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EXPLORING THE SIGNIFICANCE OF SOME CULTURAL AND RELIGIOUS FACTORS IN DOMESTIC VIOLENCE AMONG MUSLIM IMMIGRANT AUSTRALIANS

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Abstract: This is a largely qualitative research study that explores the issue of domestic violence (DV), particularly against Australian Muslim immigrant women. It uses a sectionality approach to focus on the closely linked factors of culture and religion that may engender DV. As patriarchy is a cultural risk factor for DV, a semi-quantitative approach was taken by identifying the regions where the immigrants originated. Furthermore, it was found that Islamically-discordant patriarchal interpretations of the Quran and Sunnah employed by influential late classical scholars based in eastern Muslim lands has affected *tafsir* and legal rulings, especially of non-Maliki *madhhabs*. The ‘sticking point’ of physically striking women in verse 4:34 is potentially resolved as a provision for safeguarding wives in conflict zones. This research also supports the call for reforms by scholars in Qur’anic exegetical readings and *fiqhi* rulings on family law. Finally, this study recommends several policy recommendations enlightened with the understanding that Islam supports a compassionate and egalitarian view of marriage.

Keywords: Australia, culture, domestic violence, Islam, marriage, Muslim Immigrants.

Introduction

Evidence gathered from community leaders and Imams suggests increasing incidences of domestic violence (DV) among Australian Muslims. Highlighted by the Australian media, the issue of DV among Australian Muslims has been further exacerbated by the significant disconnect between Imams, the female victims, and spokespersons.¹ To address this gap, this writer wishes to explore the important cultural and religious factors involved in the prevalence of DV.

Between the 2006 and 2016 Censuses, the Muslim population in Australia increased 78 per cent to 604,244, representing 2.6 per cent of the Australian population. Among Australian Muslims, 36.4 per cent were Australian-born, while 63.6 per cent were foreign-born immigrants hailing from 183 countries of origin.

Country of Birth	Muslims	Per cent of the Muslim population
Australia	219940	36.4
Pakistan	54728	9.1
Afghanistan	42705	7.1
Lebanon	34192	5.6
Bangladesh	33506	5.5
Iraq	21137	3.5
Turkey	20605	3.4
Iran	18106	3.0
India	15650	2.6
Indonesia	13848	2.3
Saudi Arabia	9841	1.6
Somalia	7161	1.2
Malaysia	7159	1.2
Fiji	7023	1.2
Egypt	6191	1.0
Syria	5701	0.9
Bosnia and Herzegovina	5561	0.9
Sudan	4066	0.7
New Zealand	3930	0.7
Singapore	3751	0.6

Table 1: Country of Birth of Australian Muslims: top 20 countries, 2016 ²

Marriage and Domestic Violence amongst Muslims

Islam considers the family to be the basic unit of society. The Qur'an views marriage as sacred:

And among His Signs is this that He created for you mates from among yourselves, that you may dwell in tranquillity (*sakan*) with them, and He has put love (*mawaddah*) and mercy (*rahmah*) between your (hearts). (al-Rum 30:21)

This verse implies that a husband and wife are to establish love, harmony, and compassion between themselves. Islam encourages marriage as a normative practice. The Prophet (peace be upon him) said, "Whomever Allah provides with a righteous wife, Allah has assisted him in half of his religion."³

Domestic violence is defined by WHO as "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty."⁴ This study deals with partner abuse strictly within a marriage. It focuses on the most widespread form of DV, which is Intimate Partner Violence (IPV), or that of a husband against a wife. It is also important to note that DV is a predictor and major risk factor leading to divorce.⁵

Sociologists and other professionals propose different sociological, psychopathological, biological and feminist theories to help understand the nature and causes of DV.⁶ Since this research is concerned with DV related to culture and religion, it will focus on feminist theories.⁷ Feminist theories posit that "societal patriarchal structures of gender-based inequalities of power are the root of the problem. Therefore, the violence is an expression of male domination over females."⁸ Patriarchal norms are strong in Muslim societies⁹ and factors related to gender inequality are predictive of IPV prevalence.¹⁰ This study also takes up N. Isqandarova's challenge to Islamic counsellors "...to conduct a comprehensive assessment of these complex cultural and religious factors"¹¹ when addressing issues of DV against Muslim women.

Several studies argue that "religious communities hold to values that focus on commitment and family orientation, which serve as a buffer to DV...while other studies identify the disempowering and sometimes punitive role of religion for abused women."¹² Efforts to minimise DV align with the higher objectives of Islamic law (*maqasid al-shari'ah*) in helping to reduce harms to individuals and families. Isqandarova stressed that "psychological, physical, spiritual, and emotional trauma of DV has destructive impacts on the well-being of Muslim women."¹³ Muslim women experiencing DV often suffer from mental illness leading to serious social problems.¹⁴

The Australian Situation

Legislation in Australian States and Territories empower courts to make apprehended violence orders to protect victims or persons at risk of DV.¹⁵ Physical abuse between intimate partners and breaching a DV order are punishable by law.

In principle, Australian Muslims are required by the Qur'an to obey the law of the land unless there is a direct violation of a religious obligation.¹⁶ Islamic law currently operates informally in Australia within Muslim communities, supervised by Imams, who are members of the Australian National Imams' Council (ANIC). R. Afrouz and others note, "the experience of [DV victims when] help-seeking from religious leaders tended to be negative whenever discussed in reviewed papers."¹⁷ Muslim community leaders often try not to be involved in DV, or attempt to convince women to stay in abusive relationships.^{18,19}

The Australian Bureau of Census (ABC) in 2016 estimated that 23 per cent of women had experienced physical violence in their lives since the age of 15. Australian women are three times more likely than men to experience violence from an intimate partner.²⁰ Immigration is also linked with more cases of DV.²¹ Australian research indicates that the DV risk for culturally and linguistically diverse (CaLD) women is higher than for mainstream women.²²

In brief, the purpose of the present investigation is:

- To help improve marital stability and promote well-being in Australian Muslim immigrant families. This requires helping married couples better understand their cultural context, as well as the predominant interpretations of Islamic texts regarding marriage and related factors which may cause discord; also, to clarify these factors for social workers, Imams, and conciliators.
- To help close the gap between women leaders and social workers on the one hand, and Imams on the other, regarding understanding scholarly interpretations of Islamic rulings on spousal roles.

Research Approach

The investigation involves literature research and informal interviews. In general, a qualitative approach was taken. However, a semiquantitative approach was applied when assessing cultural factors related to immigrants' countries of origin "by linking qualitative data with the larger cultural context from which it is derived" in order to "develop new perspectives on family violence."²³

The informal interviews that were undertaken involved:

- An influential Imam of a large mosque in Brisbane.
- Dr Adis Duderija, Lecturer in Islamic and Gender Studies, Griffith University, Nathan.
- Head of a Muslim women’s group in Brisbane.
- A Queensland government-employed social worker who deals with refugee families.
- A federal government-employed social worker involved with asylum seekers.

This study uses an intersectional approach. Intersectionality is a framework and methodology that examines how various social identities intersect at the micro-level of individual experience. Lockhart and Danis (2010) argue that an intersectional framework enhances one’s understanding of cultural competence.²⁴ Ghafournia and Eastel stress the value of using an intersectionality approach to studying DV among immigrant women in Australia.²⁵

The study will be limited to the following *three intersections of factors* related to DV:

1. *Cultural factors of the country of origin*, which affect the outlook of married couples about their marital roles and responsibilities.
2. *Understanding of Islamic teachings on marital roles and responsibilities*. A review of scholarly views on husband-wife relations in marriage based on interpretations of Quranic verse 4:34 and related verses will be made using an approach based on *maqasid al-shari’ah* (higher objectives of Islamic law) and the Qur’anic objectives of marriage.
3. *Cultural factors in Australia contributing to DV amongst migrants*.

Cultural Aspects Affecting Marital Roles in Immigrants’ Countries of Origin

Sajda Nazlee stressed that:

...we must always consider the importance of distinguishing between cultural practice and true Islam, and not condemn Islam out of hand because of the customs of certain lands.²⁶

Cultural aspects related to marriage from the immigrants' countries of origin can significantly influence the occurrence of DV. According to S. Hassouneh-Phillips:

...it is important to begin to establish cultural bases for interpreting what has been previously perceived as generic, culture-blind phenomena (such as marriage and intimate partner abuse).²⁷

In reviewing the literature, R. Nedegaard notes that among immigrant Muslims the:

...impact of cultural variations on IPV has not adequately been captured. ... [even though] the practice of cultural competence is an ethical obligation for practitioners in the field combating IPV.²⁸

Nevertheless, Nedegaard found that:

there tended to be higher leniency and justification of abuse in Muslim cultures than in the Western norm...Beliefs were interwoven with patriarchal gender roles.²⁹

I. Timshel and others also highlighted that cultural level risk factors for IPV include patriarchal beliefs.³⁰

Previewing Risks of Domestic Violence Related to Immigrant's Origin

To obtain a guide to how external cultures impact on Muslim women in Australia, this study has developed a country index rating for the treatment of women which will hopefully help to illuminate an immigrant's marital situation in cases of DV. Such an index provides a general assessment of risk for marital discord based on countries of origin. Table 2 is the result of this new analysis for the top countries from which Muslims emigrated to Australia.

A semiquantitative method is applied for identifying the relative positions of countries in terms of treatment of women. Each parameter is first identified in quantitative terms according to published statistics. The selected countries are then 'banded' into five 20-centile bands ranging from 'very good', to 'very poor'. Countries are then awarded scores of 5, 4, 3, 2, 1, in order from the top band to the bottom. Each parameter has equal weighting. The result is then combined for the three fields and averaged to give a score out of five. Country ratings for treatment of women are shown in Table 2.

Country of Origin	Secondary Education, Females, Per cent (Net) ⁱ		Female Homicide, /100,000 inhabitants ⁱⁱ	Maternal Mortality Rate, per 100,000 live births ⁱⁱⁱ		Overall Rating 5: v. good; 4: good; 3: average; 2: poor; 1: v. poor
Singapore	100	2016	0.1	10	2010	5
Australia	93	2017	0.4	6	2010	4.7
Bosnia & Her. Cyprus	N/A	N/A	0.4	11	2008	4.5
Cyprus	95	2015	0.5	7	2012	4.3
Saudi Arabia	84	2013	0.3	12	2011	4.3
Turkey	85	2016	0.5	16	2011	3.7
Iran	85	2017	0.7	25	2010	3.7
Indonesia	78	2015	0.1	126	2010	3.3
Egypt	82	2017	0.4	33	2006	3.3
Lebanon	65	2012	0.5	15	2012	3
Malaysia	78	2017	0.6	40	2009	3
Fiji	88	2012	1.5	30	2005	3
Syria*	45	2013	0.4	68	2010	2.7
Bangladesh	67	2017	1.0	176	2010	2.3
Iraq*	40	2007	2.5	50	2011	2.3
India	62	2013	1.4	174	2012	2
Afghanistan*	36	2017	0.8	396	2010	1.3
Pakistan	40	2017	1.8	178	2010	1
Somalia*	N/A	N/A	2.1	732	2012	1*
Sudan	31	2011	1.6	311	2011	1

Table 2: Treatment of Women in top 20 countries of origin for Australian Muslim Immigrants, 2016

Notes. i – World Bank 2015, UNESCO, School enrolments, secondary, female (per cent net). ii – UNDOC (UN Office of Drugs and Crime) Homicide statistics 2013. iii – World Bank. (*) Countries showing poorer conditions of women, perhaps due to conflicts.

Country	DV/IPV Lifetime Rate (per cent)	Year	Source
Singapore	6	2013	Bouhours, Cheong, Bong and Anderson ³¹
Indonesia	18	2016	SPHPN ³²
Australia	25	2016	ABS
Jordan	30	2011	Haddad and Others ³³
Saudi Arabia	30 (men); 34 (women)	2004	Almosaed ³⁴
Egypt	36	2005	Egypt Demographic and Health Survey
Lebanon	30 24 (men); 31 (women)	2015 2016	Hejase and Others ³⁵ Akram ³⁶
Turkey	57 25	2000 2007	Ilkkaracan ³⁷ Kocacik and Others ³⁸
Malaysia	39	2004	UNDP Fund for Women ³⁹
Israel (Bedouins)	48	2014	Cwikel and Others (2003) ⁴⁰
Bangladesh	62 (rural); 53 (urban)	2005	Garcia-Moreno and Others ⁴¹
Pakistan	58 (urban) 75 (PGRN Districts)	2011 2013	Ali and Others ⁴² Rutgers WPF ⁴³
Ethiopia	71	2005	Garcia-Moreno and Others

Table 3: Domestic Violence Figures against Women for Selected Countries Cited in Table 2

Note: 1) Where available, the rate depicted is for physical violence against women. 2) Australia, Singapore, India and Ethiopia are not Muslim majority countries so indicated rates may not reflect DV rates accurately for their Muslim citizens.

To test Table 2 for use in counselling Muslim married couples seeking help, published DV/IPV prevalence rates were obtained for the Muslim emigrant countries (Table 3). Countries in Table 2 showed reasonable correspondence in their relative positions with those in Table 3 suggesting that good national treatment of women yields lower DV/IPV prevalence rates. The study shows that DV prevalence is highest within South Asian and African communities.

Non-Bedouin Arabs have relatively lower DV levels. Patriarchal societies – Pakistan, Bangladesh and Bedouins - have high DV rates.

Traditional Muslim Family Types

Features of a few Muslim traditional cultures are provided below to better understand DV within families who migrated to Australia from these regions.

In the Arab World, Priscilla Offenbauer states that:

Men's prerogative to restrict female mobility...still compromises women's ability to work. Without family support or male guardianship, females in the Arab world, for example, still face obstacles acquiring official papers, travelling, borrowing money, or even getting medical treatment.⁴⁴

For Asia, A.M. Hilsdon and S. Rozario comment that the diversity of Muslim women's lives means that while:

...Islam has a strong patriarchal element, the way it is practised and experienced by women does not depend on religion alone but on many other factors.⁴⁵

For example, Malay women generally play important roles in their more egalitarian society.⁴⁶ South Asian Muslim immigrants bring with them strong cultural and religious beliefs which play a positive role in their lives.⁴⁷ A. Venkataramani-Kothari outlines cultural factors relevant to subcontinent women among immigrant populations in the West:

The family is generally given a higher value than the individual. The South Asian community... maintains a model minority façade...victims are often encouraged to suppress evidence of violent acts within the home and community...The recommendation laid out for Muslim women is '*Chador and Char Diwar* (the veil and four walls of the house)'.⁴⁸ This concept recommends that women remain covered and confined to the house. From early childhood, South Asian parents teach their girl-child that she would bring dire shame to them if her marriage were to fail and she was to prove a bad wife...Hence, a woman may see nothing wrong with suppression and dependence within marriage. The South Asian woman's identity is primarily derived from marriage

and motherhood. ... A divorced woman and/or single mother is seen as having failed in the role of wife and mother.⁴⁹

For South Asian couples facing DV in the West, “a majority of cases have issues of power-sharing and control. Men tend to demand total power and control... They expect their wives to submit not only to their control but also to the control of their mothers and other family members. Even in situations where the wife works outside the home, the husband holds on to the power of deciding how and where she should spend her money.”⁵⁰ Female migrants from African countries share many similar issues of abuse faced by South Asian Muslim women.⁵¹

Pashtunwali Tribal Societies in Pakistan and Afghanistan

Pashtunwali culture is an extremely patriarchal society. Many Pashtuns refer to *Pashtunwali*, a socio-political ideology inherited from their ancestors, as:

[Demanding] honour, hospitality, and generosity for anyone who asks for pardon or protection. [It is] an ‘ideal-type code’ including such principles as ... *tor* (female honour) and *tarburwali* (agnatic rivalry).⁵²

A major institution is *pardah*, which emphasises the seclusion of women. Versions of the code are practised in other societies, e.g. Bedouins.⁵³ Honour is crucial to Pashtun membership.⁵⁴

Aaamir Jamal describes the following regarding women’s status in a Pashtunwali society in northwest Pakistan:

After marriage, a woman’s husband and in-laws may take control of her life [deciding] issues such as the number of children she will have, what her role in the community will be, and what are her limits in seeking education and employment. Guiding such decision-making is central to the chastity of women [*namus*]... Violation of a woman’s honour brings disastrous consequences.⁵⁵

Accordingly, Pashtun women are conditioned to perceive public space as unsafe and are often confined to the domestic sphere,⁵⁶ as reflected in the proverb, “a women’s best place is the house or the grave”.⁵⁷ Pashtunwali is considered to be responsible for structural gender inequality,⁵⁸ engendering DV against women.⁵⁹

Pashtunwali culture promotes practices that conflict with Islam: women do not normally inherit property,⁶⁰ women are often treated as subservient;⁶¹

women can be married without their consent;⁶² women are confined to the home and hindered in seeking education despite Islam encouraging women to seek knowledge. Tribal Pashtuns “rarely compromise and prefer their traditions to Islam in the context of women’s issues.”⁶³

Islam stresses the role of men as protectors of women. This aspect is less relevant when living in secure environments but is paramount during times of insecurity. In such situations, due to the greater risk of women being abused, husbands are stricter on their wives, such as in Afghanistan, where conflict has raged for 40 years.⁶⁴ If peace broke out, conditions could improve markedly for women. Jamal notes that:

In the [Pakistani] Pashtun plains region where it is relatively peaceful and where the state has more authority, rigid gender roles are giving way to recognition that women play a critical role in socio-economic and political life.⁶⁵

Hence when in Australia, a Pakistani or Afghan male immigrant would need to adjust, especially in reducing his dominant control and strictures on his wife’s mobility.

Islamic Factors Related to Marriage Roles and Domestic Violence

Leila Ahmed believes that Islamic texts and institutions need to be separated from patriarchal culture and reappraised by listening to the voice of equality and justice found within them.⁶⁶ To obtain a broader perspective on this topic, Ahmed reviewed various works of literature on traditionalist and modern *fiqh* views, as well as feminist positions on spousal roles in marriage. The exegetical approach taken involves a holistic reading of relevant Qur’anic verses, hadith, *asbab al-nuzul* (revelatory context), concern for socio-historicity, and the *maqasid al-shari’ah* to interpret al-Nisa’ 4:34 and related verses.

Great strides taken by women worldwide have demonstrated their considerable capabilities in public office and business. This contrasts to the ‘inferior’ nature that was frequently portrayed for women in classical Qur’anic *tafsir*.⁶⁷ Valid non-demeaning re-interpretations of the authentic hadiths that women are a ‘temptation’ (*fitnah*),⁶⁸ or a ‘bent rib’,⁶⁹ have been provided.⁷⁰ Karen Bauer writes that “today’s ‘*ulama*’ have ... jettisoned all talk of women’s inferiority.”⁷¹ Biological and psychological differences do exist such that men on average have greater upper body strength and sex drive; while women are primary caretakers of children.⁷²

Qur'anic Worldview of Men and Women

Many scholars hold that the Qur'an promotes a worldview of equality between men and women, that they are to establish harmonious marital relations together.⁷³ The Qur'an reads:

And among His Signs is that He created for you mates from among yourselves, that you may dwell in tranquillity (*sakan*) with them, and He has put love (*mawaddah*) and mercy (*rahmah*) between your (hearts). (al-Rum 30:21)

Islam considers the family as the basic societal unit. The Prophet (pbuh) strongly encouraged marriage. Numerous Qur'anic verses instil the objective of an egalitarian relationship, such as:

It is He who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love) (al- 'Araf 7:189)

Mohammad Hashim Kamali writes on the comparable nature of men and women.⁷⁴ The concept of Islam as a religion promoting compassion amongst Muslims is established by God's emphasis on his attributes, such as *Ar-Rahman Ar-Raheem*, (The Most Beneficent, The Most Merciful). The essential interests of the *maqasid al-shari'ah*, as portrayed by al-Shatibi and others, are the protection of life, religion, lineage, intellect, and property, all of which a healthy marriage protects.

Zainab Alwani states that,

...the Qur'an identifies behaviours consistent with DV under the umbrella of oppression [which] includes any type of injustice against another person ... [which is] clearly prohibited in Islam. The concept ... that 'believers, men and women, are protectors of one another' (9:71) is meant to be applied at the family level as well.⁷⁵

Qur'an-designated Spousal Roles in Marriage (Verses 4:34,128)

The key Qur'anic verse which outlines spousal roles is 4:34 ("men are the protectors and maintainers of women..."). The *asbab al-nuzul* (circumstances of revelation) for this verse is as follows:

Iyas b. ‘Abdullah said: The Messenger of Allah (pbuh), instructed, “Do not beat Allah’s slave women!” Then ‘Umar [ibn al-Khattab] came to the Messenger (pbuh) and said, “The women have rebelled against their husbands.” So, the prophet (pbuh) gave a concession in the matter of wife-beating. Subsequently, many women thronged to the family (or wives) of the prophet (pbuh) complaining about their husbands, upon which the prophet (pbuh) said, “Many women have thronged to the family (or wives) of Muhammad, complaining about their husbands. Those men are not the best among you.” It was transmitted by Abu Dawud.⁷⁶ Albani considers it authentic.⁷⁷

Usama Hassan believes that the normative interpretation of the *asbab al-nuzul* is that Muhammad (pbuh) wished to ban wife-beating, which was widespread. However, the Prophet was caught in a difficult position with the ‘rebellion’ of wives and risked social upheaval in Madinah, so he compromised by giving a limited concession to the men who were wife-beating. The revelation, however, was in the context of the Prophet’s continuing efforts to admonish men against wife-beating.⁷⁸ This suggests that the Prophet (pbuh) knew the ‘endpoint’ of change in regard to women’s status and its ideal position. There are many authentic hadith in which the Prophet repeatedly admonished men against striking their wives, for example:

Mu’awiyah asked the Prophet (S), “What is a wife’s right over her husband?” He replied, “Feed her when you take food, clothe her when you clothe yourself, do not revile her face, and do not beat her.”⁷⁹

Trajectory of Qur’anic Admonition and the Prophet’s Outlook

It can be argued that the trajectory of Islamic teachings should have led to a full emancipation of women and egalitarian treatment. This agrees with Mir-Hosseini’s view that:

...the *fuqaha*’s construction of women’s rights is not free of logical contradictions ... Two competing voices can be detected [in the Qur’an and Sunnah], the one inspired by *wahy* [revelation] and the other constrained by the social order. While the first is an egalitarian voice, ... the second is a patriarchal voice, reflecting social, cultural, and political expediencies.⁸⁰

Considering the perspective of the implied teleology of the Qur'an, it appears that divine design was to engender change progressively over time from society's former harsh treatment of women towards the Qur'an's core admonition of achieving egalitarianism and compassion, as reflected in the Prophet's (pbuh) conduct.⁸¹ Khalid Abou El-Fadl agrees,

The thorough and fair-minded researcher would observe that behind every single Qur'anic revelation regarding women was an effort to protect [them].⁸²

This writer interprets that although God plans to improve women's conditions, He may have two reasons for revealing verse 4:34, which permitted wife-striking. First, Muslim men in circumstances where custom ruled that they were in charge of women, were not ready for accepting women's equivalent status, but the verse improved women's condition by *limiting* striking.⁸³

Second, permission for striking may be necessary in conflict zones where wifely harm from striking is less than the potential harm to her if she disobeyed her husband. This follows the legal maxim that "the (*shar'i*) rule is to oppose the greater harm by considering the lesser one".⁸⁴ Consider a recalcitrant wife who insists on leaving her home and going into the public space at a time of conflict. She could be kidnapped or killed by a marauding tribe. This latter interpretation can address the tension, previously unresolved, between the Qur'anic prescription for wife-beating and the Prophet's tradition of never beating his wives. This new theory on the relevance of striking in a restricted context is logically supported by evidence that harsher treatment of women is often greater in tribal societies (see Table 3), where the potential for intertribal conflict is high or chronic instability exists (e.g. Afghanistan). The theory cited here deserves further research to either confirm or refute it.

Men as Managers of Women

[Husbands] are the protectors and maintainers (*qawwa'muna*) of their [wives], because Allah has given the one more strength (*fadhhdhala*) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient (*qaanitaatu*), and guard in [the husband's] absence what Allah would have them guard. (al-Nisa' 4:34, First Part)

The writer believes that *fadhhdhala* (meaning ‘excel over’) relates to make attributes that make men generally stronger, unencumbered by nurturing small children, and free to roam and earn an income. Feminists overlook that, in dangerous conditions, women need male protection.

With respect to the *qiwama* role (‘provider of subsistence to another’), “it is the husband’s duty to financially support his wife, which entitles him, in turn, to be head of the household and permitted to discipline his wife.”⁸⁵

A fair reading of the word *qanit* in the above verse is that the wife should be obedient both to God (always) and to her husband (in certain matters). Kamali states that obedience in this verse is tied to the woman guarding her chastity.⁸⁶ Obedience to the husband is not an open licence for the husband to direct the wife in matters unrelated to promoting family well-being. Amongst African immigrants in Australia experiencing DV, “the women reported that their husbands reminded them on many occasions that as the man of the house, they had the right to dominate family decisions.”⁸⁷ Decisions instead need to be made in consultation, since *shura*’ is mandatory: *amruhum shura’ baynahum*. (Q.42:38).⁸⁸ A *maqasid al-shari’ah* perspective on ensuring the best outcome for the family does not require that the husband dominate and control his wife.

Salman al-Oadah cautions that,

A husband ... has the responsibility of taking care of his wife, protecting her, defending her honour, and fulfilling her needs regarding her religion and her worldly life. It does not mean ... he has the right to behave obstinately towards her, compel her, subject her to his will, suppress her individuality, and thus heinously negate her identity.⁸⁹

Balancing the concept of *qawama*, by interpreting the term ‘manager/provider’ in relation to egalitarianism in marriage, both sides can be considered as bosom companions in a harmonious two-way relationship, as described in the verse, “Your wives are a garment for you, and you are a garment for them” (al-Baqarah 2:187).

Disciplinary Role of Husbands

As to those women on whose part you fear disloyalty and ill-conduct (*nushuuzahunna*), admonish them [first], [next] refuse to share their beds, [and last] beat them [lightly] (*idhribuuhunna*); but if they return to obedience, seek not against them... (al-Nisa’ 4:34, Second Part)

Wifely *Nushuz*

Verse 4:34 permits men to discipline wives if they exhibit *nushuz* ('rise up', as in rebelling). Bauer interprets the verse as being:

...addressed to men and recipients of the punishments are in the feminine plural. Thus, it cannot be reversed to say that wives should admonish, avoid or beat their husbands. ... The Qur'anic verse regarding wives' *nushuz* (4:34) is directed to husbands ...: whereas husbands confronting their wives' *nushuz* are advised to implement the 3-stage [procedure], the suggestion for wives dealing with husbands' *nushuz* is that it is 'best' to reach an 'amicable settlement.'...The final phrase makes it clear...disobedience is the cause of wives' punishment.⁹⁰

Kamali considers *nushuz* to be a disruption of marital harmony when one spouse fails to fulfil the required marital duties.⁹¹ Reasons mentioned in *fiqh* include a wife's sexual refusal.⁹² Disobedience to God would mean her failure to perform any obligatory act of Islam. *Nushuz* includes *fahishah mubayyina* (a grave sexual sin),⁹³ as the Prophet (pbuh) said in his Farewell Sermon:

I order you to be good to the women, for they are with you as helpers over whom you have no power than that, except if they come with *fahishah mubayyina* (manifest evil behaviour). If they do that, then abandon their beds and beat them with a beating that is not harmful. ... Indeed, you have rights over your women, and your women have rights over you. As for your rights over your women, then they must not allow anyone whom you dislike treading on your bedding, nor to admit anyone in your home that you dislike.⁹⁴

The Prophet's (pbuh) directive is powerful. These are his final instructions on implementing verse 4:34, stressing what still needed to be achieved by his Companions that they treat women as 'helpers', implying a measure of equivalence. Alwani describes the Qur'anic steps outlined to remedy *nushuz* as follows:

1) Advise them (those guilty of *nushuz*), 2) abandon them in bed (do not have sexual intercourse with them) 3) 'lightly beat them' ...; 4) if a couple cannot resolve these issues on their own, each spouse is advised to bring a trusted person to represent him/her for arbitration.⁹⁵

Idribuhunna

Ayesha Chaudhry notes the command *wa-dribuhunna*... was unanimously understood by pre-colonial exegetes to mean ‘to hit’.⁹⁶ Bauer stresses that among medieval exegetes: “All sources that mention hitting ... also qualify it by saying ‘without inflicting injury’.”⁹⁷ Al-Razi on the other hand stated that “it is preferable [husbands] avoid physical discipline altogether.”⁹⁸

Abd al-Hamid Abu Sulayman, in reviewing potential meanings of *daraba*, believed:

The one that fits best with the context of 4:34 is the meaning of ‘withdrawing from, leaving and abandoning.’...[I]f after admonishing his wife and then sleeping in a separate bed, the husband finds she has still not rectified her behaviour, he leaves the marital home entirely. This was ... what Hadiths describe the prophet doing in Medina when his wives’ conduct had so disappointed him.⁹⁹

Alwani highlights that “in today’s world, beating one’s wife would surely lead to the very destruction of the family unit that this verse seeks to preserve.”¹⁰⁰

In summary, reformist interpreters of 4:34 take the third disciplinary phase to be either first, a single symbolic strike¹⁰¹ done with a toothbrush (*siwak*) or that the husband departs for a period from home – these become the normative approaches in secure environments. It can also mean providing a (light) strike as instructed by the Prophet himself to a wife displaying “manifest evil behaviour” if doing so will correct that behaviour. Lastly, it can also signal the permissibility of physically restraining a recalcitrant wife from entering dangerous public space. With these three options, *idribuhunna* carries valid meanings for all times and circumstances.

Therefore, based on the above reasoning, any physical disciplining of a recalcitrant wife is impermissible in Australia for three reasons. Firstly, Australia is a secure country where the wife would not need to be physically restrained. Secondly, striking a spouse is against Australian laws. Finally, striking a spouse is against Australian practice (*urf*), which means that such discipline would unlikely engender positive behavioural change in the wife.

Evidence of Patriarchal Imposition on Treatment of Wives

In regard to the status of women, Hassounch-Phillips is of the opinion that Islam brought:

...a social reform movement focusing on social and economic justice. The most significant changes were the heightening of the status of women ... Introduction of Islam modified Arab practices ... to women's advantage, but patriarchal interpretations of Islam and the infusion of cultural elements destroyed the progressive nature of women's rights provided by Islam.¹⁰²

Extreme *fiqh* positions were sometimes taken against the Qur'anic spirit, such that wives could be struck without *qisas* punishment on the husband unless bones were broken.¹⁰³ Leila Ahmed believes that such Islamic doctrine developed within the misogynist society of Abbasid Iraq, which inherited customs from the Sasanian (Persian) Empire after its conquest.¹⁰⁴ Let us present some evidence supporting this position.

Prevalence of Domestic Violence Diminishes in Arab Lands Closer to Madinah

If patriarchal cultures imposed themselves on Islam, it may be expected that Muslim practice in places near Madinah, from where Muhammad's (pbuh) exhortation to good treatment of women spread, would reflect its true teachings, while certain countries on the periphery of Muslim territories would still be influenced by their traditional pre-Islamic treatment of women.

Indeed, we find that compared to Saudi Arabia and Egypt, DV is higher in countries further from this core—in Afghanistan, Pakistan, and Bangladesh (Table 3). Arab lands were once strongly tribal and patriarchal. This condition changed, influenced by the Prophet's teachings. It is posited, however, that this influence did not permeate fully into nascent Muslim societies elsewhere due to a rapid influx of people accepting Muslim suzerainty without necessarily adhering to the Prophet's (pbuh) instruction on treating women well. Consequently, previously dominant non-Islamic patriarchal customs re-emerged in places distant from Madinah.

Different rulings among Sunni *Madhhabs* on Verse 4:34

Chaudhry, studied the Sunni *madhhabs* (school of thought) closely concerning their *fiqhi* approaches to implementing 4:34. She found that Malikis show the greatest kindness to women in their rulings:

The most distinctive feature of Maliki jurisprudence was a suspicion that husbandly disciplinary privileges might slip easily into abusive behaviour. Hanafi jurists devoted their energies to protecting the disciplinary privileges of husbands.” [While Maliki jurists showed constraint] Through their lengthening of the period of abandonment and insistence on following the three imperatives sequentially... Maliki jurists effectively delayed the application of hitting.¹⁰⁵

Chaudhry’s argument is based on three things. First, the Maliki and Shafi’i schools considered “clear proof for annulment of the marriage in cases of non-payment for maintenance and clothing” while Abu Hanifa says it is not annulled. Second, “whereas the Hanafis did not hold husbands legally liable unless they killed their wives ... Malikis held husbands legally accountable for hitting their wives in a severe manner.”¹⁰⁶ Third, “Shafi’i scholars expanded the definition of wifely *nushuz* to permit disciplining of wives for a greater range of behaviours. They [also]...protected husbands from legal accountability when they beat their wives excessively.”¹⁰⁷

The proximity of the Maliki *madhhab* to the position of the Prophet in regard to women’s protection is expected since this school tried to capture the authentic practice of Medinan Muslims. ‘Ata’ Ibn Aslam Ibn Safwan, an early mufti of Madinah, in his commentary on verse (4:34) said, “If the husband commanded his wife or forbade her to do something, but she disobeyed, he should not strike her but [just] get angry with her.”¹⁰⁸ According to ‘Ata’s understanding, beating one’s wife is *makruh*, prohibitively disliked.¹⁰⁹

Marked Changes Post-Tabari in Emphasis on Women’s Inferiority

Bauer identified a marked shift in *mufasssirun* views after al-Tabari (839-923 CE) to ones which consider women as inferior to men, which is evidence of a *developing* patriarchal influence:

Al-Tabari and exegetes who died before him do not refer to men’s and women’s inherent qualities to explain Q.2:228 or Q.4:34. But his contemporaries and later exegetes [cite] men’s inherent superiority in body, mind and religion...Hadiths such as the one mentioning women’s deficient rationality...increasingly became part of the post-Tabari works.¹¹⁰

Bauer shows that wifely ‘obedience’ was initially stressed as a form of piety and was limited:

Al-Tabari seems to limit wifely obedience to certain matters ... after al-Tabari, it is far more common for interpreters to assert the necessity of total wifely obedience.¹¹¹

Bauer demonstrates how exegetes Zamakhshari (1075-1144 CE) and al-Razi (1149-1209 CE) when interpreting the role of wives in households, sided with customary practice over the interpretation of their legal schools, indicating “an increasing role of *urf* and the potential infusion of patriarchal views into exegetes’ and *fuqaha*’s mindsets.”¹¹² Bauer also highlights that: “In the 4th/10th-6th/12th centuries, *tafsir* ... was ... a Persian venture.”

She believes that *tafsirs* were affected by the regional and legal affiliations of their authors.¹¹³ A remarkable concentration of exegetes existed in the immediate post-Tabari period around Nishapur and in Khurasan until 1130CE. These are all locations far from the Medinan centre of woman-favourable societal practice, in regions of strong patriarchal influence.¹¹⁴

Patriarchal Influence in Restricting a Wife’s Opportunity for Employment

Kamali, in expanding the view that women can seek employment, suggests patriarchal influence hindered women’s freedom:

Medieval society barred women from outside work that was unrelated to the family business, farming, weaving, embroidery, etc... Thus, a great deal of the subsequent restrictions on women’s right to work is the product of medieval society’s male-dominated culture.¹¹⁵

Based on this review, this writer recommends that a sizeable reform of women’s *fiqh* is needed to remove patriarchal interpretations and restore a more egalitarian spousal relationship in marriage.

Cultural Aspects in Australia and Domestic Violence Amongst Immigrants

The impact of immigration often manifests itself in increased domestic stress and affects each spouse differently.

Issues facing Muslim male immigrants

Cultural or situational factors that engender DV amongst Muslim male immigrants include unemployment or under-employment, adjustment to more egalitarian spousal roles, and feminist influences on the wife. Migration often accompanies a change in spousal power relationships:

...when these couples arrive in Australia; women often learn new skills to gain independence, such as driving, budgeting finances and pursuing higher education. Men who are used to working but arrive in Australia with limited English or cannot get their qualifications recognised, struggle to find employment [contributing] to a loss of power, stress, boredom and depression. This change in gender roles may lead to resentment among male family members, as they feel powerless ..., sometimes triggering them to abuse women.¹¹⁶

Issues facing Muslim women immigrants

O. Ogunsiji and others discussed issues facing African women immigrants who “have been found to be vulnerable because of language barriers, lack of knowledge of service availability, fear of deportation and lack of financial independence, which significantly impeded help-seeking.”¹¹⁷

Strong feminist influences in Australia could encourage a wife to challenge traditional marital roles. She could even develop an anti-male mindset, which would be destructive to her marriage:

Australian feminist Bettina Arndt, in her recent book, #MenToo, argues that radical feminism, where men are presented as violent and sexist, is guilty of ... destroying what should be a bond ... and respect between the sexes. ... in society, media and the law there is a pervasive ‘anti-male bias’ – a bias that in areas such as divorce, cancer research and DV prioritises women while denying men’s rights.¹¹⁸

Conclusion

This article proposes a measure to resolve the difficulty of interpreting *idribuhunna* in the Qur’anic verse 4:34 for contemporary Muslim societies. Siel Devos opines:

British Muslims often find themselves torn between progressive and reformist approaches: they fully recognise that wife-beating is not justifiable – and illegal ... and that it should not be justified through Islam; however, they also struggle to find a way to justify the full abrogation of this verse through Islam.¹¹⁹

A proposed solution is that God intends the verse to stand unabrogated but only to avoid greater harm under dangerous conditions — and even in such cases, only permits restricted ‘striking’.

Adis Duderija, following the lead of Kamali, proposes an approach based on a desire to reform women’s and family *fiqh*. Kamali suggested:

Reform measures and adjustment of existing *fiqh* rules pertaining to family welfare and women should take their cue from the broader guidelines of the Qur’an and Sunna on fairness, human dignity, and justice.¹²⁰

Duderija’s¹²¹ *modus operandi* is to first undertake a comprehensive contextualisation by investigating the role of context in shaping the content of the Qur’an and its worldview, in this case reflecting the patriarchal culture of early Muslims. Second, as the Qur’an and Sunnah intended to change and mitigate negative aspects of prevailing practices, “*the principle of ‘moral trajectories’* is deduced, which stipulates that the Qur’an and Sunna teachings were pointing [to future] ideals, which were not possible at the time of Revelation.” Third, to ensure that the moral trajectories are teleological, with a clear purpose of attaining higher objectives of Islamic law. Fourth, key ethico-religious principles to be achieved are identified, including justice, equality and *sakina*. Kamali, for instance, promotes a gender-equality approach based on the moral autonomy of individuals, equity (*qist*), and moderation (*wasatiyya*).¹²²

Family law reform could be conducted by deliberately focusing on achieving the *maqasid al-shari’ah*, which aims to protect the family unit, as well as the identified Qur’anic ethical values related to marriage. Furthermore, *takhayyur* (selection of rulings from among legal schools) could be employed to achieve

a more gender-just Muslim family law, such as by using parts of Maliki rulings regarding husbandly disciplinary responsibilities in the marriage law of other *madhhabs*. New *ijtihad* is also needed, Mir-Hosseini proposes that the link between *'illah* (effective cause) and *hukum* (ruling) in many instances be re-examined in light of changes that have occurred with respect to women's status.¹²³

Undoubtedly, the historical suppression of women's active involvement in certain Muslim societies has been a major cause in the decline of Islamic civilisation after its 'Golden Age.' A great opportunity exists in certain regions for emancipating women so that they can play a greater role in contributing to the well-being of their societies.

Analysis of the contextual complexity of the Qur'anic verses related to marital roles provides a clearer understanding of Islamic teachings on spousal roles and responsibilities. It should enhance the Muslim marital institution and societal well-being. It is unacceptable today that certain 'Islamic' communities ignore Islamic precepts regarding women in favour of their tribal cultures. It is time their leadership undertake comprehensive reform and removal of traditional practices that conflict with Islam.

Recommendations

This research offers the following policy recommendations:

- Australian Imams need to engage with current scholarly positions regarding spousal roles, especially given today's egalitarian society. This will help them address and minimise DV and promote compassion in marital relations. Imams should also benefit from information regarding an immigrant's country of origin when providing counselling or guidance.
- Given the patriarchal upbringing of many immigrant men from the Indian Subcontinent, Africa and the Middle East, they should be provided with training on reformist views relating to marriage objectives, spousal roles, disciplining, and consultation. They can benefit from knowing that Islam promotes the kind and just treatment of wives, who are equal partners with complementary roles to those of their husbands. Consideration should be given to the fact that "Initiatives that have been most promising are those [which] have engaged with [the] religious beliefs and language of the target group, including perpetrators and with those who enabled violence and abuse to go unchallenged."¹²⁴

- It would be opportune to arrange a meeting with female Muslim leaders to discuss current reformist interpretations of Islam and identify the way forward.
- Regular meetings between representatives of Imams and community leaders to chart a way forward in DV issues and support victims would be beneficial.

Notes

- * *Daud Abdul-Fattah Batchelor*, Visiting Fellow, International Institute of Advanced Islamic Studies (IAIS) Malaysia.
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