger of the instinct and quenches … the spiritual tranquillity by which a person emerges from the feeling of isolation, loneliness'.[16] He argues that it is a close, intimate bond which alleviates man from isolation and places him in companionship with another, therefore allowing him to fulfil 'a spiritual void'.[17] Al-Ṭabāṭabā'ī takes this notion further by stating that it is in fact the perfection and completion of spouses with each other that marriage signifies. He states that 'every deficient thing yearns for its perfection, and every poor person is inclined to what removes his poverty.'[18] Such a completion can only be actualised when union is achieved with a being who is able to fill what is deficient in us and in doing so, allows us to reach our potential and perfection. It is the very nub of life. The means by which man can and does achieve perfection.

Muḥammad Taqī Mudarrasī, another contemporary exegete, supports the idea that spousal relationships have been created for the purpose of tranquility based on

13 al-Faḍl b. al-Ḥasan al-Ṭabrisī, *Majmaʿ al-bayān fī tafsīr al-Qur'ān* (Beirut: Dār al-Maʿrifa, 1987), 8:470.

14 Muḥammad b. ʿUmar al-Rāzī, *al-Tafsīr al-kabīr* (Beirut: Dār Iḥyā' al-Turāth al-ʿArabī, 1999), 25:91.

15 Muḥammad Sayyid al-Ṭanṭāwī, *al-Wasīṭ fī al-Qur'ān al-karīm* (Cairo: Nahḍat Miṣr, 2010), 11:76.

16 Muḥammad Ḥusayn Faḍlallāh, *Min waḥī al-Qur'ān* (Beirut: Dār al-Malāk li-l-Ṭibāʿa wa-l-Nashr wa-l-Tawzīʿ, 1998), 16:165.

17 Ibid.

18 al-Ṭabāṭabā'ī, *al-Mīzān*, 16:165.

the alleviation of anxieties that he claims to be at play in absence of a spouse.[19] Nāṣir Makārim al-Shīrāzī appears to echo all the above-mentioned exegetes, stating that the goal of marriage is 'spiritual tranquility and psychological calm', where the two spouses complement each other and contribute to individual, social, physical, and spiritual well-being. Finally, he goes on to state that those who 'neglect this divine *sunna* [will] have a defective existence'.[20]

Table 3. Exegetes on Q. 30:21

Exegete (*mufassir*)	**Year**	**Exegesis (*tafsīr*)**	**Considers it a type of rationale (*ʿilla*) of spousal creation?**	**Considers it the purpose (*maqṣad*)?**
al-Fadl b. al-Ḥasan al-Ṭabrisī	468–548/1075–1153	*Majmaʿ al-bayān fī tafsīr al-Qurʾān*<?>	No	Yes
Fakhr al-Dīn al-Rāzī	543 or 544–606/1149 or 1150–1209	*al-Tafsīr al-kabīr*<?>	No	Yes
Sayyid Muḥammad Ḥusayn Faḍlallāh	1935–2010	*Min waḥī al-Qurʾān*<?>	No	Yes
Sayyid Muḥammad Ḥusayn al-Ṭabāṭabāʾī	1903–81	*al-Mīzān fī tafsīr al-Qurʾān*<?>	No	Yes
Muḥammad Sayyid al-Ṭanṭāwī	1928–2010	*al-Wāsiṭ fī al-Qurʾān al-karīm*<?>	Yes	Yes
Sayyid Muḥammad Taqī Mudarrasī	1945–	*Min hudā al-Qurʾān*<?>	No	Yes

19 Muḥammad Taqī Mudarrasī, *Min hudā al-Qurʾān* (Qom: Dār Muḥibbī al-Ḥusayn ʿalayhi al-Salām, 1999), 10:37.

20 Nāṣir Makārim al-Shīrāzī, *al-Amthal fī tafsīr Kitāb Allāh al-munzal* (Qom: Madrasat al-Imām ʿAlī, 2000), 12:494.

Nāṣir Makārim al-Shīrāzī	1927–	*al-Amthal fī tafsīr Kitāb Allāh al-munzal*<?>	No	Yes

We can see then that all exegetes agree that tranquillity functions as purpose behind marriage.

There is, however, no agreement as to it functioning as a rationale, with the exception of Muḥammad Sayyid al-Ṭanṭāwī, who states that tranquillity can be seen as a kind of rationale.[21] The distinction between a rationale and purpose and the implications of this will be further explored in the final section of this paper. Through assurance (*iṭmiʾnān*), by Qurʾanic textual indication, both implicit and explicit, we can surmise that key exegetes have seen the foundational purpose (*maqṣad*) behind spousal creation to be that of acquiring tranquillity (*sakīna*). The practical *fiqhī* implication of such a perspective, however, is one not specified by most, bar Muḥammad Ḥusayn Faḍlallāh, who covers the issue more generally from the perspective of deflecting harm (*dafʿ al-ḍarar*) and retaining amicable relations (*imsāk bi-l-maʿrūf*).

PSYCHOLOGICAL LITERATURE ON FACTORS AFFECTING MATRIMONIAL OUTCOMES

Given that tranquillity is deemed to be the purpose in God's creation of spouses from an exegetical point of view, the jurisprudential implications of this become noteworthy, namely, those related to the validity of such a union in the first place. However, this is a bold stance, and it could be argued that reviewing in detail the psycho-social medical evidence is imperative if such a perspective is to have any weight. We therefore turn to what psycho-social literature has to add to the subject.

Literature Search and Results

Studies have long established an association between relationship distress and psychiatric disorders in probability samples and as part of this paper we wished to explore whether the metric of tranquillity or comfort featured in any scientific research. Due to the imprecise and nebulous nature of the term from a scientific perspective, it became easier to define the opposite of tranquillity and look for studies where marital conflict, discord, and dissatisfaction/satisfaction featured. Accordingly, a literature search was performed of the databases Embase and PsycInfo for the period 2003–22. Specifically,

21 al-Ṭanṭāwī, *al-Wasīṭ*, 11:76.

a search was conducted on the subject of marital discord and conflict in heterosexual contracted relationships and the subsequent impact on the couple themselves as well as any children involved. The aim here was to explore whether conflict, trust, comfort, and security, or lack thereof, translated into any positive or negative outcomes for the couple and any children. A total of 109 studies were retrieved, of which many were not directly relevant to the research question and therefore were excluded, leaving only twenty-four studies. The vast majority excluded were those looking at conflict arising from marital dissolution and separation or posed questions not directly relevant to the aims of this paper. The twenty-four relevant studies could be put into four broad categories, namely, those looking at outcomes related to children in marital conflict, those with negative outcomes related to spouses, those with positive outcomes in spouses, and finally predictors for marital quality (see Figure 1). As the findings of all studies cannot be recounted in this paper, a few from each thematic category will be mentioned to illustrate the general trend.

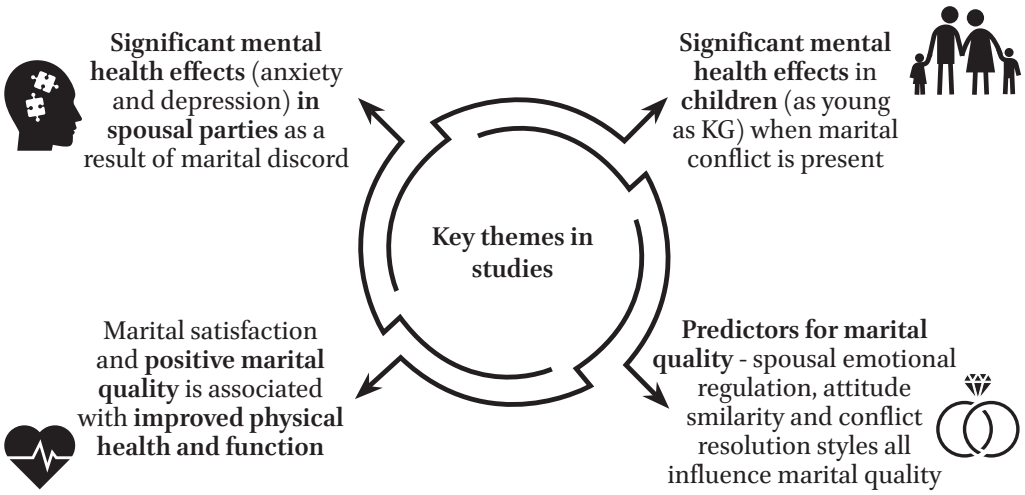

Figure 1. Schematic representation of themes found in relevant studies from the literature search

SIGNIFICANT MENTAL HEALTH EFFECTS IN SPOUSAL PARTIES

Kouros and Cummings conducted an observational study of 296 couples over a period of three years looking at the association between marital conflict and psychological distress as well as the transactional relationship between depressive symptoms and marital conflict.[22] Interestingly, high levels of marital conflict were predictive of depressive symptoms in wives over an extended period of time. This association

22 Chrystyna D. Kouros and E. Mark Cummings, 'Transactional Relations between Marital Functioning and Depressive Symptoms', *American Journal of Orthopsychiatry* 18, no. 1 (2011): 128–38.

appeared transactional in husbands, with depression contributing to marital conflict as well as high levels of marital satisfaction serving as 'a protective mechanism for husbands with regard to depression'.[23] Additionally, Alipour and colleagues were able to demonstrate, through a cross-sectional study of 300 pregnant Iranian women, that 'marital quality is an important predictor of mental health'.[24]

SIGNIFICANT MENTAL HEALTH EFFECTS IN CHILDREN

Lucas-Thompson and colleagues were able to report that marital conflict is indirectly linked to internalising behaviours (anxiety, depression, social withdrawal) in adolescents through self-blame appraisals, which can have long-term consequences on physiological and behavioural regulation.[25] Essex and colleagues also studied marital conflict and maternal depression in 406 families, where American children as young as those in kindergarten demonstrated both internalising as well as externalising behaviours (aggression, bullying, defiance).[26] In addition, they showed that 'presence and timing of marital conflict is important in predicting extremes of externalizing problems among boys and internalizing problems among girls'.[27]

POSITIVE MARITAL QUALITY IMPROVED PHYSICAL HEALTH AND FUNCTION

Holt-Lunstad and colleagues were able to find that better marital quality 'was associated with lower ambulatory blood pressure, lower stress, lower depression and higher satisfaction with life'.[28] However, marriages with lower quality relationships fared worse than singletons which suggests that 'marriage per se is not universally beneficial, rather, the satisfaction and support associated with such a relationship

23 Ibid., 136.

24 Zahra Alipour, Ashraf Kazemi, Gholamreza Kheirabadi, and Ahmad-Ali Eslami, 'Relationship between Marital Quality, Social Support and Mental Health during Pregnancy', *Community Mental Health Journal* 55 (2019): 1064–70.

25 Rachel G. Lucas-Thompson, Erika S. Lunkenheimer, and Adina Dumitrache, 'Associations between Marital Conflict and Adolescent Conflict Appraisals, Stress Physiology and Mental Health', *Journal of Clinical Child & Adolescent Psychology* 46, no. 3 (2017): 379–93.

26 Marilyn J. Essex, Marjorie H. Klein, Eunsuk Cho, and Helena C. Kraemer, 'Exposure to Maternal Depression and Marital Conflict: Gender Differences in Children's Later Mental Health Symptoms', *Journal of the American Academy of Child and Adolescent Psychiatry* 42, no. 6 (2003): 728–37.

27 Ibid., 736.

28 Julianne Holt-Lunstad, Wendy Birmingham, and Brandon Q. Jones, 'Is There Something Unique about Marriage? The Relative Impact of Marital Status, Relationship Quality, and Network Social Support on Ambulatory Blood Pressure and Mental Health', *Annals of Behavioral Medicine* 35, no. 2 (2008): 239.

is important.'[29]

PREDICTORS FOR MARITAL QUALITY

The final group of studies, although not directly relevant to the question of the consequences of marital conflict, shed light on the predictors of marital satisfaction or dissatisfaction. Among them are attitude similarity,[30] conflict resolution styles,[31] and emotional regulation.[32]

CONCLUSIONS AND LIMITATIONS

The evidence demonstrates that there are (i) significant mental health effects (and specifically anxiety and depression) in spousal parties as a result of marital discord; (ii) there are significant mental health effects in children (as young as pre-school) when marital conflict is present; (iii) marital satisfaction and positive marital quality is associated with improved physical health and function; and (iv) predictors of marital quality (spousal emotional regulation, attitude similarity, and conflict resolution styles) all have an effect on marital quality.

However, this review is not an exhaustive one and further research is required, preferably a meta-analysis with clearer definitions and tighter parameters to see any statistical significance. A key limitation here remains the inherent difficulty in defining tranquillity in scientific terms, for which inclusion of the anthropological perspective may offer added depth.

IMPLICATIONS ON LEGAL THEORY

Having established that the presence of marital discord/conflict as well as its absence has significant effects on both the spouses in question as well as their children, we turn to the important question of what effect, if any, this has on the legal framework

29 Ibid.

30 Shannon M. Moore, Bert N. Uchino, Brian R. W. Baucom, Arwen A. Behrends, and David Sanbonmatsu, 'Attitude Similarity and Familiarity and Their Links to Mental Health: An Examination of Potential Interpersonal Mediators', *The Journal of Social Psychology* 157, no. 1 (2017): 77–85.

31 Tina D. Du Rocher Schudlich, Lauren M. Papp, and E. Mark Cummings, 'Relations between Spouses' Depressive Symptoms and Marital Conflict: A Longitudinal Investigation of the Role of Conflict Resolution Styles', *Journal of Family Psychology* 25, no. 4 (2011): 531–40.

32 Unji An, Haeyoung Gideon Park, Da Eun Han, and Young-Hoon Kim, 'Emotional Suppression and Psychological Well-Being in Marriage: The Role of Regulatory Focus and Spousal Behaviour', *International Journal of Environmental Research and Public Health* 19, no. 2 (2022): 973.

surrounding our current conception of marriage in Islam. Marriage in Islam is for the most part viewed as a contractual duty with strict rules, which, if complied with, render it valid and proper. The spirit behind this contract, however, identified here previously as *sakīna*, or tranquillity, is not taken into consideration. Keeping Q. 30:21 front and centre, three possible applications in legal theory become available to us here.

READING 1: SAKĪNA *AS AN* ʿILLA (*RATIO*)

In this instance, *sakīna* is viewed as the ratio behind the law.[33] In *uṣūl al-fiqh*, the discussion of reason behind the law becomes relevant when discussing the subject of analogy or *qiyās*. *Uṣūlī*s typically classify rationale into two categories, namely, *manṣūṣ al-ʿilla* – where the rationale is mentioned explicitly by the Lawgiver – and *mustanbiṭ al-ʿilla* – where the rationale is not explicitly mentioned and is the result of the reasoning of the jurist. The latter is more controversial than the former. In this case, however, bearing in mind *sakīna* is explicitly mentioned in the Qur'an, the rationale of interest becomes the first one.

Seeing *sakīna* as the *ʿilla* for advocating marriage in the Qur'an would mean one can then decide on normative situations regarding marriages that do not satisfy the rationale of tranquillity. This could have huge jurisprudential implications on the right of both spouses to terminate a marriage lacking in tranquillity. In this case, the jurist would be able to give considerable room to the expert (*khubra*), perhaps a psychologist, for shedding light on the situation of marriage, as to whether it is a source of tranquillity for both spouses. Methodologically, this also has huge implications on the interaction between science and law, and raises a very sensitive epistemic question, namely, the value of conjecture resulting from an expert's (*khubra*) opinion. We can say, therefore, that a trustworthy expert's view, even though it is shaped by a degree of conjecture, should create a normative authority (*ḥujjiyya*) for a jurist to rely upon. The consequence of taking *sakīna* as the *ʿilla* in a Qur'anically acceptable marriage is that this would open a new window of co-operation between science and law. It would play a major role in marital conflict resolution, and in particular women's rights in both marriage and divorce. This, however, would depend on a gender-neutral reading of the verse of tranquillity, that is, the Qur'anic marriage should be a source of tranquillity for both spouses.

READING 2: SAKĪNA *AS A* MAQṢAD (*PURPOSE*)

The second reading of *sakīna* can be as the purpose behind the law as opposed to

33 Here *ʿillā* has been translated as *ratio*, consistent with the usage of Robert M. Gleave, 'Imāmī Shīʿī Refutations of *Qiyās*', in *Studies in Islamic Legal Theory*, Studies in Islamic Law and Society, vol. 15, ed. Bernard Weiss (Leiden: Brill, 2002), 286.

the rationale behind it. The application of this will follow after a brief discussion on the *maqāṣidī* discourse in general.

▪ *Maqāṣid* in *Uṣūlī* Discourse

Maqāṣid al-Sharīʿa are defined as the purposes or objectives behind Islamic law, and although conceived of relatively early in Islamic history, they have remained 'on the fringes of mainstream juristic thought'.[34] Modern times, however, have seen a renewal in this approach, such as in Islamic finance, reflecting the increased need for dynamism and reactive adaptability in Islamic law. Many view it as a means to developing a robust philosophical and methodological framework for 'assessing classic and current juridical theories of Islamic law'.[35] The various iterations of *maqāṣid* have not been extraneously sourced; rather, they are heavily rooted in scripture as well as prophetic practice. The Qur'an contains numerous references to the purposes behind worship, contracts, the basis of law, and even the act of creation. Muslim scholars have, throughout the centuries, aimed to codify and hierarchically classify these purposes, frequently attempting to use these as a driving force behind the changing tides in Islamic law, albeit often unsuccessfully. The first extant treatise on *maqāṣid* appears to be *ʿIlal al-sharāʿi'* (*The Reasons behind the Rulings*),[36] by Ibn Bābawayh al-Ṣadūq al-Qummī (d. 381/991), a Shīʿī jurist. Although containing over 300 chapters on the reasons behind doctrinal tenets, acts of worship, historical events, and even ethical qualities, it provides no practical application of these to the field of Islamic law. The next rather significant shift occurs with Abū al-Maʿālī al-Juwaynī (d. 478/1085), whose triumvirate classification remains the most influential and considerable to date, namely: *ḍarūriyyāt* (essential), *ḥājiyyāt* (complementary), and *taḥsīniyyāt* (desirable).[37] Abū Ḥāmid al-Ghazālī (d. 505/1111) further augments his teacher's model by privileging some necessities over others as well as expanding the discussion on *maṣlaḥa* or public interest significantly;[38] however, stopping short of granting any 'independent legitimacy (*ḥujjiyyah*) to any of his proposed *maqāṣid* or *maṣāliḥ*'.[39] Some rather interesting developments follow over the next few centuries as the *maqāṣidī* discourse expands.

Al-ʿIzz b. ʿAbd al-Salām (d. 660/1209) proposes the consequence of invalidity of an

34 Mohammad Hashim Kamali, '*Maqāṣid al-Sharīʿah*: The Objectives of Islamic Law', *Islamic Studies* 38, no. 2 (1999):198.

35 Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2007), xxvii.

36 Jasser Auda, *Maqāṣid al-Sharīʿah: A Beginner's Guide*, Occasional Paper Series 14 (London: International Institute of Islamic Thought, 2008), 17.

37 Kamali, '*Maqāṣid al-Sharīʿah*', 199.

38 Ibid.

39 Auda, *A Beginner's Guide*, 19.

action if it misses its purpose,[40] and Shihāb al-Dīn al-Qarāfī (d. 684/1285) asserts that purposes could be extended to include prophetic practice,[41] and be the means to lawful and good ends, not merely blocking prohibited ones.[42] With Shams al-Dīn b. al-Qayyim (d. 748/1347) we see a push to situate *maqāṣid* as a set of fundamental rules and philosophy behind Islamic law itself,[43] a sentiment echoed by Abū Isḥāq al-Shāṭibī (d. 790/1388). The latter represents the most sophisticated attempt at inclusion of *maqāṣid* into legal theory by placing knowledge of them as a necessary condition for *ijtihād* (juridical effort/reasoning).[44] Crucial to his methodology remains his epistemological foundation of inductive corroboration that allows him to establish the certitude of his purposive framework.[45] This means that each of the necessities individually do not equate to the level of certitude as they 'do not find attestation in any particular piece of conclusive evidence';[46] however, their knowledge is 'enshrined with certainty in the collective mind of the Muslim community … by virtue of the fact that these principles have been attested to by a wide variety of pieces of evidence, which, in their totality, lead to certitude'.[47] After establishing the validity of his inductive corroboration, namely, his method of arriving at his *maqāṣid*, he is able to position them as fundamentals in the process for deriving legal rulings. Notably for him, public interest or *maṣlaḥa* is 'placed in the service of the aims of the law (*maqāṣid*)'.[48]

In modern times, there is no single universal iteration of *maqāṣid*; rather, we find multiple models based on the levels of necessity, scope of rulings and the people, as well as levels of universality of the *maqāṣid*.[49]

▪ *Maqāsidī* Approach to Islamic Marriage

The incorporation of the concept of *sakīna* in marriage can depend on the framework and hierarchy of *maqāṣid* themselves. Sticking to the prevalent and popular three-tiered *maqāṣidī* framework of *ḍarūriyyāt* (essential), *ḥājiyyāt* (complementary), and *taḥsīniyyāt* (desirable), *sakīna* in marriage can be envisioned both as an essential and a complementary purpose. Traditionally, essential purposes are those that lead to the

40 Ibid.
41 Ibid., 20.
42 Ibid.
43 Ibid., 21.
44 Ibid., 22.
45 Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (New York: Cambridge University Press, 1997), 166.
46 Ibid.
47 Ibid.
48 Ibid., 169.
49 Auda, *A Beginner's Guide*, 4.

preservation of life, progeny, intellect, religion, and property. From the psychological research previously cited, it becomes apparent that lack of tranquillity (if defined as conflict/discord) in marriage can cause serious adverse effects within children from that marriage and compromise their mental well-being, resulting in internalising/externalising behaviours and emotional dysregulation. Lack of tranquillity, then, calls into question the preservation of healthy progeny.

Research also showed us the significant detrimental mental health effects suffered by spouses who continue in marriages where there is conflict and discord present, in other words, the essential purpose of preservation of the human intellect becomes difficult. Finally, research has also shown that marriages with high quality and satisfaction improve physiological parameters and functionality. Although the reverse has not been demonstrated to be true in this paper, one can say that if tranquillity is present in a marriage, then physical health improves, which furthers the preservation of life.

Therefore, tranquillity in marriage becomes pivotal to conserving the integrity of *three* essential purposes: life, progeny, and intellect. Tranquillity in marriage can also be seen as a complementary purpose. These are those purposes which, although not essential, if enacted, prevent hardship. They serve the fulfilment of the essential purposes. We can say, then, that tranquillity serves to fulfil not only essential but also complementary purposes.

Once one has understood tranquillity in marriage as rudimentary for the preservation of both essential and complementary purposes, the *fiqhī* implications that follow are much the same as when it is seen as *manṣūṣ al-ʿilla.* A jurist having designated it as a purpose would then leave it in the hands of a judge and expert who would apply the ruling to the individual circumstance and allow both spouses the ability and right to terminate their marriage if appropriate.

READING 3: SAKĪNA *AS THE* ḤIKMA (*WISDOM*) BEHIND MARRIAGE

The final reading of this verse can be to view the notion of tranquillity in marriage as the wisdom behind the law. As an Islamic legal term of art, *ḥikma* does not seem to be well defined, and for that reason may not be referred to as a basis for the ruling. Al-Ḥakīm defines *ḥikma* as 'the intended interest of the Legislator in enacting the ruling, namely, what the Legislator intends to achieve in terms of bringing benefit and warding off harm'. Crucially, the difference between *ḥikma* and *ʿilla* is that the *ʿilla* is considered according to a restricted definition, whereas *ḥikma* is not restricted in such a way, and therefore the Legislator does not make it a sign of his rule. Unlike the *ʿilla*, the Lawgiver does not bring about the existence and non-existence of the ruling depending on *ḥikma*.[50] According to Muḥammad Abū Zahra the *ʿilla* is an apparent,

50 Sayyid Muḥammad Taqī al-Ḥakīm, *al-Uṣūl al-ʿāmma li-l-fiqh al-muqāran* (Qom: Mu'assasat Āl

disciplined/defined, limited description, established by the Legislator as a sign for the norm/ruling, while *ḥikma* is an appropriate description for the norm/ruling that is achieved in most cases, and it is undisciplined/undefined and unlimited.[51]

Subḥānī's understanding of the *ḥikma* of a ruling is in line with that of Abū Zahra. To him, things like procreation and formation of the family are not the sole benefits and purposes of marriage; rather, its function is broader.[52] In other words, for Subḥānī, formation of family and hence its sociological consequences, namely, tranquillity, is neither the ratio nor the main purpose of the marriage, and at best is no more than its *ḥikma*. Thus, the validity and other functions and benefits of marriage may still exist in the absence of tranquillity. Subḥānī's position reflects the view of most Muslim orthodox jurists, as it is exceptionally rare to find an orthodox jurist who explicitly permits termination of marriage solely based on the lack of tranquillity in the matrimonial life of a couple. To sum up, we conclude that reading tranquillity in marriage as a *maqṣad* or *ʿilla* or *ḥikma* can have a range of implications in legal theory.

LIMITATIONS

A significant limitation and drawback of this paper remains the insufficiency in defining the term tranquillity itself and its remit. The anthropological and sociological aspects are significantly lacking, which could help enrich the discussion further by adding to our understanding of the concept of tranquillity and its dynamic nature, as it cannot be defined by one or two incidents; therefore, quantity as well as the quality of the behaviour becomes important. Tranquillity may also mean different things at different stages of an individual's life and even vary according to their social status as defined by class and education. In addition, because heavy reliance has been placed on the psychological data, more exhaustive analyses are required in order to create more confidence in the data.

CONCLUSION

We propose that it is only by reflecting on the established psycho-social medical evidence, in collaboration with a deep understanding of the relevant Qur'anic text and jurisprudential considerations, that the discourse on the purpose of marriage in the modern context can progress. It is with this multi-disciplinary approach that one can

al-Bayt, 1979), 296–97

51 Muḥammad Abū Zahra, *Uṣūl al-fiqh* (Cairo: Dār al-Fikr al-ʿArabī, 1997), 223.

52 Jaʿfar Subḥānī, *Uṣūl al-fiqh al-maqāran fī mā lā naṣṣ fīhi* (Qom: Muʾassasat al-Imām al-Ṣādiq, 2004), 96–98.

truly begin to understand the complexity of marriage in the modern era. The medical evidence base is ever evolving, and this is reflective of the changing societal expectations of the marriage partnership. It is therefore a necessity that our understanding of marriage and its purpose is continuously re-assessed, with the foundational jurisprudence and Qur'anic texts providing consistency. This ground-breaking approach invites the incorporation of a multi-disciplinary approach to so many other aspects of Islamic research impacting the Muslim society on a day-to-day basis. This paper has thus fulfilled two aims: the methodological one, where we have demonstrated a dynamic, practical, and multi-disciplinary approach to the institution of Islamic marriage; and the second, more substantive aim, where exegetical and psychological data have been shown to agree that tranquillity is what makes marriage a potential source of social stability. The Qur'an is clear and unambiguous in its declaration that tranquillity is the purpose behind the creation of spouses and indeed marriage itself. Psychological data supports the understanding that marriages lacking in tranquillity produce detrimental effects in both spouses and children. From the perspective of legal theory, we can view *sakīna* in one of three ways: a purpose, a wisdom, or a rationale behind the institution of marriage. Although mainstream opinion has been content to view tranquillity merely as a *ḥikma*, the current paper proposes that this view should shift in light of current psycho-social research regarding marriages that lack this essential quality. It is, however, important to stress that the purpose behind this paper is not to give rulings on the validity of marriages that do not satisfy the condition of tranquillity; rather, it is to demonstrate the viability of a multi-disciplinary approach, one strengthened by current context and understanding. This paper aims to be a proposal of sorts for jurists and policymakers alike to look at the co-operation between science and hermeneutical theories, an approach which has the power to open windows for more healthy families and equality between spouses.

BIBLIOGRAPHY

Abū Zahra, Muḥammad. *Uṣūl al-fiqh*. Cairo: Dār al-Fikr al-'Arabī, 1997.

Alipour, Zahra, Ashraf Kazemi, Gholamreza Kheirabadi, and Ahmad-Ali Eslami. 'Relationship between Marital Quality, Social Support and Mental Health during Pregnancy'. *Community Mental Health Journal* 55 (2019): 1064–70.

An, Unji, Haeyoung Gideon Park, Da Eun Han, and Young-Hoon Kim. 'Emotional Suppression and Psychological Well-Being in Marriage: The Role of Regulatory Focus and Spousal Behaviour'. *International Journal of Environmental Research and Public Health* 19, no. 2 (2022): 973.

Auda, Jasser. *Maqāṣid al-Sharī'ah: A Beginner's Guide*. Occasional Paper Series 14. London: International Institute of Islamic Thought, 2008.

Auda, Jasser. *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought, 2007.

Essex, Marilyn J., Marjorie H. Klein, Eunsuk Cho, and Helena C. Kraemer. 'Exposure to Maternal Depression and Marital Conflict: Gender Differences in Children's Later Mental Health Symptoms'. *Journal of the American Academy of Child and Adolescent Psychiatry* 42, no. 6 (2003): 728–37.

Faḍlallāh, Muḥammad Ḥusayn. *Min waḥī al-Qur'ān*. Beirut: Dār al-Malāk li-l-Ṭibāʿa wa-l-Nashr wa-l-Tawzīʿ, 1998.

Fatemi, S. Mohammad Ghari S. 'Autonomy and Equal Right to Divorce with Specific Reference to Shiʿi *Fiqh* and the Iranian Legal System'. *Islam and Christian–Muslim Relations* 17, no. 3 (2006): 281–94.

Gleave, Robert M. 'Imāmī Shīʿī Refutations of *Qiyās*'. In *Studies in Islamic Legal Theory*. Studies in Islamic Law and Society, vol. 15, edited by Bernard Weiss, 267–93. Leiden: Brill, 2002.

al-Ḥakīm, Sayyid Muḥammad Taqī. *al-Uṣūl al-ʿāmma li-l-fiqh al-muqāran*. Qom: Muʾassasat Āl al-Bayt, 1979.

Hallaq, Wael B. *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh*. New York: Cambridge University Press, 1997.

Holt-Lunstad, Julianne, Wendy Birmingham, and Brandon Q. Jones. 'Is There Something Unique about Marriage? The Relative Impact of Marital Status, Relationship Quality, and Network Social Support on Ambulatory Blood Pressure and Mental Health'. *Annals of Behavioral Medicine* 35, no. 2 (2008): 239–44.

Kamali, Mohammad Hashim. '*Maqāṣid al-Sharīʿah*: The Objectives of Islamic Law'. *Islamic Studies* 38, no. 2 (1999): 193–208.

Kouros, Chrystyna D., and E. Mark Cummings. 'Transactional Relations between Marital Functioning and Depressive Symptoms'. *American Journal of Orthopsychiatry* 18, no. 1 (2011): 128–38.

Lucas-Thompson, Rachel G., Erika S. Lunkenheimer, and Adina Dumitrache. 'Associations between Marital Conflict and Adolescent Conflict Appraisals, Stress Physiology and Mental Health'. *Journal of Clinical Child & Adolescent Psychology* 46, no. 3 (2017): 379–93.

Moore, Shannon M., Bert N. Uchino, Brian R. W. Baucom, Arwen A. Behrends, and David Sanbonmatsu. 'Attitude Similarity and Familiarity and Their Links to Mental Health: An Examination of Potential Interpersonal Mediators'. *The Journal of Social Psychology* 157, no. 1 (2017): 77–85.

Mudarrasī, Muḥammad Taqī. *Min hudā al-Qur'ān*. Qom: Dār Muḥibbī al-Ḥusayn ʿalayhi al-Salām, 1999.

al-Rāzī, Muḥammad b. ʿUmar. *al-Tafsīr al-kabīr*. Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, 1999.

Schudlich, Tina D. Du Rocher, Lauren M. Papp, and E. Mark Cummings. 'Relations between Spouses' Depressive Symptoms and Marital Conflict: A Longitudinal Investigation of the Role of Conflict Resolution Styles'. *Journal of Family Psychology* 25, no. 4 (2011): 531–40.

al-Shīrāzī, Nāṣir Makārim. *al-Amthal fī tafsīr Kitāb Allāh al-munzal.* Qom: Madrasat al-Imām ʿAlī, 2000.

Subḥānī, Jaʿfar. *Uṣūl al-fiqh al-maqāran fī mā lā naṣṣ fīhi.* Qom: Muʾassasat al-Imām al-Ṣādiq, 2004.

al-Ṭabāṭabāʾī, Muḥammad Ḥusayn. *al-Mīzān fī tafsīr al-Qurʾān*. Beirut: Muʾassasat al-Aʿlamī li-l-Maṭbūʿāt, 1932.

al-Ṭabrisī, al-Faḍl b. al-Ḥasan. *Majmaʿ al-bayān fī tafsīr al-Qurʾān*. Beirut: Dār al-Maʿrifa, 1987.

al-Ṭanṭāwī, Muḥammad Sayyid. *al-Wasīṭ fī al-Qurʾān al-karīm*. Cairo: Nahḍat Miṣr, 2010.