

WISE UP ABOUT DOMESTIC VIOLENCE

Jihad Against Violence
Muslim Women's Struggle for Peace

Global Muslim Women's Shura Council

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Domestic Violence: A Violation of Islam

GLOBAL MUSLIM WOMEN'S SHURA COUNCIL

The Global Muslim Women's Shura Council is a global and inclusive council of Muslim women scholars, activists, and specialists. The Council endeavors to connect Islamic principles to society's most pressing issues and develop holistic strategies for creating positive social change. In the following statement, the Shura Council condemns violent extremism as an absolute violation of the teachings of Islam.

Domestic violence, also known as "intimate partner violence," is a form of violent or oppressive domination over a family member or partner.² It occurs in families and relationships around the world and across culture, religion, race, and geography. Domestic violence manifests in various forms, most commonly as physical violence, but also as emotional abuse and financial control. Many of those who suffer from domestic violence fear for the safety of their lives and are thus reluctant to come forward. Although domestic violence victimizes both men and women, the majority of the victims are women.

As a worldwide phenomenon, domestic violence remains an ever-present reality in the lives of millions of Muslims. Throughout the world, violence destroys the ability of Muslim women to thrive within their families, communities, and nations. Moreover, perpetrators of domestic violence often try to justify their acts in the name of Islam.

Domestic violence has been condemned by national and international laws worldwide and is a clear violation of the teaching of Islam, as represented in the Holy Qur'an and the example and sayings (Sunnah) of the Prophet Muhammad, and guiding principles of Islamic law (maqasid

al-Shari'ah). The members of the Global Muslim Women's Shura Council, recognize justice, fairness, and equality as the core values of Islam, and reject domestic violence in all its forms, everywhere.

REFUTING DOMESTIC VIOLENCE

While domestic violence results from a diverse set of factors, it is important for Muslims to reclaim the discourses of non-violence and peace from within the Islamic traditions. This is particularly important as some Muslims try to excuse domestic violence on the basis of Surah 4, verse 34 of the Qur'an. Likewise, some non-Muslims point to 4:34 to condemn Islam as sexist and violent towards women. Both of these groups assume that this verse specifically gives husbands the right to beat, or at least physically chastise, their wives.

In most English translations, the second half of this verse is translated as follows:

As to those women on whose part you fear disloyalty [nushuz], first admonish them, then abandon their sleeping places, then beat them [lightly] [udribuhuna].

While at first glance the meaning of this verse may seem apparent, in order to properly apply

¹ For more information about the Shura Council, please visit <http://www.wisemuslimwomen.org/about/shuracouncil/>

² While domestic violence can be defined more broadly to include child abuse, emotional abuse, or any form of violence in the home, this project considers it in a more limited sense to include only physical violence carried out against the wife or female domestic partner.

it, several factors must be taken into account. Together, the following factors provide a compelling refutation of the view that domestic violence is sanctioned by Islam:

1. A linguistic analysis of the word daraba;
2. Confusion over the meaning of nushuz;
3. Intertextual analysis of the Qur'an;
4. The general message of the Qur'an;
5. The Prophet's example;
6. The Maqasid al-Shari'ah; and
7. Historical Context: The Qur'anic Approach of Gradual Elimination.

Jurists of the pre-modern tradition largely understood daraba in 4:34 to mean "beat." Although their methodology was sound, it was informed by the context of their patriarchal societies. The Global Muslim Women's Shura Council considers the following explanation to be more relevant, constructive, and just for contemporary Muslim families and societies. This conscious departure is similarly backed by sound methodology, especially as jurists have always been comfortable developing different meanings of words or interpretations of verses in light of new evidence and changing circumstances.

1. Linguistic Analysis of the word daraba

In classical Arabic, the word daraba has 25 different meanings. "Beat" or "chastise" are two of them, but another is "go away from." Therefore, the verse could be rendered: As to those women on whose part you fear disloyalty, first admonish them, then abandon their sleeping places, then go away from them.

In fact, in her *The Sublime Quran*, Laleh Bakhtiar translates 4:34 in a similar manner: But those whose resistance you fear, then admonish and abandon them in their sleeping place, then go away from them.

2. Confusion over the meaning of nushuz

However daraba is defined, the Qur'an clearly makes its application conditional upon the fear of nushuz. In other words, without nushuz, which in many translations and interpretations is rendered "disobedience," "disharmony," or even

"disloyalty," the subsequent steps outlined in the verse cannot be applied.

Linguistically, the word nushuz means "to stand up," as from a seated or sleeping position with the intent to leave that specific location. This is how it is consistently used in other parts of the Qur'an (for example, 58:11 and 2:259). In the context of 4:34, therefore, nushuz must mean to get up and leave the marriage. In contemporary usage, a "nashiz wife" has left her marital home and is living elsewhere, but is not yet divorced. Nushuz can also be associated with the husband. Thus, if a wife fears it from her husband, steps may be taken to remedy this situation as well (4:128). Yet interestingly, nushuz is never understood as "disobedience" on the part of the husband; instead, interpretations often change when applied to a man versus a woman. This discrepancy indicates that the cultural norms of the interpreters significantly affected their interpretations. The understanding of nushuz as "disobedience" seems to reflect gender roles within the medieval mindset more than the actual semantic range of the word. Thus, although later jurists may not have considered it acceptable for a wife to disobey or leave her, the early hadith literature contains instances of wives doing so. Similarly, these jurists could not imagine that husbands should be required to obey their wives.

3. Intertextual Analysis of the Qur'an

It is generally acknowledged among both classical and modern scholars that the preferred method for interpreting the Qur'an is by means of other Qur'anic passages, known as "interpreting the Qur'an by the Qur'an" (tafsir al-Qur'an bi'l-Qur'an). Significantly, while no other passages support the "beating" interpretation of 4:34, there are other passages that support the "distancing" or "going away from" meaning. For example, in 2:226-227, "separating from the wife" (iyla') is a prelude to either reconciliation or divorce. It gives the husband the opportunity to decide in private whether he wishes to continue with the marriage or choose divorce. This period of separation cannot go on indefinitely, but is limited to a maximum of four months, upon which the husband must make up his mind. In

polygamous marriages, *iyla'* is not preformed against one wife and not the others, but is undertaken against all wives simultaneously.

Translating *daraba* as “beat” also produces a contradiction between Qur’anic verses if 4:34 is compared to those verses on divorce, which offer a picture of non-coercion in marriage, even in ending it. For example, Surah 2, verse 231 says:

When you divorce wives and they are about to reach their term, then hold them back honorably or set them free honorably; but do not hold them back by injuring them so that you commit aggression.

In other words, husbands are urged to divorce their wives if they desire, but to not inflict injury on them. But if the Qur’an also tells husbands to beat their wives while married, this gives women more incentive to be divorced than married. This contradicts the Qur’an’s clear preference for marriage over divorce. This contradiction does not arise if 4:34 is translated as “go away from.” In addition, the Qur’an uses three words other than *daraba* to mean “strike” or “beat,” in verses 28:15, 38:41, and 51:29. Furthermore, the d-r-b root carries at least seventeen distinct connotations in the Qur’an, including “hold up as an example” (43:57), “travel through” (4:101), and “cover” (3:112), just to name a few. Often, this root suggests a figurative meaning: moving away, separating, distancing from, or setting up a barrier (including in the home). Within the context of marital conflict, this is the most likely meaning, as a husband separates from his wife before ending the marriage. This is consistent with the Prophet Muhammad’s practice with respect to his wives (see below).

4. The General Message of the Qur’an

The broader message of the Qur’an is the promotion of harmony and affection between husband and wife. Marriage is depicted as a sacred bond of love and mercy. Surah 30, verse 21 says:

And among His Signs is that He created for you

mates from among yourselves, that you may live in tranquility with them, and He has put love and mercy between your (hearts): verily there are Signs in that for those who reflect.

Interpreting *daraba* in 4:34 to mean “to beat” would seem to contradict with this message of tranquility, love, and mercy in the home. The earliest Muslims, including such figures as Ali ibn Abi Talib and Umar ibn al-Khattab, followed a holistic methodology of interpreting the Qur’an. They did not read a single verse in isolation and assume it covers an entire issue. Instead, they examined all possible factors, including the entire Qur’an, traditions of the Prophet, reason, common sense, and the interests of their particular society.

5. The Prophet’s Example

“None but a noble man treats women in an honorable manner. And none but a dishonorable man treats women disgracefully.” The Prophet Muhammad (Sunan Tirmidhi).

The Sunnah, which is taken as a reflection of how the Prophet understood the Qur’an, contradicts an interpretation of *daraba* as “beat.” We do not have a single report of the Prophet striking his wives. Instead, we read from Anas ibn Malik, a Companion of the Prophet: “I have never seen anyone more kind to one’s family than (the Prophet Muhammad)” (Sahih Muslim).

He ordered, “Never beat God’s handmaidens” (Sunan Abu Dawud), and he commended those who treated their wives with kindness: “The most perfect of the believers in faith are the best of them in moral excellence, and the best of you are the kindest to their wives” (Sunan Tirmidhi).

He encouraged harmony and mutual respect in the home: “The believer should not harbor hatred towards his wife. If he dislikes something in her, then surely he will be pleased with another quality in her” (Sahih Muslim). These reports clearly went against prevailing norms, and some of the Prophet’s followers even viewed him as too soft-hearted for taking this position. Yet he never wavered from it in his actions.

When the Prophet experienced conflict with his wives (especially during the strained period when they requested a higher living standard, which he could not afford), he simply left his marital home and stayed away from them. If he had understood 4:34 to demand physical discipline, he would have done so. Instead, based on his actions, the Prophet interpreted 4:34 to mean “go away from,” not “beat.”

6. The Maqasid al-Shari’ah

According to scholarly consensus, the six “principle objectives” (maqasid) of the Shari’ah demand the protection and promotion of religion (din), life (nafs), mind (‘aql), family (nasl), dignity (‘ird), and wealth (mal) in society. Inflicting injury on one’s spouse is a violation of at least four of these fundamental principles –the objectives of Life, Mind, Dignity, and Family – which the Shari’ah aims to protect and which undergird Islamic law.

The Protection of Life: Under Shari’ah, the objective of Life upholds the sanctity of human life according to the dignity God bestowed on humankind, and it protects against bodily harm of any kind. Domestic violence endangers lives of countless women every day.

The Protection of Mind: Domestic violence harms the minds of all parties in the household, including the partner who is subjected to violence and the partner who commits the aggression. Growing up in a violent household damages children’s psyche, making them prone to depression, psychosis, and violence.

The Protection of Dignity: The objective of Dignity maintains the worthiness and nobility of each human being, which he or she is given by God. This edict protects against slander, the

breach of privacy, everyday fear, and disrespect; it also promotes basic human freedoms. All forms of domestic violence breach this principle.

The Protection of Family: Finally, domestic violence violates the objective of Family, which makes the family a safe refuge for all of its members. Domestic violence also harms the family by precluding a loving and trusting relationship between the husband and wife. Violence may lead to divorce.

7. Historical Context: The Qur’anic Approach of Gradual Elimination

In pre-Islamic Arabia, a wife was considered property and could be treated however her husband wished. This was not exceptional; well into the 19th century, European law allowed a man to beat his wife as long as he did not endanger her life. Even today, wife abuse has not been eradicated. In the United States for example, on average, three women are killed each day by their husbands or partners. When the Prophet told his followers not to beat their wives in the 7th century, this was considered a weak position.

In addressing spousal abuse, the Qur’an takes a familiar approach: it introduces a concept and applies a method of gradual elimination. It qualifies existing norms through safeguards and limitations. In the 7th century, men did not need permission to abuse their wives. Therefore, the Qur’an was not giving permission for abuse in verse 4:34; rather, it was restricting it. Consequently, there is no reason to assume that the existence of 4:34 meant that the Qur’an intended the practice of wife-beating to be allowed indefinitely.

Even the early jurists restricted the application of the verse. Most regarded beating as barely

13 Sonbol, “Adoption in Islamic Society,” 46.

14 Ingrid Matison, “Adoption and Fostering,” in *Encyclopedia of Women & Islamic Cultures: Family, Law, and Politics*, ed. Suad Joseph, Afsaneh Najmabadi (BRILL, 2005), 1.

15 Jamila Bargach, *Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco* (Rowman & Littlefield, 2002), 27

16 See the authoritative biography of Zayd ibn Haritha in Ibn Sa ‘d, *al-Tabaqat al-kubra* (Beirut: Dar Sadir, 1998), 3:40-47.

17 Daniel Pollack, Moshe Bleich, Charles J. Reid, Jr., Mohammad Fadel, “Classical Religious Perspectives of Adoption Law,” *Notre Dame Law Review* 79.2 (2004): 101-158. 156.

18 Ella Landau-Tasseron in her, “Adoption, Acknowledgement of Paternity and False Genealogical Claims in Arabian and Islamic Societies,” *Bulletin of the School of Oriental and African Studies, University of London* 66. 2 (2003): 169-192, cites five recorded examples in which an adoptive mother gave her name to an adopted child..

19 Wahbat al-Zuhayli, *al-Wajiz fi Fiqh al-Islami*, vol 2 (Damascus, 2007), 347.

permissible or symbolic, and some said that beating should be carried out only with a toothbrush or folded handkerchief. Ibn Rushd, for example, insisted that even a man who caught his wife in bed with another man could either forgive or divorce her, but nothing beyond that. The fact that these jurists, products of their time and place, restricted the scope of spousal violence to this degree is remarkable. These restrictions were quite progressive for their time.

The Global Muslim Women's Shura Council, in keeping with its mission to discuss pressing issues of Muslim women's rights, roles and responsibilities, claims a space of peace and non-violent resistance to injustice and to violence in all its forms, all from the unique and strong perspective of Muslim women.

CONCLUSIONS AND RECOMMENDATIONS

The Holy Qur'an clearly advocates against domestic violence, promoting harmony and affection between husband and wife. Similarly, the Prophet's life, a model of excellence, dignity, and justice, never included violent behavior towards women or toward members of his household. Rather, the Prophet treated women and children with the utmost kindness and respect. Domestic violence is also inexcusable when one considers the objectives and principles of Islamic Jurisprudence and the historical contexts in which specific verses were revealed.

While many have spoken out against domestic violence, those most affected by the violence often remain unheard. They are frequently muted, whether due to unsympathetic institutions silencing them or a disinterested media failing to tell their stories. In response, Muslim women must draw upon their rich legacy as peacemakers, leaders, caregivers, and teachers and scholars of sacred text and law. Working with colleagues and constituents, Muslim women can reclaim this space of authority in order to promote the principles of gender equality, as well as social, economic, and political justice in Muslim communities.

20 Ibid., 186-7.

21 Faisal Abdul Rauf, *Islam: A Sacred Law* (Qiblah Books, 2000), 82-5.

22 Mohammad Hashim Kamali, "Qawa'id Al-Fiqh: The Legal Maxims of Islamic Law," *The Association of Muslim Lawyers*, http://www.sunnah.org/fiqh/usul/Kamali_Qawaid_al-Fiqh.pdf.

23 Faisal Abdul Rauf, *Islam: A Sacred Law* (Qiblah Books, 2000).

24 Ibid., 78.

25 Burhan al-Din al-Farghani al-Marghinani; *Al-Hidaya*, vol. 2 (Lebanon: Dar al-Arqam, n.d.), 466-467.

26 M. S. Sujimon, "The Treatment of the Foundling (al-Laqt) According to the Hanafis," *Islamic Law and Society* 9.3 (2002): 358- 385.359.

27 Yahya ibn Sharaf al-Nawawi, *Minhaj al-Talibeen* (Lebanon: al-Maktaba al-Asriyyah, n.d.), 294-295.

28 M. S. Sujimon, "Istilhaq and Its Role in Islamic Law," *Arab Law Quarterly* 18.2 (2003): 117-143.

29 Daniel Pollack, Moshe Bleich, Charles J. Reid, Jr., Mohammad Fadel, "Classical Religious Perspectives of Adoption Law," *Notre Dame Law Review* 79.2 (2004): 693-753.

30 Quoted by Landau-Tasseran, "Adoption, Acknowledgement of Paternity and False Genealogical Claims," 187.

31 Ibid., 141.