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A Purposive (*Maqāsidī*) Approach to Islamic Marriage: Re-assessment of Sūra Rūm, verse 21

ABSTRACT:

“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” (30:21)

Islamic marriage in jurisprudence 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 approach in the derivation of law due to the uncertainty in ascertaining such purposes in the first place. Based on the Qur’ānic verse cited above, this paper will argue for *sakīna* (tranquillity) as a specific purpose, as part of a larger scheme of more general purposes that help reveal and establish the spirit behind Islamic law. Such a purpose, in relation to marriage, has been neglected even amongst orthodox *maqāsidī* proponents of Islamic law that concentrate mostly on general macro purposes.

Once the viability of a purposive framework in general and the validity of *sakīna* as a specific purpose is established, it will then be argued that the latter acts as an *illa/hikma* 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 a Qur’ānic marriage.

As part of the analysis, this verse will be positioned alongside other Qur’ānic verses on matrimony and it will be examined whether the central concepts of *sakīna*, *muwadda* (affection) and *rahma* (mercy) are reinforced by psychological and behavioural research on spousal relationships in the contemporary era.



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BIO:

Prof. Seyed Fatemi pursued seminary education for over 13 years in the ḥawza ‘illmiyya of Qom, Iran, where he studied Islamic Jurisprudence and Legal Theory. He also trained in Public Law at Tehran University, attaining both an LLB and an LLM. Following this, he was awarded a PhD from the Faculty of Law at the University of Manchester for research engaging with comparative human rights. He is currently a faculty member at Shahid Beheshti University and Al-Mahdi Institute, supervising PhD candidates and lecturing on the Philosophical Foundations of Human Rights, Islam and Human Rights, and Legal Hermeneutics. He also taught the Public Governance in Islamic Thought module, as part of Al-Mahdi Institute’s collaborative Masters in Islamic Studies with the University of Birmingham.



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Shaykh Ahmad Kaouri is a senior student at Al-Mahdi Institute. He is currently pursuing his MA in Islamic Studies at the University of Birmingham. He also holds a BSc in Computing and IT and a Master of Business Administration. His research interests span jurisprudence, Philosophy, Qur’ānic exegesis, mysticism, theology, ethics, and Islamic thought.



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Dr. Munzela is a graduate of AMI and qualified medical doctor currently undertaking an MA in Islamic Studies at the University of Birmingham, with a view to specialising in the theory of Islamic Law (*usūl al-fiqh*). She is also the founder of ICBL (Islamic Case-based Learning), an innovative way of delivering Islamic education using the popular case methodology approach.



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Dr. Abbas Ramji graduated from the University of Birmingham with degrees in Medicine and Behavioural Sciences. He successfully completed a postgraduate certificate and a postgraduate diploma in Medical Education as well as his postgraduate specialist psychiatric training. He has been a Consultant Psychiatrist since 2013 and is also the Deputy Director of Medical Education at Derbyshire Healthcare NHS Foundation Trust.