

**Marital Discord
Recapturing Human Dignity Through
the Higher Objectives of Islamic Law**

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New Revised Edition

FOREWORD TO 2ND EDITION

This paper examines the delicate issue of marital discord and the “chastisement” (*ḍarb*) of wives with a deep appreciation for the position and status of women. The author challenges current and historical misconceptions of a debate on *iḍribuhunna* that has stifled meaningful interpretation of verse 4:34 of the Qur’an, other than the husband’s right to use physical discipline against his wife.

Using principles enshrined in the philosophy of *maqāṣid al-sharīah*—higher intents and purposes of Islamic law—the author contemplates this complex and sensitive subject, using an interpretation of the verb *ḍaraba*. The verb appears in several other contexts in the Qur’an, the actions of the Prophet Muhammad (ṢAAS), and the spirit of the Qur’an’s message.

Domestic violence and oppression are not supported by the teachings of the Qur’an or the actions of the Prophet Muhammad. Dr. AbuSulayman highlights the primary importance of safeguarding of the family unit and human relations. Verse 4:34 asks men to maintain harmony in marriage and solve any marital discord.

This paper provides an informed approach and methodology to the understanding and interpretation of a difficult verse of the Qur’an, using tools of *maqāṣid* to derive a conclusion based on maintaining respect, dignity, and well-being, underscored by an understanding of the higher purposes of Islamic law.

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FOREWORD TO 1ST EDITION

A Revelation intended for all kinds of situations and eras, the Qur'an addresses good relations between husbands and wives, and those times when the atmosphere is strained.

With a view to keeping the family intact whenever possible, and always stressing that people act kindly toward one another, even during times of marital discord, the Qur'an suggests different strategies for husbands and wives to follow when either spouse is recalcitrant. Verse 4:34 has gained notoriety in the West and in some Muslim circles for its supposed licensing of husbands to beat their wives.

Sadly, many understand this verse to condone domestic violence. In this paper, Dr. AbuSulayman examined the nature of the problem, investigated the context, and reached an objective understanding based on the purposes of the Divine Revelation and the Sunnah of the Prophet. He considered the issue of marital discord with a deep sensitivity to women's perspectives. The explanation is fresh and firmly on the side of women's human rights.

The Islamic family is based on the Qur'anic values of human dignity, compassion, tolerance, and on the sanctity and dignity of human life. I recommend this work to anyone who wishes to study the Qur'an's teachings on husband-wife relations in Islam.

Katherine Bullock

Marital Discord Recapturing Human Dignity Through the Higher Objectives of Islamic Law

Throughout history and across cultures, women continue to suffer among the more vulnerable members of society. Parallel to their social and economic position, several important factors still threaten their rights and status, leaving them more open to control by men. Therefore, it is critical that we study the subject of “chastisement” honestly and deeply through the higher objectives and purposes of the Creator (*maqāṣid al-sharīah*).

An important issue is the complex and difficult question of the “chastisement” of women, conventionally understood as a husband’s prerogative to resolve marital problems resulting from “recalcitrance and disobedience” of wives. In practice, however, the issue has been subject to misunderstanding and abuse in the name of Islam.

Various complexities surround the issue of “chastisement” and shape its general understanding. Particularly significant is its relevance to modern discourse, the underlying reasons governing its use, and wider implications for the well-being and structure of the family. The Message revealed from the Creator to the Prophet is the Truth and an undisputed guidance for all mankind. It supports a rational and methodological approach to thought when solving problems.

Any dispute presents an opportunity to use authentic Islamic epistemology, which comprehensively integrates the reading of the Revelation with the reading of the universe, using principles of reasoning to grasp its significance and realize its higher intents, objectives, and purposes.

Muslim culture is often governed by blind adherence to and fear of discussing sacred topics, and this attitude coupled with ignorance of social sciences clouds a comprehensive vision and understanding. Nevertheless, we should maintain the high standards and rational principles of the *Sharīah* and human dignity.

Childhood education and development of a stable family structure is essential to equip the ummah to address its challenges. The family unit shapes the identity of children and develops their morals and character. It also contains the issue of the “chastisement” of women and its repercussions for husband-wife relations and family life in general.

Methodology: A *Maqāṣidī* Approach

This work follows a methodological discipline that locates all related issues in their correct context, without allowing bias to dominate the whole or the circumstantial that would otherwise invalidate an established principle or a general objective (*maqṣad*).

It is important to pursue with sound reasoning the epistemic integration between the verses and guidance of the Glorious Revelation and the patterns of the universe and examples of human experience in time and space. This subject should be addressed from deep-rooted Islamic principles of human dignity, liberty, and responsibility, humans’ status as the chosen *khalīfah* (vicegerent) of God, and the legitimate right of self-determination. Any system of human relations inconsistent with such basic principles does not represent Islamic spirit, objectives, or purposes.

This investigation should happen alongside study of different systems in the Sunnah (traditions of the Prophet), and the cumulative and voluminous legacy of Islamic jurisprudence. Socio-juridical dimensions are deeply rooted in Islamic tradition and experience. Following this principle, juridical schools of thought differ in their opinions (*fatāwā*) and decrees (*ahkām*) regarding family matters, owing to differences in customs, traditions, and resources. Such cultural and social differences are reflected in the choices between and within each *madhhab* regarding conditions and terms of the marriage contract and its prerequisites such as qualifications and guardianship.

This variation is, in turn, additional evidence for the divinity, inimitability, and miraculous character of the Glorious Revelation, whose guidance transcends time and place. The Qur'an says, "We will show them Our signs in the universe, and in their own selves, until it becomes manifest that this [Revelation] is the Truth. Is it not sufficient in regard to your Lord that He is a Witness over all things?" (41:53)

In this context, miracles of the Qur'an and its phenomenal accuracy provide guidance and exemplify the facts of the universe, without contravening the realities of creation or the norms that gradually emerged as human cognition expanded throughout time and space.

We should not limit the scope of review to historical interpretations when we examine family legislation. Yet heritage, juridical experience, or historical records of legislation, systems, and applications should not be discarded. That rich legacy can produce relevant lessons, objectives, and purposes of the Revelation.

Chastisement

Tyranny of any kind contradicts the Islamic spirit of kinship and solidarity as mentioned in Sunnah traditions, which establish the foundation of a united spirit:

- Each Muslim is a brother of his fellow Muslim and should not oppress, disdain, or abandon him; it is sufficient evil for a Muslim to demean his brother [in faith]; a Muslim is his whole sanctuary, property and character.
- God does not bestow mercy on someone who does not show mercy to others.
- God but bestows mercy on His merciful servants.
- A believer can never be a slanderer, a blasphemer, or an obscene or vulgar person.
- The most faithful among the believers are the ones with the best morals and the best of you are the best for their wives.

Sunnah traditions report that the Messenger strongly rebuked husbands who beat their wives. He set the highest example of kindness, compassion, dignity, and benevolence, never hurting "a woman, or a servant or anyone else ..."

The issue of "chastisement" is closely linked to the structures of the family and human relations and receives particular attention because it is mentioned in the Qur'an. Its historical and traditional interpretations were understood to denote a physical act such as slapping, hitting,

beating, striking, punching, etc. This would produce a strong sense of pain and humiliation, regardless of the extent of the physical suffering itself. Furthermore, the instrument of the action was seen to vary; according to some *fatāwā*, it could consist of a few strokes with a *siwāk* (a light twig used to clean the teeth) or a “toothbrush” or “pencil.”

Such a “chastisement” was therefore seen more in the way of a reproach or an expression of discontent and annoyance, rather than an expression of humiliation and pain. On the other hand, some *fatāwā* used an extreme definition of “chastisement” which “must not exceed forty strokes,” and, in addition, with “no retribution between the man and his wife ...” Let us now examine the Qur’anic reference to the issue of “chastisement”:

Men are the protectors and maintainers of women, because God has given the one more than the other, and because of the sustenance they provide from their own means ... And as for those women whose ill-will you have reason to fear, caution them [first]; then leave them alone in bed; then chastise [*idribuhunna*] them; and if thereupon they pay you heed, do not seek to harm them ... (4:34–35)

To understand this verse correctly, it is necessary to place it in the general framework of family structure and relations in Islam to grasp its true implications within the higher aims, objectives, and purposes of the Revelation. The verse must be interpreted in the light of other related Qur’anic verses:

O mankind! Reverence your Guardian-Lord, Who created you from a single person, created [of a similar nature] his mate, and from the two of them scattered countless men and women; reverence God through Whom you demand [your mutual rights], and reverence the wombs [that bore and delivered you] ... (4:1)

And among His signs is that He created for you mates from among yourselves, that you may dwell in repose with them, and He has rendered affection and compassion between you ... (30:21)

When you divorce women ... either take them back on equitable terms or release them on equitable terms; but do not take them back to injure them, or to take undue advantage; if anyone does that, he wrongs his own soul. (2:231)

The above examples demonstrate that the real spirit of the marital relationship is shaped by the sentiments of “affection” and “compassion” and the obligations of “patronage,” so that the governing factors in such a relationship are “affection, compassion, and benevolence.”

Marital relations in Islam are designed to promote mutual respect and love between spouses and to solve their problems. The perpetrators of mental and physical cruelty and oppression attempt to find justifications in the misreading of certain antiquated *fatāwā* granting the husband an extensive mandate in family matters. Such a perception ignores family values of compassion, solidarity, cooperation, and integration.

Although past societies did not question man’s excessive authority in the family structure, today’s world differs substantially in its means, capabilities, and opportunities for women. To avoid tensions and conflicts in family relations and enable each member of the family to pursue their prospective roles while complementing the roles of other members, we should re-examine our own perception of the family structure.

The kernel of the debate lies in the interpretation of the Arabic root verb *ḍaraba* (to chastise) in the Qur'an as to imply "suffering," "humiliation," and physical "pain," as a means to force the wife to acquiesce to her husband's will or coerce her into obedience and loyalty.

The underlying assumption governing this situation stipulates that the Muslim wife has no means of exit from the marriage, no matter what the circumstances, and can never obtain a dignified release or an equitable divorce without her husband's consent. Accordingly, the reasoning goes, she should be subjugated or compelled to tolerate her husband's acrimonious behavior and comply with his dictates. If this were the case, chastisement as "suffering," "humiliation," and physical "pain" would seem to be an effective means to resolve, or rather to subdue, marital problems.

However, the above representation does not follow the principles of the *Sharīah*, which base the family structure on "affection" and "compassion," support its cohesion, and maintain its identity. Family membership in Islam is by choice; each spouse has the right to leave the family and terminate the marital bond, especially when it becomes harmful. In these circumstances, the *Sharīah* grants the husband the right to seek *ṭalāq* (divorce) and grants the wife the right to seek *khul'* (disengagement or release).

Hence, compulsion or physical "chastisement" can never be an acceptable way to maintain the spirit of affection between spouses or to promote intimacy and trust between them. The study of steps noted in Qur'anic verses 4:34–35 reveals two routes to a remedy that aims to resolve marital problems and reconciliation. The first step is for the husband to resolve disputes between spouses without the intervention or mediation of a third party. This step should proceed through three stages: to caution, to refuse to share the marital bed, and to eventually "chastise."

Second, when such efforts fail to bring about peace and reconciliation, both spouses should seek arbiters from their respective families to help them heal the rift, to advise them, and to prescribe remedies for the various problems afflicting them, in accordance with the following verse:

If you fear a rift between the two of them, appoint two arbiters: one from his family and another from hers; if they wish for peace, God will bring about their reconciliation: for God has full knowledge, and is [thoroughly] acquainted with all things. (4:35)

Qur'anic recommendations seek to effect reconciliation and to make peace between spouses, based on facts and positive initiatives. When the wife shows signs of disaffection and defiance, the Qur'an ordains the husband to counsel, plead, and perhaps remonstrate. This gives him ample opportunity to communicate his concerns, clarify differences, explore possible solutions, demonstrate his keen interest in maintaining their marriage on equitable terms, and eventually demonstrate the potentially unpleasant outcome of divorce.

Therefore, to resolve any marital discord, the initial effort emphasizes dialogue, exchange, and advice to avoid the trap of complacency. Communication and dialogue are the first steps toward resolving any marital discord. Yet, if the wife does not heed such counsel out of ignorance or arrogance, it is then necessary for the husband to proceed further along this route with a different action, rather than merely to counsel or remonstrate her. At this point, he should "refuse to share the marital bed."

Taking note of his lack of interest in her, she will intuitively realize the gravity of the situation and the seriousness of the consequences. This will, in turn, offer her a window of opportunity to rethink the whole situation and to find a way out of the discord to re-establish the state of “affection” and “compassion” between both spouses. If this stage is unsuccessful, then there should be no doubt that the marriage is in jeopardy; both parties should realize the gravity of the situation and take positive action immediately.

The next step to resolve the dispute, before seeking the intervention of arbiters, is to “chastise” (*daraba*) as in the above-cited verse (4:34). The heart of the matter lies in the interpretation of the verb *daraba*, particularly in the context of seeking reconciliation between estranged spouses, after the husband has attempted to restore peace and accord verbally, by cautioning the wife, and physically by refusing to share the marital bed, thereby expressing his displeasure.

The Verb *Daraba*

How should this “idiom” be construed if it can be shown that the verb *daraba* does not denote infliction of physical or psychological pain, and that this Qur’anic idiom might be misunderstood by some husbands to justify their cruelty towards their wives, who are, in turn, obliged to endure such abuses owing to concern for their children, or their social or financial insecurity?

This matter should be examined comprehensively and with true knowledge of its various dimensions and connotations without jumping to quick conclusions. The Qur’anic steps that address the idiom *daraba/darb* consider how to reconcile spouses in a way that promotes affection, compassion, and intimacy, restoring the objective of marriage. These steps do not yet seek the last resort of arbitration by referees. And *daraba* is used as a transitive verb in the Qur’an, for example “God *propounds* [to you] the parable ...” (16:75 and 76), and as an intransitive verb, for example “when you *travel through* the earth ...” (4:101), where an auxiliary preposition is added to the verb.

If we accept the interpretation of this verb as a few gentle light strokes or taps with a *siwāk* or something similar, such as a “toothbrush” or a “pencil,” as rendered by Ibn ‘Abbās, then this meaning does not include punishment, injury, or pain. Rather, it implies a gentle physical expression of gravity, frustration, or disinterest in the wife by a husband who no longer shares the marital bed. Such an expression is the opposite of touching or cuddling, which implies warmth and intimacy. This interpretation is reasonable since it does not entail any damage to human dignity and due respect between spouses who are virtually bound by marital ties. The above perception does not associate “chastisement” with disgrace, injury, or pain.

However, the moderate interpretation still provides a loophole for misunderstanding that has been manipulated to justify abusive and violent conduct, and to inflict pain on women under the auspices of the fatwa of gentle strokes. Therefore, both the perception and resolution should leave no chance of misreading the real concept of *daraba* and allow no misconduct nor abuse of that concept. Such precautions fit the true purposes of the *Sharīah* in establishing the family based on affection, compassion, and dignity.

The best exegesis of the Glorious Qur’an can be produced by the Revelation itself and fine-tuned by the higher objectives and intents of the *Sharīah*. The various connotations of *daraba*

and its derivatives in the Qur'an produces approximately seventeen distinct nuances, as shown in some of the following verses:

See what similes they strike for thee: but they have gone astray, and never can they find a way. (17:48)

Shall We then take away the Revelation from you and repel [you], because you are a people transgressing beyond bounds? (43:5)

Then We told Moses: Strike the sea with your staff. So it divided and each separate part resembled the huge firm mass of a mountain. (26:63)

God does not disdain to use the similitude of things, lowest as well as highest ... (2:26)

But how [will it be] when the angels take their souls at death, and smite their faces and their backs? (47:27)

Therefore, when you encounter the unbelievers [in hostility] smite their necks; at length, when you have thoroughly subdued them, bind a bond firmly on them ... (47:4)

O you who attain to faith! When you go abroad in the cause of God, investigate carefully ... (4:94)

In the above verses, the root verb (idiom) *daraba* (transitive and intransitive) has several figurative or allegorical connotations. It can mean to isolate, separate, depart, distance, exclude, move away, etc. When something is subjected to such action, that means it is to be extracted, distinguished, and presented as a clear example. The general connotations of the root verb *daraba* in the Qur'anic parlance mean to separate, distance, depart, abandon, and so forth.

Separation and Seclusion

What, then, should be the appropriate interpretation of this verb *daraba* when applied to the resolution of marital problems and the restoration of love and harmony between estranged spouses?

... And as for those women whose ill-will you have reason to fear, caution them [first]; then leave them alone in bed; then chastise [*idribuhunna*] them; and if thereupon they pay you heed, do not seek to harm them. (4:34)

Considering the context, the purpose of this verse is reconciliation in a dignified manner and without coercion or intimidation, as each spouse has the ability and the right to dissolve the relationship. Therefore, *darb* cannot imply the infliction of injury, pain, or disgrace. The most straightforward interpretation is departure, separation, or seclusion. This arrangement, where the estranged husband deserts his wife altogether for some time, helps to resolve the situation because it is the final step beyond cautioning her and refusing to share her bed.

Therefore, *darb* in the context of improving a difficult marital relationship and restoring harmony should be construed as to "leave" the marital home, to "move away" or "separate" from the wife. This is the last resort before seeking the mediation of arbiters from the respective families of each spouse. If this attempt does not heal the rupture and restore peace, then both

parties should face the eventual choice: "... the parties should either hold together on equitable terms or separate with dignity" (2:229).

The above analysis of the verb *daraba* is consistent with the Prophetic tradition and actual practice of the Prophet, as attested in the narrative that the Prophet moved away from his wives when they rebelled after their demands for a better standard of living were denied. The Prophet retired to a place in the house (*al-mashrabah*) for a month and offered them the choice to accept the standard of living he could afford, and so to stay together, or to be released from the marriage contract and separate with dignity.

The Prophet never inflicted injury, pain, or insult on any of them. When his wives realized the seriousness of the situation, sensed the wrath of their own families, and missed his relationship and intimacy, that was enough to inspire them to be content with the lifestyle that the Prophet offered.

The Prophet spent time in seclusion before advising their families of the matter and before giving them the choice of compliance or separation. Only then did they recognize their error, and, finding themselves on the threshold of divorce, returned to the dignity of acceptance. As a result, the interpretation of *daraba* in the actual practice of the Prophet was to seclude, move away, and distance himself from them. That is consistent with the psychological nature of the matter and the common understanding of the various Qur'anic usages of the root verb *daraba* and its abstractions and derivatives.

Conclusion

According to the Qur'anic recommendations to restore the marital relationship after the eruption of ill-will and conflict, the true reading of the Qur'anic idiom *daraba* directs the husband to "move away" from the wife, to "distance" himself from the wife, and to "depart" from the marital home as a last attempt to restore her to reason and help her realize the gravity of recalcitrance and its potential consequences for her and their children. The connotations of departure and seclusion are more readily acceptable and more compatible with the Qur'anic parlance than the association of physical injury, psychological pain, and disgrace.

The latter does not result in a dignified marital relationship or promote human dignity, nor does it create "affection" and "compassion," the foundations of a lasting marriage, especially in light of the values, prospects, and views of the present era. The analysis outlined here is well-supported by the actual practice of the Prophet. It is an effective emotional remedy that accomplishes the purposes and objectives of Islam in establishing the family structure on a basis of affection and compassion, and maintains the family as a wholesome, nurturing environment.

The understanding of Revelation and its objectives and application as they relate to everyday life is affected by prevailing human knowledge in accordance with time and place. Scholars should wisely and relentlessly pursue their critical investigation of such issues liberating the ummah's notions and realizing the *Sharīah*'s intents.