Marital Harm through the Ages:

Perspectives from Islamic Scholarship and Practice

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Introduction

The year is 1117 C.E. A young woman gets married. Her marriage gradually deteriorates and her husband begins to harass and abuse her. She takes her case to court and the judge rules in her favor: she is divorced and awarded monetary damages. Fast forward to the year 1876. Another woman is married. Her husband beats her so badly that she is left with permanent injuries. She attempts to take her case to court but is turned away. She is told that she cannot sue her husband, let alone have him punished.

The woman in our first case is Rāqī bint Yūnus, who lived near the now thriving port city of Lisbon in modern-day Portugal.[1] She was married, not so happily, to a man named ʿUbayd Allāh ibn Muḥammad al-Azdī. Over time, their marriage took a turn for the worse and ʿUbayd Allāh began to abuse Rāqī. It was no secret. A large number of witnesses testified that he would constantly harm and harass his wife. At some point, even ʿUbayd Allāh realized he had no interest in remaining married to Rāqī. But ʿUbayd Allāh knew that if he divorced Rāqī, she would, according to Islamic law, be able to keep everything he already gave or promised her (i.e., *mahr*) for their marriage. In their case, that meant swaths of land and enviable properties. But ʿUbayd Allāh also knew that if Rāqī was the one who asked for a divorce (*khulʿ*), he would be able to negotiate with her to keep what he gave her. So, ʿUbayd Allāh devised a plan where he would make Rāqī's life so miserable that she would beg for a divorce. She did exactly that. In December 1118 C.E., Rāqī came to an agreement with ʿUbayd Allāh and forfeited anything she received in their marriage in exchange for a divorce.

Little did ʿUbayd Allāh realize, Rāqī also knew her rights under the law. In fact, when she was still married, she had prepared a legal

1. Aḥmad ibn Yaḥyā al-Wansharīsī, *al-Miʿyār al-muʿrib*, ed. Muḥammad Ḥajjī, 13 vols. (Wizārat al-Awqāf wa al-Shuʾūn al-Islāmiyya, 1981), 4:5–7; David S. Powers, "Women and Divorce in the Islamic West: Three Cases," *Hawwa* 1, no. 1 (2003): 31–32.

document (*ʿaqd istirʿāʾ*) that collected witness testimony of her abuse. She took her case to court and presented her evidence. The great Mālikī scholar Ibn Rushd al-Jadd (d. 520/1126) oversaw her case. He listened carefully and examined the evidence. He ruled the following: unless ʿUbayd Allāh could rebut the overwhelming evidence testifying to his abuse, he had to return everything he took from Rāqī. Why? Because if a husband harms his wife, she has the right to divorce and the right to keep her dower.

Jump forward almost eight centuries to 1876. Sarah Phillips attempts to present a similar case in an English court. She has evidence that her ex-husband beat her during their marriage and left her with permanent injuries.[2] But unlike Rāqī, Sarah's case would not even make it to trial. Up until about the mid-20th century, in both England and the United States, a woman could not take civil action against her husband for bodily harm.[3] Anglo-American law imagined a husband and wife as one legal entity ("the unity of spouses"), so if a wife sued her husband, it would be as though she was suing herself.[4] As a matter of fact, a woman lost any legal capacity the moment she got married. If she wanted to file a lawsuit, she would have to do so in her husband's name. This impairment was justified in the name of coverture—the doctrine that a woman became a *feme covert*, a "concealed woman," upon marriage, functioning under her husband's guise.[5] She tacitly signed away her property rights to her husband, who not only took full control of her assets but also reaped the benefits of her profits. To add salt to these wounds, any debts he incurred when managing her property became her liability if he passed away. Taken together, the unity of spouses and coverture erected an unspoken principle: a husband was legally immune from any harm he inflicted on his wife's body or property.

A husband's impunity was not surprising given Anglo-American conceptions of marriage. A husband was the rightful head of house (*pater familias*), while the wife was *sub virga viri*, "under the rod of her husband."[6] Since a husband was liable for his wife's actions, he was entitled to correct her in the same way that he could correct his servants or children. And if her misdemeanor was "severe," he could "beat his wife severely with whips and sticks."[7] While a series of reforms beginning with women's property rights were launched in the mid-1800s, the judicial system constantly made exceptions for bodily harm.[8] When a woman by the name of Mrs. Thompson attempted to sue her husband for battery and assault in 1910, the U.S. Supreme Court Justices overturned her case because a woman's newly established right to take her harm case to court was not meant to be used against her husband. Doing so would threaten public welfare and

2. Karen Pearlston, "Male Violence, Marital Unity, and the History of Interspousal Tort Immunity," *The Journal of Legal History* 36, no. 3 (2015): 260.

3. Pearlston, "Male Violence, Marital Unity," 261; Salvatore Lucio Patti, "Intra-Family Torts: From Immunity to Special Rules in Criminal and Civil Law," *European Journal of Comparative Law and Governance* 3 (2016): 117–29.

4. Jack Herskowitz, "Tort Liability Between Husband and Wife: The Interspousal Immunity Doctrine," *University of Miami Law Review* 21 no. 2 (1966): 425; William Blackstone, *Commentaries on the Laws of Englan*d, 4 vols. (Clarendon Press, 1769), 1:431.

5. Blackstone, *Commentaries*, 1:430.

6. Pearlston, "Male Violence, Marital Unity," 268; William E. McCurdy, "Torts between Persons in Domestic Relation," *Harvard Law Review* 43, no. 7 (1930): 1035 and "Action by a Wife against Her Husband for a Tort to the Person," *The Yale Law Journal* 23, no. 7 (1914): 614.

7. Blackstone, *Commentaries*, 1:432.

8. McCurdy, "Torts between Persons," 1036; Pearlston, "Male Violence, Marital Unity," 261–62, 266; Patti, "Intra-Family Torts," 119.

domestic harmony.[9] It was not until the United Kingdom passed the 'Law Reform Husband and Wife Act' in 1962 that a husband and wife could hold each other legally liable "as if they were not married."[10] And it was not until 1970 that interspousal immunity in the United States became a minority rule.[11]

Framing the Challenge

The notion that a husband bears responsibility for his family and may exercise disciplinary authority has been a characteristic of many cultures and civilizations throughout history.[12] Islam also assumes this basic familial structure, yet transforms the concept of marriage. Husband and wife do not unite in flesh (as in Genesis 2:24), nor does either forfeit their legal status as an individual. The Qur'anic term *zawj* (spouse) underscores this point, denoting one of a pair and thereby implicitly affirming the independent identity and agency of each party. While marriage is described as a solemn covenant (*mīthāq ghalīẓ*) in the Qur'an, unlike other canonical laws, it is a contract between two individuals at its core. It thus entails mutual rights and responsibilities, and when either spouse transgresses those bounds, legal recourse remains available.

One might also recount the sayings and examples of the Prophet Muhammad ﷺ, who set a precedent for never harming any woman and urged his followers to live by his example,[13] or cite verses in the Qur'an that call for marriages to be filled with love, peace, and tranquility.[14] Some may dismiss domestic violence within Muslim households as a transhistorical phenomenon divorced from religion.[15] Yet, a Qur'anic verse that sets parameters for marriage continues to prompt moral and interpretive questions. God states:

> Men are the caretakers of women, as men have been provisioned by Allah over women and tasked with supporting them financially. Righteous women are devoutly obedient and, when alone, protective of what Allah has entrusted them with. And if you sense ill-conduct from your women, advise them [first]; [if they persist] do not share their beds, [but if they still persist] then discipline them [gently]. But if they change their ways, do not be unjust to them. Surely Allah is Most High, All-Great.[16]

This verse suggests that men are responsible for women and must take care of them financially. That responsibility entails a degree of oversight: when a wife engages in ill-conduct (*nushūz*), her husband is

9. McCurdy, "Torts between Persons," 1043.

10. Patti, "Intra-Family Torts," 121–22.

11. Carl Tobias, "Interspousal Tort Immunity in America," *Georgia Law Review* 23 (1989): 359.

12. As we saw in common law in Europe and America, the doctrine of coverture placed women's rights under their husbands. Medieval European laws and ancient societies like Greece granted men broad control over family affairs and, in early Roman law, even life-or-death power over family members. Similarly, in some Confucian and Hindu societies, male heads were responsible for maintaining order and discipline within the household. For more, see Suzanne Dixon, *The Roman Family* (Johns Hopkins University Press, 1992), 40ff; Nancy Cott, *Public Vows: A History of Marriage and the Nation* (Harvard University Press, 2002), 11–13; Walter Slote and Georga De Vos, *Confucianism and the Family* (SUNY Press, 1998), 146; Uma Chakravarti, *Gendering Caste: Through a Feminist Lens* (Sage Publications Pvt. Ltd, 2018), 70.

13. *Sunan Abī Dāwūd*, no. 2146; *Sunan Abī Dāwūd*, no. 2144; *Sunan Ibn Mājah*, no. 2060.

14. See, for example, Qur'an 30:21 and 4:19.

15. Jonathan Brown, *Misquoting Muhammad* (Oneworld Press, 2014), 272.

tasked with resolving the problem. If need be, that resolution can culminate in physical discipline. These implications pose major conceptual hurdles for many of us today. Could such a relationship even be described as a marriage? How can we begin to comprehend this verse in light of the prohibition of harm?

16. Qur'an 4:34, trans. *The Clear Qur'an*.

17. See the story of Khawla bint Thaʿlaba in *Sunan Ibn Mājah*, no. 2063. The story of Ḥabība bint Sahl is found in *Sunan Abī Dāwūd*, no. 2227 and *Sunan al-Nasāʾī*, no. 3462.

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This paper explores a difficult and often unsettling topic: the legal permissibility of physical reprimand. Examining more broadly how premodern Muslim scholars conceptualized harm within marriage, we ask: Did they set boundaries for physical harm? Were they concerned about other forms of injury, like emotional harm? What limits, if any, did they place on the husband? And what happened when a husband stepped out of bounds?

Marriage and Divorce in the Islamic Tradition

Unlike courts in the Anglo-American world, Muslim judges have always allowed women to seek legal recourse for their marital problems. As early as the time of revelation, female Companions such as Khawla bint Thaʿlaba and Ḥabība bint Sahl approached the Messenger of God with complaints about their husbands.[17] The Prophet ﷺ, in turn, deliberated on their rights and responsibilities as wives before issuing his binding opinion in their favor. Muslim scholars adopted this prophetic precedent and envisaged marriage as a legal contract.

Although the idea that marriage boiled down to a formal set of dos and don'ts might seem awkwardly transactional, it was—in many ways—liberating because it presupposed the protection and enforcement of each stakeholder's rights. Muslim jurists never debated whether a wife could pursue her claim of harm—of course she could. Instead, they asked: 1) *what* is harm and 2) *how* do they punish a husband if he harms his wife? While jurists disagreed over what exactly counts as harm, they generally agreed that it occurs anytime a spouse's right is violated. The challenge is that they did not always agree on what a husband's and wife's rights were. Their respective

legal methodologies (*uṣūl*) guided them to interpret the Qur'an and Sunnah differently and hence arrive at different conclusions. So, in order to understand what jurists labeled harmful, we have to first understand what rights they granted to each spouse.

Every Muslim jurist would agree that a marriage contract includes one clear set of rights: a wife has a right to a dower (*mahr*) and financial maintenance (*nafaqa*), and a husband has a right to sexual intimacy. The husband maintains this right so long as he continues to take care of his wife's financial needs. I refer to the rights a husband and wife can demand from one another as positive rights. While positive rights are the bare bones of the marital skeleton, jurists fleshed out these expectations by discussing, what I call, negative rights: things a spouse can expect to be *free from* during their marriage. A wife, for example, can expect to be free from her husband's ill-treatment.[18] Her right to "good treatment" (*al-muʿashāra bi-l-maʿrūf*) is based on the Qur'anic verse that commands men to treat their wives according to "*al-maʿrūf*," or "what is known to be good according to custom (*ʿurf*)."

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Some scholars held that good treatment meant simply fulfilling the necessary requirements of a marriage, such as payment of the dower, while others extended this meaning to include fulfilling a woman's requests that were culturally normative.[19] Take for example the case brought before the Mālikī judge Muḥammad ibn Marzūq (d. 901/1496).[20] A man complained that his newly-wedded wife would not move in with him. She had stipulated prior to marriage that she be given a year's time to prepare since his home was far away. This condition prevented him from consummating their marriage, which was his immediate right upon paying the dower. So the husband turned to legal recourse, hoping to hear that her condition was invalid. Ibn Marzūq, however, affirmed the woman's right to delay the consummation—whether she had explicitly stipulated it or not—because doing so was culturally the norm in her society.

18. See, for example, Manṣūr ibn Yūnus al-Buhūtī, *Kashshāf al-qināʿ ʿan matn al-Iqnāʿ*, ed. Ibrāhīm Aḥmad ʿAbd al-Ḥamīd (Dār ʿĀlam al-Kutub, 2003), 2540.

19. Al-Buhūtī, *Kashshāf al-qināʿ*, 2543.

20. Al-Wansharīsī, *al-Miʿyār al-muʿrib*, 3:6ff.

Scholars hence recognized that a marriage did not amount to a mere contract.[21] Some differentiated between sales contracts and marital contracts by reiterating that a sale is based on stringency (*mushāḥa*) and a marriage is based on generosity (*mukārama*).[22] In other words, while the marital contract set explicit requirements, its boundaries were dynamic and could accommodate cultural peculiarities. Women could therefore enter their marriages with a range of rights, whether shaped by cultural norms or explicit agreements. And each additional right a wife entered her marriage with created greater opportunities to hold her husband accountable if he violated those rights.

But not all rights were "legally" enforceable. Jurists often distinguished between rights that had moral (*diyānatan*) consequences and those that had judicial (*qaḍāʾan*) consequences. Take for example a wife's right to sexual intercourse. All law schools agree that a wife has the right to consummatory sex—meaning at least one time. While the Mālikīs and Ḥanbalīs are willing to take legal action if a woman complains of a lack of sex, the Shāfiʿīs and Ḥanafīs will not hold a husband *legally* liable.[23] This does not mean they disregard a woman's sexual needs; rather, they find a husband *morally* at fault. ʿAlāʾ al-Dīn al-Kāsānī (d. 587/1189) warns on behalf of the Ḥanafīs that a husband will be held accountable before God for not satisfying his wife's sexual needs, and the widely-revered Shāfiʿī polymath Abū Ḥāmid al-Ghazālī (d. 505/1111) obligated men to indulge their wives as much as necessary to preserve their chastity.[24] For one accustomed to Western legal standards, this may sound like a free pass for the husband. We often laud judicial law as the supreme form of justice, while perceiving moral admonishment as negligible and inconsequential. Yet, this difference in accountability should not detract from its severity, as the Shariah itself is premised on accountability in this life and the next.

What is important to recognize here is that each law school formulated a set of marital rights. Whenever any of these rights were violated, a spouse was considered to have been harmed. Setting aside the inter-school debates over the exact list of these rights, all jurists recognized the Qur'anic command that men must treat their wives according to what is customarily good (*maʿrūf*). This meant that a spouse's rights and the definition of harm could fluctuate according to the norms of each society. We are thus left with a variety of ways scholars understood harm, with its definition and manifestation shifting across time and space.

21. Muwaffaq al-Dīn ibn Qudāma, *al-Mughnī*, ed. ʿAbd Allāh ibn Abd al-Muḥsin al-Turkī and ʿAbd al-Fattāḥ al-Ḥulū, 15 vols. (Dār ʿĀlam al-Kutub, 1997), 9:343.

22. Muḥammad ibn Rushd al-Ḥafīd, *Bidāyat al-mujtahid*, ed. Muḥammad Ṣubḥī Ḥasan Ḥallāq, 4 vols. (Maktabat Ibn Taymiyya, 1995), 3:19; Muḥammad al-Dusūqī, Aḥmad al-Dardīr, and Khalīl ibn Isḥāq al-Jundī, *Ḥāshiyat al-Dusūqī ʿalā al-Sharḥ al-kabīr*, ed. Muḥammad ʿIllīsh, 4 vols. (Dār Iḥyāʾ al-Kutub al-ʿArabiyya, n.d.), 2:278.

23. Ibn Ḥajar al-ʿAsqalānī, *Fatḥ al-Bārī bi-sharḥ al-Bukhārī*, ed. ʿAbd al-ʿAzīz ibn Bāz and Muḥammad ʿAbd al-Bāqī, 13 vols. (al-Maktaba al-Salafiyya, 1970), 9:299.

24. Abū Bakr b. Masʿūd al-Kāsānī, *Badāʾiʿ al-ṣanāʾiʿ fī tartīb al-sharāʾiʿ*, ed. ʿAlī Muḥammad Muʿawwaḍ and ʿĀdil Aḥmad ʿAbd al-Mawjūd, 10 vols. (Dār al-Kutub al-ʿIlmīya, 2003), 3:606; Abū Ḥāmid al-Ghazālī, *Iḥyāʾ ʿulūm al-dīn*, 4 vols. (Dār al-Maʿrifa, 1982), 2:50.

What is Spousal Harm?

The discussion of harm is best suited in terms of the broader scholarly understanding of the word, rather than being narrowly confined to the oft-cited issue of a husband's right to physically reprimand his wife. The Qur'an and Sunnah establish inalienable rights for women in marriage, expressed in broad and timeless principles. Scholars across different eras worked to interpret these principles within the context of their specific cultures, times, and circumstances, striving to protect these rights in practical ways. Notably, harm in marriage was never understood to be limited to physical abuse by a husband; rather, it encompassed a wide range of behaviors and conditions.

In our day and age, the idea that the definition of harm fluctuates is largely undisputed. Consider the range of scenarios that might be labeled as harmful: being shoved so forcefully that one falls and breaks a bone; hearing a passing comment that carries the sting of a microaggression; feeling pressured by someone in authority who uses scripture to manipulate one's behavior; or being touched inappropriately without giving consent. Harm can take many forms—physical or emotional, intentional or accidental, self-inflicted or external, severe or subtle. Perceptions of harm are shaped by all these variables, and one's understanding of what counts as harm often mirrors the prevailing norms and values of their society.

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As a case in point, less than a century ago in the United States, the word "trauma" was used only to refer to physical brain injuries. It was not until 1980 that "trauma" was extended to psychological harm—specifically, post-traumatic stress disorder (PTSD) caused by war, torture, and rape.[25] Other situations that triggered pain or distress, like confronting the sudden loss of a loved one, did not medically

25. Nick Haslam, "Concept Creep: Psychology's Expanding Concepts of Harm and Pathology," *Psychological Inquiry* 27, no. 1 (2016): 1–17; Greg Lukianoff and Jonathan Haidt, *The Coddling of the American Mind* (Penguin Press, 2018), 25.

constitute PTSD. Yet, by the 2000s, mental professionals and clients alike began to use the word trauma to describe any physically or emotionally harmful experience with long-term effects on a person's "mental, physical, social, emotional, or spiritual well-being."[26] More recently, a person experiencing chronic adverse effects can describe their feelings as "trauma." The definition for trauma has thus transformed to include more cases and milder circumstances.

The meaning of the word "violence" has also changed. For years, violence against women (when even acknowledged) was limited to specific forms of physical harm, like rape and murder. Eventually, in 1993, the UN General Assembly issued the Declaration of the Elimination of Violence Against Women.[27] New social standards pushed the UN to redraw the boundaries for the word "violence" to encompass a broader range of meanings. Violence against women, once legally relegated to physical abuse, evolved to include non-physical forms of injury.[28] In highlighting how words like trauma and violence have developed to encompass a greater number of meanings, we not only recognize how words and the concepts they refer to evolve but also the futility of imposing a universal definition of harm on the kaleidoscopic realities on the ground. Shifts in social realities directly impact the meanings and usage of words and we sometimes see similar fluctuations within the Islamic tradition.

The Mālikī law school paved the way for the most expansive definition of harm among the four Sunni schools by declaring that a wife subjected to harm has a right to divorce.[29] Depending on the severity of harm, a judge could also admonish or imprison the husband. The illustrious Andalusian judge Ibn al-ʿArabī (d. 543/1148) included among a wife's rights financial maintenance, clothing, sexual intercourse, and good treatment. Interestingly, he adds a twist: a wife also has the right to a pleasant (i.e., "smiling") husband. Ibn al-ʿArabī concludes by declaring that a husband harms his wife when he does not fulfill any of these rights and she is thus entitled to divorce.[30]

If we explore other prominent juristic elaborations on a wife's rights in marriage across time and space, we will encounter similar yet distinct understandings of what harm entails. Take, for instance, the legal digest, *Mukhtaṣar Khalīl*, authored by Khalīl ibnIsḥāq (d. 767/1366). This text became one of the most authoritative references in the Mālikī school, along with several well-known commentaries on it. In one such commentary, Aḥmad al-Dardīr (d. 1201/1787), elaborating on Khalīl's words that a woman has a right to a judicial divorce on the grounds of harm, explains harm as "abandoning her [*hajr*] for no

26. Lukianoff and Haidt, *Coddling of the American Mind*, 26.

27. "Global Norms and Standards: Ending Violence Against Women," UN Women, accessed March 23, 2021, https://www.unwomen.org/en/what-we-do/ending-violence-against-women/globalnorms-and-standards.

28. Valerie Hudson, Donna Lee Bowen, and Perpetua Lynne Nielsen, "What Is the Relationship between Inequity in Family Law and Violence Against Women? Approaching the Issue of Legal Enclaves," *Politics and Gender* 7 (2011): 454–55.

29. The Mālikī school stands out for explicitly allowing judicial divorce on the grounds of harm (*al-tafrīq li'l-ḍarar*). While the Ḥanbalīs also permit divorce due to harm, they do not define it as a specific category within judicial divorce. For more, see Tesneem Alkiek, "The *Maqāṣid al-Sharīʿa*, *Maṣlaḥa*, and Reforming Family Law: Mālikī Law as a Case Study" in *The Oxford Handbook of Islamic Reform*, ed. Natana Delong-Bas and Emad Hamdeh (Oxford University Press, forthcoming). On how this rule became a doctrinal position among the Mālikīs, see Mohammad Fadel, "Doctrinal Change in Mālikī Law: the Case of Judicial Divorce On Account of Harm (*ḍarar*)," *Journal of Comparative Legal History* (forthcoming), http://dx.doi.org/10.2139/ssrn.5283662.

30. As quoted in Muḥammad al-Mahdī al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, ed. ʿUmar ibn Abbād, 8 vols. (Wizārat al-Awqāf wa al-Shuʾūn al-Islāmiyya, 1997), 3:473. If a wife was coerced into a bilateral divorce (*khulʿ*) by way of harm, Mālikī scholars allowed for the wife to retro-actively take her case to court. If harm is established, she is to be returned anything she gave in exchange for the divorce. This is because, if harm occurs, a wife has the right to a judicial divorce (*taṭlīq*) and thus should have been able to freely leave the marriage.

legitimate cause, hitting her likewise [i.e., for no legitimate cause], cursing her or her father such as 'you daughter of a dog, you daughter of a disbeliever, you daughter of a damned person'—the likes of which occur frequently amongst the riffraff of the people [...], and anal sex."[31] Muḥammad al-Dusūqī (d. 1230/1815), another esteemed commentator, clarifies based on one of the earliest Mālikī texts, *al-Sulaymāniyya*, that *hajr* here includes refraining from talking to her and even "turning his face away from her in bed," a sign of avoiding physical or emotional intimacy.[32]

As these examples demonstrate, the Mālikīs were truly unprecedented in their descriptions of harm because they did what the Western world could scarcely do for at least another thousand years: they enforced legal consequences for emotional harm. Harm was not simply physical or financial—it included the violation of a wife's rights to respect and kindness. In other cases, we find concern over other forms of immaterial harm, such as religious corruption. In the works of both al-Wansharīsī and al-Wazzānī, a judge was asked about a husband who exposed his wife to immoral people, threatening her religious welfare.[33] Muḥammad ibnAbī al-Qāsim al-Sijilmāsī (d. 1214/1800), commenting on this case, belabors the gravity of the situation, stressing the wife's right to a judicial divorce to alleviate the harm she may have experienced from exposure to indecency. While the other law schools may not have enforced a marital separation upon a husband who emotionally harmed his wife, such conduct was acknowledged and recognized as carrying grave moral consequences. The 12th-century Ḥanafī exegete al-Zamakhsharī described a husband's ill-conduct (*nushūz*) in immaterial terms, noting that it included depriving his wife of love and subjecting her to verbal abuse, while the 13th-century Shāfiʿī exegete Fakhr al-Dīn al-Rāzī (d. 606/1210) categorized a husband frowning in his wife's face, neglecting her, and treating her badly as ill-conduct.[34]

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31. Al-Dardīr in al-Dusūqī, al-Dardīr, and al-Jundī, *Ḥāshiyat al-Dusūqī*, 2:345.

32. Al-Dusūqī in al-Dusūqī, al-Dardīr, and al-Jundī, *Ḥāshiyat al-Dusūqī*, 2:345; Muḥammad ibn Yūsuf al-Mawwāq, *al-Tāj wa al-iklīl li- Mukhtaṣar Khalīl*, 8 vols. (Dār al-Kutub al-ʿIlmiyya, 1994), 5:265.

33. Al-Wansharīsī, *al-Miʿyār al-muʿrib*, 3:134–35; al-Wazzānī, *al-Nawāzil al-jadīda*, 3:450–1.

34. Hadia Mubarak, *Rebellious Wives, Neglectful Husbands: Controversies in Modern Qur'anic Commentaries* (Oxford University Press, 2022), 104-5; Maḥmūd ibn Umar al-Zamakhsharī, *al-Kashshāf'an ḥaqāʾiq ghawāmiḍ al-tanzīl wa-ʿuyūn al-aqāwīl fī wujūh al-taʾwīl*, ed. ʿĀdil Aḥmad al-Mawjūd and ʿAlī Muḥammad Muʿawwaḍ, 6 vols. (Dār al-Ḥadīth, 2012), 2:156; Fakhr al-Dīn al-Rāzī, *Mafātīḥ al-ghayb (al-tafsīr al-kabīr)*, 33 vols. (Dār Fikr, 1981), 11:66.

Along with the Mālikīs, the Ḥanbalīs emphasize a prohibition of sexual harm. That could mean a number of things, including a lack of sexual intimacy. If a woman lodged a complaint of harm because she was not being sexually fulfilled, a judge could admonish her husband and set a minimum number of times he would have to please his wife or face judicial divorce. While some scholars set that number at once every four months, Ibn Taymiyya argued that a judge should demand a husband be intimate with his wife as often as was normal in their society.[35] Similarly, if a husband went missing or was imprisoned and his wife complained of sexual harm, Mālikī and Ḥanbalī judges would grant the wife a judicial divorce after giving the husband some leeway (6 months to 4 years) to reappear.[36]

Sexual harm could also refer to physical injury a wife may have experienced during intercourse. If a woman, for example, fears vaginal distension (*ifḍāʾ*) from her husband's large penis (*ʿiẓamih*), then she can prevent him from having intercourse.[37] A husband loses his right to sex whenever it physically harms his wife.[38] That includes times when the wife is sick and unable to be intimate. The prominent Ḥanbalī scholar Manṣūr ibn Yūnus al-Buhūtī (d. 1051/1641) justified this limiting of a husband's sexual access by explaining that a husband who harms his wife during intercourse fails to treat his wife according to what is good (*maʿrūf*).[39]

The Ḥanafīs focused on financial harm. A man was responsible for taking care of his wife financially, and any misstep could lead to legal consequences. It was not enough to merely cover the costs; if he was stingy, he could be reprimanded because he is required to spend on his wife what is customarily (*bi-l-maʿrūf*) the norm.[40] A husband was also responsible for making sure that his wife had sufficient funds when he traveled, or even when he went missing. The moment that her funds ran out, a wife could complain to a judge who would then allow her to take out a loan in her husband's name.[41] While the Shāfiʿīs, Mālikīs, and Ḥanbalīs granted women experiencing financial harm a judicial divorce, the Ḥanafīs were much more hesitant to enforce a divorce (*taṭlīq*) without the husband's consent.[42] Instead they came up with two solutions: either the Ḥanafī judge could imprison the husband or he could appoint a non-Ḥanafī judge to separate the couple.[43]

There were several other ways the Shariah recognized harm to a woman in marriage. This included situations where a woman unknowingly married someone with a disease like leprosy, mental illness, or sexual defects.[44] For most law schools, these red flags were grounds for marital dissolution (*faskh*). Harm could also manifest

35. Ibn Taymiyya, *al-Mustadrak ʿalā majmūʿ fatāwa shaykh al-Islām Aḥmad ibn Taymiyya*, ed. Muḥammad ibn Muḥammad Qāsim, 5 vols. (N.p., n.d.), 4:215, 218; al-Buhūtī, *Kashshāf al-qināʿ*, 2549–50.

36. The Hanbalis, for example, grant a woman a divorce if her husband is missing or absent without a valid excuse and she is experiencing harm (*ḍarar*) as a result. See Wahba al-Zuḥaylī, *al-Fiqh al-islāmī wa-adillatuh*, 8 vols. (Dār al-Fikr, 1985), 7:533.

37. Al-Buhūtī, *Kashshāf al-qināʿ*, 2543.

38. Ibn Qudāma, *al-Mughnī*, 10:170.

39. Al-Buhūtī, *Kashshāf al-qināʿ*, 2544–45.

40. Al-Ṣadr al-Shahīd, *Sharḥ Adab al-qāḍī li-l-Khaṣṣāf*, ed. Muḥiyy al-Dīn al-Sarḥān, 4 vols. (Maṭbaʿat al-Irshād, 1978), 4:228–29.

41. Al-Ṣadr al-Shahīd, *Sharḥ Adab al-qāḍī li-l-Khaṣṣāf*, 4:249.

42. Ibn Rushd, *Bidāyat al-mujtahid*, 3:98.

43. Al-Ṣadr al-Shahīd, *Sharḥ Adab al-qāḍī li-l-Khaṣṣāf*, 4:229, 233–34.

44. Ibn Rushd, *Bidāyat al-mujtahid*, 3:96; al-Zuḥaylī, *al-Fiqh al-islāmī*, 7:514–27; al-Buhūtī, *Kashshāf al-qināʿ*, 2461–69.

when a husband intentionally tried to coerce his wife into asking for a bilateral divorce (*khulʿ*); that is to say, when he pressured her to end the marriage and forfeit her dower.[45] In such instances, she had the right to demand her dower back and he was guilty of oppression (*ithm al-ẓulm*).[46] These examples illustrate just how differently judges understood a wife's rights in light of the Qur'an and Sunnah. Each law school delineated a unique set of rights, and when a husband violated them, he was deemed to have subjected his wife to harm.

45. Ibn Rushd, *Bidāyat al-mujtahid*, 3:133.

46. Al-Buhūtī, *Kashshāf al-qināʿ*, 2570.

47. Ibn Rushd, *Bidāyat al-mujtahid*, 3:185–86.

48. Tesneem Alkiek, "Spousal Harm in the Mālikī Law School: Evidence and Procedure," *Islamic Law and Society* 31, 1-2 (2023): 18–22, https://doi.org/10.1163/15685195-bja10049.

Contextualizing Physical Harm

When we have a broader understanding of harm, we are in a better position to comprehend discussions about physical discipline. Whether between the state and its subjects, husbands and wives, parents and their children, or elders and the youth, corporal punishment was a widely-used method of discipline across cultures. Most traditional societies did not function under the prying eye of governing authorities, unlike today. There had to be measures in place for individuals to hold one another accountable. A man was responsible for maintaining order within his family, and in turn the community—sometimes through state institutions—was responsible for regulating its men.

The practice most commonly known as *dār amīn*, or a safehouse, protected women from alleged harm. For hundreds of years, Muslim judges protected women through the equivalent of the "modern" concept of women's shelters.

So deeply embedded were these assumptions in social practice that community members were often involved in resolving cases of marital harm. In line with the Qur'anic command, a husband and wife experiencing marital problems would seek arbitration from members of each family.[47] If their situation was too complex to be resolved by arbitration, the judge or community leader presiding over the case would collect evidence to determine who was more likely to be telling the truth. He would do so by asking the couple's neighbors to testify to what they saw and heard and by questioning community members about the husband's character.[48] It was also common practice to ask a

trustworthy individual to temporarily live with or near the couple to observe and counsel them.[49] Alternatively, the wife herself would move out and live with a trustworthy woman.[50] This practice, known most commonly as *dār amīn*, or a safehouse, protected women from alleged harm.[51] In fact, for hundreds of years, Muslim judges protected women through the equivalent of the "modern" concept of women's shelters. The Granadan scholar Muḥammad ibn Yūsuf al-Mawwāq (d. 897/1492) insisted that even if a couple experiencing marital problems did not request outside help, the community leader (*sulṭān*) was not permitted to leave them alone—he had to get involved.[52] These measures ultimately show us that, when a husband was out of line, both families and community members were summoned to help assess and resolve the situation.

When used within bounds, hitting was intended to be an effective means of discipline. A number of scholars understood a husband's license to hit as a symbolic gesture whereby he could rebuke his wife only with something as light as a toothbrush (*miswāk*) or handkerchief.[53] ʿAṭāʾ ibn Abī Rabāḥ (d. 115/733), a Successor (*tābiʿī*) and mufti of Mecca, went as far as to say that a husband should not hit his wife at all—he should merely express his anger with her.[54] This is because he, and countless other jurists, knew that the Prophet ﷺ openly expressed his disdain for hitting and prioritized his precedent. Unless he was on the battlefield, the Prophet never struck anything with his hand—not a woman nor a slave.[55] He reiterated that the best of people would never hit their wives, and questioned those who did: "How could any of you strike his wife like striking a stallion camel and then hope to embrace her?"[56]

Nonetheless, most jurists allowed for physical discipline—with several caveats. The Qur'anic exegete Muḥammad al-Ṭabarī, for instance, referenced eighteen different reports that stipulated conditions to minimize harm.[57] A husband could never target his wife's face, be severe, break any bones, cause a disfigurement, or leave a mark.[58] He could not deliver more than ten strikes, in keeping with the Prophetic stipulation (except in cases of *ḥudūd*).[59] Most importantly, hitting had to be the very last resort. A husband must have enacted a series of other disciplinary measures, such as verbal admonishment and withdrawing from the marital bed over a series of days, before considering physical discipline. And even then, to proceed, the husband had to be strongly convinced (*ghalabat al-ẓann*) that physical reprimand would be effective in bringing about marital harmony. If he was not, he could not hit.[60]

49. Al-Buhūtī, *Kashshāf al-qināʿ*, 2567; Ibn Taymiyya, *al-Mustadrak*, 4:221; al-Kāsānī, *Badāʾiʿ al-ṣanāʾiʿ*, 5:144-5; Yaḥya ibn Sharaf al-Nawawī, *Rawḍat al-ṭālibīn wa ʿumdat al-muftīn*, ed. Zuhayr al-Shāwīs, 12 vols. (Al-Maktab al-Islāmī, 1991), 7:370.

50. Muḥammad al-Khalwatī, *Ḥāshiyat al-Khalwatī ʿalā Muntahā al-irādāt*, ed. Sāmī ibn Abd Allāh al-Ṣaqīr and Muḥammad ibn Ṣāliḥ al-Luḥaydān, 7 vols. (Dār al-Nawādir, 2011), 4:525; al-Mawwāq, *al-Tāj wa al-iklīl*, 5:263–64.

51. Ibn Qudāma, *al-Mughnī*, 10:263; Maribel Fierro, "Ill-treated Women Seeking Divorce: The Qurʾānic Two Arbiters and Judicial Practice among the Mālikīs in al-Andalus and North Africa," in *Dispensing Justice in Islam: Qadis and Their Judgments*, ed. Muhammad K. Masud, Rudolph Peters, and David S. Powers (Brill, 2006), 323–47.

52. Al-Mawwāq, *al-Tāj wa al-iklīl*, 5:264.

53. Al-Buhūtī, *Kashshāf al-qināʿ*, 2567; Mubarak, *Rebellious Wives, Neglectful Husbands*, 148.

54. Abū Bakr Muḥammad ibn al-ʿArabī, *Aḥkām al-Qurʾān*, ed. Muḥammad ʿAbd al-Qādir ʿAṭāʾ, 4 vols. (Dār al-Kutub al-ʿIlmiyya, 2003), 1:536.

55. *Ṣaḥīḥ Muslim*, no. 2328a.

56. *Ṣaḥīḥ al-Bukhārī*, no. 6042.

57. Hadia Mubarak, "Classical Exegeses on Key Qurʾānic Verses Concerning Women," in *The Oxford Handbook of Islam and Women*, ed. Asma Afsaruddin (Oxford University Press, 2023), 50–51; Muḥammad ibn Jarīr al-Ṭabarī, *Jāmiʿ al-Bayān ʿan Taʾwīl al-Qurʾān*, 2nd ed., ed. Maḥmūd Shākir and Aḥmad Shākir, 13 vols. (Dār al-Maʿārif, 1961), 8:314–315.

58. Al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, 3:448.

59. *Saḥīḥ Muslim*, no. 1708.

60. Muḥammad ibn Muḥammad al-Khaṭīb al-Shirbīnī, *Mughnī al-muḥtāj ilā maʿrifat maʿānī alfāẓ al-Minhāj*, ed. ʿAlī Muḥammad Muʿawwaḍ and ʿĀdil Aḥmad ʿAbd al-Mawjūd, 6 vols. (Dār al-Kutub al-ʿIlmiyya, 1994), 4:427.

Many jurists argued that, when physical discipline is futile, the license to hit becomes categorically *prohibited*. Mālikī scholars as early as Jamāl al-Dīn ibn al-Ḥājib (d. 646/1249) reiterated this principle: if hitting is not going to benefit the situation, it is prohibited.[61] The late scholar Fatḥī al-Duraynī (d. 2013), explaining the Mālikī position, states that if there is no benefit in doing so, then a husband is merely disciplining his wife excessively or harming her. Since this contradicts the intent of the Lawgiver in allowing for discipline in the first place, it is prohibited.[62] One can argue that hitting has the reverse effect on many women today—it aggravates the situation and is thus doubly detrimental. A contemporary of al-Duraynī, ʿAbd al-Ḥalīm Abū Shuqqa (d. 1995), noted that depending on the spousal relationship, a husband's disciplinary measures could be effective. But he admits thereafter, for a prudent wife, hitting would not be a good idea.[63] Muḥammad al-Ṭāhir ibn ʿĀshūr (d. 1973), an exegete and judge, declared that allowing men to hit their wives "is a dangerous matter" and that judges "should announce to men that whoever hits his wife will be punished."[64]

For many women today, any degree of hitting is ineffective and harmful. Yet, just like "trauma" and "domestic violence," what is considered harmful to women has fluctuated along with societal standards. When women in North Africa in the 10th century brought their case before a judge, they would complain that their husband's harm was more than what they were used to (*al-zāʾid ʿalā al-muʿtād*), and in turn, the judge would deem whether or not that harm was "appropriate for a free woman like her."[65] These women openly acknowledged that they tolerated a certain degree of harm in their marriage, and the judges too recognized that a woman's status affected the amount of harm that she should accept. A woman who spends her days grinding wheat and tending cattle might sustain injuries in the course of her work. While her bruises might be overlooked, the same injuries on a woman of high standing would be cause for concern. Meanwhile, in 17th-century Surat, India, women routinely added four conditions to their marriage contract: a husband could not marry a second wife, take a concubine, leave for more than a stipulated amount of time, and "beat his wife with sticks so severely as to leave bruises on her body."[66] These four conditions became so ubiquitous that they often were not explicitly written out but merely referenced as the "four conditions."

These examples are not buried in the books of history. A World Values Survey conducted across 64 countries between 2017 and 2022 found that in nearly half of them (29 to be precise—only a third of which are

61. Khalīl ibn Isḥāq, *al-Tawḍīḥ sharḥ Mukhtaṣar Ibn al-Ḥājib*, ed. Abū al-Fadl al-Dīmyāṭī, 6 vols. (Dār Ibn Ḥazm, 2012), 3:446.

62. Fatḥī al-Duraynī, *Naẓarīyat al-taʿassuf fī istiʿmāl al-ḥaqq fī al-fiqh al-Islāmī*, 2nd ed. (Muʾassasat al-Risāla, 1977), 256.

63. ʿAbd al-Ḥalīm Abū Shuqqa, *Taḥrīr al-marʾa fī ʿaṣr al-risāla*, 6 vols. (Dār al-Qalam li-l-Nashr wa al-Tawzīʿ, 2017), 5:244.

64. Muḥammad al-Ṭāhir ibn ʿĀshūr, *al-Taḥrīr wa al-tanwīr*, 30 vols. (al-Dār al-Tūnusiyya li-l-Nashr, 1984), 5:44; Mubarak, *Rebellious Wives, Neglectful Husbands*, 130.

65. Al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, 3:446.

66. Fareeha Khan, "Tafwīḍ al-Ṭalāq: Transferring the Right to Divorce to the Wife," *The Muslim World* 99 (2009): 505.

majority-Muslim), at least one in four women believe that it is sometimes justifiable for a man to beat his wife.[67] Such beliefs may be interpreted as forms of cognitive dissonance or adaptive preference, in which women have been socially conditioned to tolerate and normalize their abuse. Yet the question remains: to what extent do these attitudes point to the broader reality that understandings of harm have varied considerably throughout history and across cultural context?

It was in recognition of this cultural diversity that Ibn ʿĀshūr (d. 1973) stated that a husband's license to hit was not a blanket invitation for men to physically reprimand their wives, but was rather an exception to accommodate different customs. Men and women in many tribal and Bedouin communities, he elaborated, did not find hitting to be "an act of aggression" and thus used physical reprimand as an effective means of discipline.[68] Unsurprisingly, scholars typically reflected their own social norms when determining the boundaries of harm. For those who inhabited cultures where severe physical chastisement was the norm, there were few boundaries to harm. Abū al-Qāsim al-Burzulī (d. *ca* 841/1438), in response to a case of a woman bruised by her husband's strikes, stated, "If the kind of hitting that results in bruising was the kind that allowed for divorce, there would be few married women left!"[69] Al-Muṭayṭī bluntly admitted that hitting is not something husbands hold back from (*lā yakād yuslim minhu al-azwāj*),[70] but added that excessive (*mutafāḥish*) strikes that left ugly marks inappropriate for a woman "like her" was grounds for divorce.[71] Similarly, Ibrāhīm al-Ṯhaghrī argued that a husband is allowed to hit his wife to the extent that is customary in his society.[72]

How Scholars Protected Women from Harm

As the above examples demonstrate, some scholars throughout history expressed views that, in theory, condoned what many people today consider to be domestic violence. Yet for all the jurists that tolerated violent hitting in manuals of law, we find examples aplenty of how Muslim judges, when actually applying the law, prioritized the protection of women from abuse. As we saw in the case of Rāqī bint Yūnus, women who sought amends for domestic violence in the court system did not walk away empty-handed. The Palestinian mufti Khayr al-Dīn al-Ramlī (d. 1081/1671) charged a husband who knocked out three of his wife's teeth with monetary damages.[73] Not long after, in Aleppo, Syria in 1687, Fāṭima bint Ḥājj ʿAlī sought legal action when her husband hit her with a stick and caused her to bleed. She brought

67. C. Haerpfer, R. Inglehart, A. Moreno, C. Welzel, K. Kizilova, J. Diez-Medrano, M. Lagos, P. Norris, E. Ponarin, and B. Puranen, eds., *World Values Survey: Round Seven – Country-Pooled Datafile Version 5.0.0*, JD Systems Institute & WVSA Secretariat, 2022, https://doi.org/10.14281/18241.20.

68. Mubarak, *Rebellious Wives, Neglectful Husbands*, 151.

69. Al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, 3:459–60.

70. Al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, 3:453.

71. Al-Wazzānī, *al-Nawāzil al-jadīda al-kubrā*, 3:451.

72. Al-Wansharīsī, *al-Miʿyār al-muʿrib*, 4:304.

73. Judith Tucker, *In the House of the Law* (University of California Press, 1998), 66.

along multiple witnesses to testify to her husband's incessant abuse. In turn, the husband was reprimanded and punished.[74]

Other jurists offered preventative measures. They were not oblivious to the reality that marriages very easily turned sour, so they created loopholes in the marital edifice through which women could leave undesirable marriages. Some suggested women add a condition in their contract that would grant them the option for divorce (*khiyār*) if a husband engaged in certain actions like hitting. For example, the well-known Damascene Ḥanbalī jurist Ibn Qayyim al-Jawziyya (d. 751/1350) recommended that if a woman feared her future husband would make her move to a new city, marry another woman, hit her without having committed a crime (*jurm*), or the like, she should set a condition prior to marriage that, if any of these worries materialized, she would have the right to divorce (*amruhā bi-yadihā*). If a woman worries that this condition will not be stipulated prior to the contracting of the marriage, Ibn al-Qayyim emphasizes, then she should withhold her permission from her guardian (*walī*) to contract the marriage until he agrees. Thus "a woman can rid herself of an unpleasant marriage and not worry about taking her case to court," concludes Ibn al-Qayyim—and importantly, "there is nothing wrong (*lā baʾs*) with such a loophole (*ḥīla*)."[75]

As early as the 9th century, women in Egypt and Syria normalized embedding conditions in marriage contracts that guaranteed them an immediate divorce if their husbands married again or subjected them to abuse.[76] By the 13th century in Andalusia, women set even firmer conditions, including prohibiting their husbands from taking additional wives or concubines, abandoning them for over six months, forcing them to relocate, isolating them from their families, or mistreating them physically or financially.[77] Any violation resulted in an automatic divorce. The Mālikī judge, Ibn Salmūn al-Kinānī (d. 767/1365), drafted a notarized document (*wathīqa*) that provided wives with the precise language to claim harm and win their case in court.[78] Hundreds of years later, in the 18th and 19th centuries, when Muslim women in India were desperate enough to apostatize to dissolve their marriages (as there were no other outlets available in Ḥanafī law under colonial rule), the famous Ḥanafī jurist Ashraf ʿAlī Thānvī (d. 1943) recognized the gravity of the situation and penned his famous treatise *al-Ḥīla al-nājiza*, offering women a legal pathway to secure their right to divorce (*tafwīḍ al-ṭalāq*).[79]

74. *The Encyclopedia of Women and Islamic Cultures*, "Domestic Violence: Ottoman Empire," by Elyse Semerdjian, accessed August 5, 2020, http://dx.doi.org.proxy.library.georgetown.edu/10.1163/1872-5309_ewic_EWICCOM_0075g.

75. Ibn Qayyim al-Jawziyya, *Iʿlām al-muwaqqaʿīn ʿan rabb al-ʿālamīn*, ed. Mashhūr Ḥasan Āl Salmān and Aḥmad ʿAbd Allāh Aḥmad, 7 vols. (Dār Ibn al-Jawzī, 2002), 5:368.

76. Mariam Sheibani, "Marriage, Divorce, and Inheritance in Classical Islamic Law and Premodern Practice," in *The Oxford Handbook of Islam and Women*, ed. Asma Afsaruddin (Oxford University Press, 2023), 165.

77. Sheibani, "Marriage, Divorce, and Inheritance"; Amalia Zomeño, "Islamic Marriage Contract in al-Andalus," in *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, ed. Asifa Quraishi and Frank Vogel (Harvard University Press, 2008), 144.

78. ʿAlī ibn ʿAbd Allāh ibn Salmūn al-Kinānī, *al-ʿAqd al-munaẓẓam li-l-ḥukkām*, ed. Muḥammad ʿAbd al-Raḥmān al-Shāghūl (Dār al-Āfāq al-ʿĀrabiyya, 2011), 116–22.

79. Khan, "Tafwīḍ al-Ṭalāq," 502–10.

Ultimately, many prominent scholars expressed their discomfort with physical discipline altogether. The famous hadith scholar Imam al-Bukhārī (d. 256/870) gathered the prophetic narrations on hitting in a chapter titled, "what is disliked of hitting." Ibn Ḥajar al-ʿAsqalānī (d. 852/1449), the great hadith commentator, said that a husband should use hitting as a very last resort—and even then, only minimally to avoid spousal acrimony.[80] Imam al-Shāfiʿī (d. 204/820) reiterated the prophetic words, "the best of you will not strike,"[81] and stressed to men that the Qur'anic license to hit was not an encouragement to do so.[82] The Shāfiʿī exegete al-Rāzī echoed this sentiment and declared that husbands should refrain from physical discipline.[83] Mālikī scholars, like al-Dusūqī and Ibn ʿĀshūr, sought to limit a husband's authority, and the potential escalation of any given situation, by recommending that husbands turn to legal authorities for support. Al-Dusūqī advised that a husband who has not yet admonished his wife should take his case to the local leader (*imām*), who could then admonish her on the husband's behalf.[84] For the Ḥanbalī scholar al-Buhūtī, it was better to preserve spousal love and not strike at all.[85]

Far removed from the bustling streets of 10th-century Baghdad and the stone-paved neighborhoods of 16th-century Anatolia, the social fabric that once tolerated forms of corporal discipline has shifted, and with it, our collective moral sensibilities. By engaging the works of past scholars, we see how their interpretations of the Qur'an and Sunnah were shaped by their social realities. The jurists of those eras confined a husband's disciplinary authority to what was culturally acceptable. Today, as understandings of harm continue to evolve, the classical commitment to repelling harm remains as vital as ever. It is this legacy of principled deliberation and contextual sensitivity that enables Islamic law to be firmly anchored in revelation, while remaining responsive to the ethical challenges of the present.

80. Ibn Ḥajar, *Fatḥ al-Bārī*, 9:303.

81. *Sunan Abī Dāwūd*, no. 2146.

82. Mubarak, *Rebellious Wives, Neglectful Husbands*, 146.

83. Mubarak, *Rebellious Wives, Neglectful Husbands*, 147.

84. Al-Dusūqī, al-Dardīr, and al-Jundī, *Ḥāshiyat al-Dusūqī*, 2:343; Ibn ʿĀshūr, *al-Taḥrīr wa al-tanwīr*, 5:43.

85. Al-Buhūtī, *Kashshāf al-qināʿ*, 2567.