



Muslim Women's Studies

Journal homepage: <https://womenstudy.abu.ac.ir/>



International Journal of Muslim Women Studies

Legal Requirements for Ensuring Women's Psychological Security in the Family: A Comparative Analysis of Comparative Jurisprudence and the Laws of Iran and Egypt

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ARTICLE INFO

Article history:

Received: 09 April 2024

Revised: 15 April 2024

Accepted: 24 February 2024

Keywords:

Psychological Security; Family Law; Comparative Jurisprudence; Iranian Law; Psychological Violence.

ABSTRACT

The necessity and urgency of ensuring a woman's psychological security within the family environment, despite variations in definitions, constituent components, and ethical or religious elements across jurisprudential texts, is unanimously accepted and emphasized by Islamic jurisprudence. This research, employing a descriptive-analytical method with a comparative approach, alongside library-based data collection and analysis from primary jurisprudential sources and Iranian law, addresses the following question: Can an independent right to "psychological security" for women be deduced from the jurisprudential system of the five Islamic schools of thought, and to what extent has this right been reflected and made enforceable in Iranian statutory law? Adopting a comparative approach in examining the five jurisprudential schools, it is argued that ensuring this security is not merely a moral recommendation but a religious obligation and a legal right rooted in the very philosophy of family formation in Islam. The research findings indicate that ensuring a woman's psychological security is rooted in the Islamic philosophy of family formation. Although different schools employ various evidences (such as the prohibition of harm, expanding the concept of financial maintenance (nafaqah), and the obligation of honorable companionship (mu'asharat bi al-ma'rūf)), they all agree on the necessity of creating a calm environment free from harm for women. Existing laws face numerous operational challenges due to a lack of objective definitions of psychological violence, weak evidentiary mechanisms, and insufficient sanctions. The novelty of this article lies in its logical analysis of comparative jurisprudence propositions with consideration for the statutory laws of Iran and Egypt, aiming to address needs and fill legislative gaps. The findings indicate that both countries possess significant jurisprudential support. Egypt has advanced in operationalizing jurisprudential concepts and empowering women through the institution of khul '(judicial divorce at the wife's initiative). In contrast, Iran, by proposing the "Dignity Protection Bill" (Lāyehe-ye Hefz-e Karāmat), has taken a broader step towards criminalization and establishing a comprehensive system to protect women.

E-ISSN: 000-000

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How to cite this article:

T.Naimi, (2024). Legal Requirements for Ensuring Women's Psychological Security in the Family: A Comparative Analysis of Comparative Jurisprudence and the Laws of Iran and Egypt. *Muslim Women's Studies*, 1(3), 75-101. <https://doi.org/10.22034/mws.2026.735818>



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1. Introduction and statement of the problem

The family, as the most fundamental social institution, achieves its optimal function in an atmosphere filled with peace and confidence. In today's turbulent world, numerous factors threaten this tranquil foundation, to the extent that the concept of "psychological security" has become one of the most critical concepts in the health and stability of the family institution.

In the Islamic intellectual system, the family is introduced as the "habitat of peace and tranquility" (Quran, Ar-Rum: 21). This concept is studied in contemporary psychological literature under the heading of "psychological security," considered a key indicator of family health. From the perspective of Islamic teachings, the family is regarded as the "habitat of peace and tranquility." Therefore, the "right to psychological security" can be considered an inherent right for all its members, especially women, who are considered the main axis of education and the survival of the family.

Despite the stipulations in Islamic texts, especially the verses of the Holy Quran (e.g., verse 21 of Surah Ar-Rum: "And of His signs is that He created for you from yourselves mates that you may find tranquility in them") on establishing "tranquility" as the philosophy of family formation, this fundamental question arises: What is the position of guaranteeing this "tranquility and psychological security" in the jurisprudential system of different Islamic schools and also in the positive laws of countries like Iran, which claim to implement Islamic rulings? Furthermore, is it possible to infer specific obligations and rights for ensuring a woman's psychological security from the context of jurisprudential sources? And subsequently, to what extent have these jurisprudential obligations been reflected in Iran's codified laws and are they enforceable? Also, what legal and executive solutions exist to reduce the gap between jurisprudential theory and legal practice in this area?

It seems that despite valuable scattered references in jurisprudential texts, a systematic and comparative study of this issue among the five schools of thought and its reflection in laws represents a gap that this research aims to fill.

Therefore, the fundamental subject and central issue of this research is to analyze the position of guaranteeing this "tranquility and psychological security" within the jurisprudential system of various Islamic schools through comparative analysis and scrutiny of the propositions of the positive laws of Iran and Egypt. The main questions this research seeks to answer are: Can specific obligations and rights for ensuring a woman's psychological security be deduced from authentic jurisprudential sources? To what extent have these jurisprudential obligations been reflected in Iran's codified laws and are they enforceable? It seems that despite scattered and valuable references in jurisprudential texts, a systematic and comparative examination of this issue among the five schools and analyzing its reflection in laws represents a gap that this research has set out to fill.

The novelty of this research lies in its comprehensive and comparative perspective, notable in several axes. The first axis is based on a comparative approach combining jurisprudential and legal perspectives, meaning that for the first time, the concept of "psychological security" as an independent right is placed on the scales of the jurisprudence of the five schools and the Iranian legal system to clearly reveal the strengths and weaknesses of each. The next axis is based on providing executive solutions for the legislative and judicial system and redefining concepts such as headship (riyasat) and good companionship (husn-i mu'asharat). Therefore, according to the mentioned context, the article's structure will include a literature review, theoretical framework

and methodology, presentation of findings in two sections (jurisprudential and legal), discussion, and final conclusion.

2. Literature Review

Research on the status of women in the family and related rights has always been the focal point of numerous studies in the field of jurisprudence and law. Some of the most important of these studies are:

- A study entitled "Investigating the Wife's Right to Mental Health in the Quran and Jurisprudential Hadiths with an Emphasis on Educational Effects" (Hedayat Nia, Javan & Fazelian, 2021) explicitly emphasizes that the rights of the wife in Islamic jurisprudence and law hold a lofty position and significant importance in both physical and psychological dimensions. It concludes that the rights imposed by Islamic jurisprudence on the husband in various dimensions ensure the wife's mental health and tranquility, ultimately promoting family health and positive educational outcomes.
- A study titled: "The Disobedience (Nushuz) of the Husband and its Effects in the Iranian Legal System" (Mozaffari & Hosseini, 2021/1400 AP) states that the non-fulfillment of certain duties by the husband, termed nushuz of the husband, is one of the factors causing harm (dirar) to the wife, affecting her psychologically. From a jurisprudential perspective, such behavior by the husband causes hardship and constriction (usr wa haraj) for the wife. The authors suggest that recognizing the institution of husband's nushuz in law, defining its instances and sanctions, can formalize this institution in positive law.
- A study titled: "The Effectiveness of Mindfulness Based on Cognition on the Quality of Life and Mental Health of Women Facing Divorce Referring to Judicial Centers in Kerman" (Tabatabai, Karimi Afshar & Kamyabi, 2023/1402 AP), aims to analyze and investigate the effectiveness of mindfulness-based cognitive therapy on the quality of life and mental health of women facing divorce who referred to judicial centers in Kerman.
- A study titled: "Domestic Violence, a Threat to Mental Health" (Abbaszadeh, Saadati & Kasb Kar, 2010/1389 AP), aiming to investigate some factors affecting domestic violence and its relationship with the mental health of married women, explains the sociological study of married women in Tabriz, Iran.
- A study titled: "Factors Affecting the Empowerment of Women to Ensure Family Psychological Security" (Ghandehari Alavijeh, 2024/1403 AP), with a comprehensive look at women's empowerment in cultural, economic, political, and social dimensions using qualitative methods and in-depth interviews, considers women's empowerment influenced by two categories of external and internal factors and confirms it.

Despite previous research, the gap of a systematic study that specifically places "psychological security" as an independent axis on the comparative scale of the jurisprudence of the five schools and the positive laws of Iran is clearly felt. Because none of the previous studies have specifically addressed the issue of women's psychological security and its provision. Therefore, the present article aims to fill precisely this gap.

3. Theoretical Framework and Methodology

3-1. Explanation of Conceptual Foundations

Understanding the concept of "psychological security" requires referring to two fields of knowledge: psychology and Islamic texts.

- **The Concept of Psychological Security in Quranic and Narrative Terminology**

In the realm of Quranic propositions, several concepts carry the semantic load of "psychological security," the most important of which are al-Sakinah (tranquility), Amn (security), and Rahmah (mercy).

Al-Sakinah (Sustained Tranquility): The most key concept is Sukun (tranquility), mentioned in the noble verse "Li taskunoo ilayha" (Ar-Rum: 21) as the philosophy of marriage. Allamah Tabatabai in Al-Mizan interpreting this verse, explains Sukun not only as physical peace but also as having significant effects and consequences, such as a specific kind of love that leads to positive outcomes like the removal of anxiety, the dissipation of worries, mutual interaction, and benevolence (Tabatabai, 1391 AP/1971 CE, Vol. 4, p. 136; Vol. 10, p. 374), which precisely corresponds to the modern concept of psychological security. This peace is sustained and internal.

Mawaddah (Love) and Rahmah (Mercy) (Emotional Foundations): The Quran, continuing the same verse, describes the relationship between husband and wife with "Mawaddatan wa Rahmah." Mawaddah means mutual and sustained affection, and Rahmah means compassion and forgiveness that manifest in difficult times. These two provide the emotional network necessary for creating and sustaining psychological security. Martyr Motahhari in his book "The System of Women's Rights in Islam" emphasizes that these two pillars elevate the marital relationship from a merely economic or sexual contract to an emotional and moral covenant (Motahhari, 1444 AH/1402 AP/2023 CE, p. 171).

Explanation of the concept of being the best among people in the Prophetic tradition and the narrations of the Prophet's (PBUH) and Imams' (AS) conduct, who exhibited significantly positive behaviors within their families and treated their wives best, is a practical manifestation of ensuring psychological security for women. Because the correct behavior of men towards women means attending to their affairs and paying attention to their wives, which provides sufficient peace and security for the woman. Hence, the famous hadith "Khayrukum khayrukum li-nisa'ih" (The best of you are those who are best to their wives) and this goodness is the source of positive impact and strengthening the morale of wives, narrated from the Prophet (PBUH) (Al-Hurr al-Amili, 1414 AH, Vol. 14, p. 116), is a general ethical-legal rule that leads to the peace and creation of peace for the woman. Also, the recommendation for "mu'asharat bil-ma'ruf" (kind companionship), discussed in many narrations, means observing customary and ethical rights in all aspects of life (Al-Borujerdi, 1415 AH, Vol. 20, p. 246).

Therefore, it can be concluded that in the Islamic epistemological system, although the exact phrase "psychological security" is not used, similar and fundamental concepts such as Sakinah (sustained tranquility), Amn (security), and Rahmah (mercy) carry a similar meaning. Hence, the combination of these two categories, 'Sakinah' and 'Amn,' defines 'women's psychological security in the family' as a sustained state of inner peace achieved through the feeling of mutual love (Mawaddah), compassion (Rahmah), respect and fairness (Mu'asharat bil-Ma'ruf), and the assurance of support within the framework of Islamic values.

- **The Concept of Psychological Security in Psychological Terminology**

In psychology, this concept refers to a mental state in which the individual is immune from threat, anxiety, and stress and can express their feelings and opinions without worry (Maslow, 1954).

In the realm of psychological literature, "psychological security" refers to a state where the individual feels safe from threat, anxiety, fear, and stress and can express their feelings and opinions without concern. This concept has dimensions such as feeling at peace, self-confidence, peace of mind, and certainty of acceptance in interpersonal relationships. In the family context, a woman's psychological security means the fulfillment of these needs in interaction with her

husband and other members, in a way that her human dignity and identity are respected (Maslow, 1997/1376 AP, pp. 79-80).

In psychological literature, "psychological security," as a fundamental human need, is a state in which the individual is safe from assault, humiliation, chronic stress and anxiety, and feels peace, acceptance, and trust. Maslow (1954), in his hierarchy of needs, places security in the second level after physiological needs, forming the basis for the realization of higher-level needs like love and belonging. In the family context, a woman's psychological security means the fulfillment of these needs in interaction with her husband and other members, so that her human dignity, identity, and sense of worth are respected and protected. The lack of this security can lead to harmful consequences like anxiety, depression, and the collapse of the family unit.

3-2. Research Methodology

This research, adopting a qualitative approach, utilizes a "descriptive-analytical" method. Data collection is done through library research by analyzing primary jurisprudential texts (e.g., Jawahir al-Kalam, Bada'i' al-Sana'i, Al-Umm) and Iranian positive laws (Civil Code, Family Protection Law). The data analysis method is based on logical reasoning and interpretation of texts within the context of the research problem, employing a comparative perspective to compare the opinions of jurisprudential schools and assess their reflection in the Iranian legal system.

Logical reasoning here means a systematic, step-by-step, rational analysis of jurisprudential and legal data so that the conclusions of the present article are based on principles of reasoning and logical connection between foundations and results, not on personal interpretations. This means deriving partial results from general jurisprudential rules or legal articles, and reaching scientific conclusions by putting together texts, opinions, and principles. Therefore, the researcher in this article, through logical reasoning, tries to rationally analyze, resolve, or explain potential contradictions between the opinions of different schools or laws.

4. Research Findings

The most important findings of the research based on jurisprudential and legal sources in the field of analyzing and examining the jurisprudence of women's psychological security in the five schools and Iranian positive law are manifested in the following frameworks:

4-1. Jurisprudential Analysis of Women's Psychological Security in the Five Schools

4-1-1. Imamiyya School (Shi'a)

In the realm of Imamiyya jurisprudence, ensuring the spiritual and emotional security of women is not merely presented as a non-binding ethical recommendation but as a binding religious-doctrinal and legal obligation, supported by the four sources: Quran, Sunnah, Reason, and Consensus. A binding religious-doctrinal obligation is a necessity (wujub), the enforcement of which is deduced from the mentioned sources. The method of deduction based on these sources is as follows:

1. Qur'anic Evidence Indicating the Obligation of Kind Companionship (Mu'asharat bil-Ma'ruf) with Women

The noble verse "Wa 'ashiruhunna bil-ma'ruf" (And live with them in kindness, An-Nisa: 19), which begins with an imperative verb, commands kind companionship. This command is cited by jurists as a binding religious-doctrinal obligation. Because the word "ma'ruf" in this verse refers to any behavior that conforms to the standards of Sharia, sound custom (urf), and good ethics.

The jurisprudential analysis of the content of the mentioned verse is expressed in the jurisprudential writings of scholars, stating that abandoning this "ma'ruf," accepted by the custom of a righteous society, is considered a clear instance of idha' (harm/annoyance). Such harm/annoyance (idha') gives the woman the right to use the haqb al-habs (right of

refusal/emancipation – i.e., the right to refuse marital duties) until the husband fulfills his religious obligation to act righteously (Muhacqiq Karaki, Vol. 20, pp. 273-274). This theory creates a direct legal consequence for violating a woman's psychological security.

2. Narrative Evidence Based on the La Darar (No Harm) Rule, the Negation of Harm/Annoyance (Idha'), and the Prohibition of Harming a Believer

One of the most important jurisprudential rules in the Imamiyya school is the "La Darar" rule, based on the famous Prophetic hadith "La darara wa la dirara fi'l-Islam" (There is no harm nor harming in Islam). The content of this rule is that the Holy Lawgiver (Shari') has not legislated any ruling that causes harm to the obligated person (mukallaf), and any harmful ruling is lifted by virtue of this rule. Imamiyya jurists, from the time of Shaykh Tusi to the contemporary period, have considered this rule not only as "removing harmful rulings" but also as "preventing harmful behaviors." Therefore, in the family domain, any behavior by the husband that leads to physical, financial, or psychological harm to the woman falls under the scope of this rule (Al-Musawi al-Bujnardi, 1998/1377 AP, Vol. 1, pp. 211-213).

One of the most important instances of harm is "psychological harm." This type of harm, including chronic anxiety, fear, humiliation, threat, emotional pressure, and deprivation of spiritual peace, is subject to this rule because it is considered harm by custom. Given the generality of the word "harm" (darar), it can be emphasized that harm is not only financial. Thus, it includes non-material abuses. Therefore, if married life causes severe psychological harm or deprives the woman of mental security, the "La Darar" rule establishes her right to seek removal of the harm; which could include obliging the husband to stop abusive behaviors or even providing the possibility of divorce. In addition to the "La Darar" rule, the jurisprudential rule "Negation of Harm/Annoyance (*Idha')" [under the title: "Rule of the Prohibition of Harming a Believer" or "Hurmat Idha' al-Akh al-Mu'min" (Al-Najafi, 1983/1362 AP, Vol. 21, p. 378; Al-Sayfi al-Mazandarani, 2004/1425 AH, Vol. 4, p. 151)] is rooted in numerous narrations, presenting it as a prominent and central rule in jurisprudential principles. Therefore, one of the central rules in deducing the mentioned ruling is the rule negating harm/annoyance, derived from the famous narration "La yahillu li-mu'minin an yu'dhiya mu'minan" (It is not permissible for a believer to harm another believer) (Wasa'il al-Shi'a, Vol. 12, p. 300, Chapter 17 of the Chapters on the Rules of Social Conduct, Hadith 1), which absolutely forbids any harm/annoyance to a believer.

The meaning of "idha'" (harm/annoyance) is such that it is not limited to physical abuse but includes verbal and psychological-spiritual abuse such as humiliation, insult, emotional neglect, and behaviors that create a tense environment [and disrupts the individual's sense of psychological security]. In jurisprudence, idha' is presented synonymously with dirar (causing harm) and ikhafat al-mu'min (intimidating a believer) (Al-Naraq, undated, Vol. 2, p. 233). Therefore, it can be said that the prohibition of this behavior is not limited to physical abuse but includes insult, humiliation, emotional neglect, and creating a tense environment. Moreover, some sources explicitly state that harm/annoyance (idha') through speech and actions is, in terms of severity, greater than physical beating (Al-Ruhani, Fiqh al-Sadiq, Vol. 14, p. 298).

Also, the existence of khul' divorce in Imamiyya jurisprudence (Ibn Babawayh (Shaykh al-Saduq), 1413 AH, Vol. 3, pp. 522-523, Chapter on Khul') which is also manifested in Iranian positive law [, can be raised as evidence of the importance of women's psychological security, because khul' divorce in Imamiyya jurisprudence is legislated for women who have "severe dislike" (karahah) for continuing life with their husband; this dislike is usually rooted in psychological abuse, unkindness, mistreatment, emotional threat, or spiritual insecurity. Imamiyya jurisprudence acknowledges that continuing a life in which the woman feels "lack of psychological

security" is not in the interest of family life. For this reason, the Lawgiver (Shari') has provided the possibility of separation even without proving fault on the husband's part. This shows that Imamiyya jurisprudence values a woman's health and psychological peace as a religious value, and has provided a legal and religious way to exit a harmful relationship.]

In mubarat divorce, where the dislike is mutual, Imamiyya jurisprudence emphasizes that a life based on tension, hostility, and mutual dissatisfaction should not continue. This jurisprudential institution is precisely designed for situations where the psychological environment of the home has become so tense that its continuation causes harm and spiritual damage. In jurisprudential books (e.g., *Jawahir al-Kalam*, Al-Najafi, Vol. 32, pp. 349-350), it is stated that the main criterion for the legitimacy of this divorce is removing harm and establishing peace. Therefore, the existence of these two legal-religious institutions itself demonstrates Imamiyya jurisprudence's attention to women's psychological security and the necessity of her leaving abusive relationships.

3. Rational Evidence Based on Violating the Purpose of Marriage and the Definitive Doctrine of the Wife's Hardship and Constriction (Usr wa Haraj)

Rational evidence here means using both independent and dependent rational reasoning in this article. The first rational evidence is violating the purpose of marriage based on the philosophy and ultimate goal of marriage. Given that in Qur'anic propositions, the philosophy and ultimate goal of marriage is the peace resulting from the union (*sukun: li taskunoo ilayha*) (Ar-Rum: 21), it is argued that any continuous and systematic behavior that undermines this peace or leads to its destruction is considered a violation of the purpose of concluding the marriage contract. Such reasoning is undoubtedly based on reason, shaped by the goal and existential philosophy of marriage. Violating the purpose of marriage is considered an independent rational argument, because it is based on reason's understanding of the main goal of marriage.

The second rational argument, known as the "Usr wa Haraj" (Hardship and Constriction) or "La Haraj" (No Constriction) rule, which has a rational basis and is affirmed by the established practice of rational people (*bina' al-uqala*). Linguistically, it means difficulty and hardship, the opposite of *yusr* (ease and comfort) (Mohammadi, 1996/1375 AP, pp. 184-185) [which causes the sense of psychological security to be provided. The content of the mentioned rule indicates that obligating matters that cause unbearable hardship is rationally impossible. Because the main goal of obligation is obedience, and obligating harmful matters contradicts such goals. Additionally, humans refrain from performing difficult tasks they are obligated to do. This reasoning is based on the rationality of obligation and human nature. Logically, this rule is considered both as a general rational principle (independent) and, in jurisprudential analysis, as a rule used to deduce rulings with the aid of reason and Sharia (non-independent).]

The jurisprudential analysis of the mentioned rule is based on the fact that contemporary jurists, employing the rule negating hardship and constriction (*usr wa haraj*) [which itself is rooted in the established practice of rational people and reason], have specified that in situations where continuing married life, due to psychological abuse and creating an environment devoid of peace and tranquility, entails severe "hardship and constriction" for the woman, she has the right to request divorce from the ruling authority (*hakim al-shar'*). [Undoubtedly, severe hardship and constriction endanger the wife's sense of psychological security. Therefore], based on the ruling authority's decree, a "judicial divorce" or compulsory divorce is issued. The expansion of this type of divorce based on hardship and constriction in Imamiyya jurisprudence was first proposed by Sayyid Yazdi in the supplements to *Al-Urwah al-Wuthqa* (Tabatabai Yazdi, 1414 AH, Vol. 1, pp. 75-76), and the legal propositions of Iran have also affirmed it. Hence, in the realm of Iranian

positive law, hardship and constriction (*usr wa haraj*) is, in fact, a situation where continuing life causes difficulty for the wife and makes it hard to bear (Article 1130 of the Iranian Civil Code). Consequently, it can be emphasized that in Imamiyya jurisprudence, a woman's psychological security is an undoubted religious right, supported by transmitted evidence (the verse on kind companionship and the rule negating harm/annoyance) and rational evidence (violating the purpose of tranquility). Therefore, the Islamic legal system, by recognizing rights such as the right of refusal (*haqb al-habs*) for the wife in case of the husband's harm/annoyance, as well as the possibility of requesting divorce due to hardship and constriction resulting from psycho-spiritual insecurity, has considered appropriate sanctions for such a right.

4-1-2. Hanafi School

Hanafi jurisprudence, by expanding the scope of *nafaqah* (maintenance), does not limit it merely to providing material needs like food, clothing, and housing, but also presents the psychological and emotional comfort of the woman as an essential part of the instances of obligatory *nafaqah*. Accordingly, the husband is obliged to provide a safe and stress-free environment for his wife. Therefore, from the perspective of prominent Hanafi jurists, peace of heart and peace of mind, termed "*providing sakan al-qalb wa tamaninatahu*" (tranquility and reassurance of the heart), is considered one of the instances of *nafaqah* (Ibn Abidin, 1421 AH, Vol. 3, p. 579). [Undoubtedly, the husband's attention to fulfilling financial needs is one of the factors that provide the wife's peace. Because neglecting the wife's financial needs creates grounds for her worry or anxiety. Therefore, if the husband's negligence in performing duties and lack of attention to the wife's needs, as well as] the husband's violent or abusive behaviors cause the wife anxiety, he has not fulfilled his commitment to pay full *nafaqah*.

Furthermore, the jurisprudential rule "*La darara wa la dirara*" (There should be no harm nor causing of harm) in Hanafi jurisprudence is considered a key principle in prohibiting any harmful behavior. Hence, some Hanafi jurists, like Al-Kasani in his book *Bada'i' al-Sana'i' fi Tartib al-Shara'i'*, relying on this rule, deem any action that causes "spiritual or psychological harm" to the woman forbidden (Al-Kasani, 1986 CE, Vol. 4, p. 198). This view shows that Hanafi jurisprudence not only pays attention to the material aspects of married life but also protects the woman's mental health and self-esteem.

Apparently, according to the jurisprudential propositions based on the necessity of providing spiritual well-being and not harming the woman, which are evident in Hanafi jurisprudence (Sarakhsi, undated, Vol. 5, p. 220), one can use a term equivalent to the concept of psychological maintenance (*nafaqah*). Propositions based on good behavior towards the wife, which indicate the husband's responsibility to avoid causing behavioral and verbal harm to the wife, are an undeniable necessity (Al-Kasani al-Hanafi, 2003/1424 AH, Vol. 3, p. 610)].

4-1-3. Shafi'i School

Ibn Idris al-Shafi'i, in his famous book, explicitly presents the principle of good companionship (*husn al-mu'asharah*) as a religious obligation upon the husband. From his perspective, this concept goes beyond avoiding physical harm and includes behaving with respect, justice, and attention to the woman's emotions. Shafi'i, citing Quranic verses (An-Nisa/19), emphasizes that good companionship is not merely an ethical recommendation but a religious obligation within the marriage contract (Al-Shafi'i, 2001 CE, Vol. 5, p. 83).

Also, among the prominent commentators of the Shafi'i school, Imam Nawawi, through a scientific interpretation of good companionship (*husn al-mu'asharah*), has explained this concept objectively. From his perspective, this concept has three main pillars: *mudarakatan* (tolerance) meaning patience in interactions between the parties, *ikram* (honoring) meaning preserving the

emotional and social status of the woman, and *tahammul adha al-mar'ah* (bearing the wife's annoyances) meaning patience in the face of her potential mistakes or adversities (Al-Nawawi, 2000 CE, p. 234). Such interpretations indicate that the obligation of good companionship is not one-sided but creates a balance between the mutual rights of husband and wife.

The analysis of Shafi'i and Hanafi jurisprudential propositions indicates that compared to Hanafi jurisprudence, which emphasizes "providing *sakan al-qalb*" (psychological peace) as part of *nafaqah*, the Shafi'i school, focusing on "*Husn al-Mu'asharah*" (Good Companionship), seeks an active framework for daily behavior. While Hanafis place psychological peace under financial rights, Shafi'is directly link it to ethics. This difference demonstrates the richness of jurisprudential schools in addressing various dimensions of women's human dignity.

The emphasis of Imam Shafi'i and commentators like Nawawi on bearing the wife's annoyances indicates that this concept is not merely a personal instruction but can become a tool for strengthening the family. Because in today's society, where men are required to show tolerance for dialogue and conflict resolution instead of violence, the mentioned attitude, based on a kind of forbearance, can prevent social harms like emotional divorce, proving that Shafi'i jurisprudence, in addition to paying attention to religious formalities, considers the depth of human relationships.

4-1-4. Hanbali School

Jurists of the Hanbali school consider good companionship with one's wife not merely an ethical recommendation but a binding religious obligation. (Al-Suyuti, 1961 CE, Vol. 5, p. 287).

Ibn Qudamah al-Maqdisi, in his jurisprudential book *Al-Mughni*, specifically analyzes this religious duty. He argues in detail and explicitly that good behavior is not limited to avoiding harm and annoyance but includes a wide range of positive obligations, including kind speech, tolerance of faults, and participation in creating a safe emotional atmosphere. Therefore, he considers abandoning this duty a form of sin and disobedience to the explicit command of the Prophet (PBUH) (Ibn Qudamah, 1968 CE, Vol. 7, p. 293).

This binding religious duty (*wujūb*) is derived from a specific interpretation of the general concept of guardianship (*qiwāmah*) of men (*al-rijālu qawwāmūna 'alā al-nisā'*). The Hanbali school interprets *qiwāmah* not as an absolute right but as a responsibility conditional on justice and benevolence. Ibn 'Aqil al-Hanbali in *Al-Wāḍiḥ fī Uṣūl al-Fiqh* emphasizes that *qiwāmah* without observing benevolence (*iḥsān*) is incomplete, and the husband will be held accountable by God for this responsibility (Ibn 'Aqil, undated, Vol. 3, p. 87).

The concept of "*husn al-mu'asharah*" in the view of Hanbali jurists is very broad, extending beyond minimum living standards. This concept includes companionship with kindness (*al-ma'ruf*) in all aspects of shared life, including considering the wife's emotional and psychological state even during disagreements. For example, behaviors such as overlooking some mistakes, cheerfulness, and avoiding harshness and unnecessary estrangement are considered clear instances of this religious duty (Al-Buhuti, 1983 CE, Vol. 5, p. 178).

Summarizing the Hanbali jurisprudential perspective, it can be said that the obligation of good companionship (*wujub husn al-mu'asharah*) is a fundamental and indispensable principle in marital relations. This perspective bases the family legal system on ethics and mercy and considers any shortcoming in this area a sin. This emphasis demonstrates the depth of the Islamic view on the human dignity of the spouse and the effort to create a warm family nucleus based on authentic religious values (Al-Mardawi, 1956 CE, Vol. 8, p. 234).

Hanbali jurists, citing the Prophetic hadith "*Khayrukum khayrukum li-ahlihi*" (The best of you is those who are best to their families), have emphasized the obligation of good companionship. Ibn

Qudamah in Al-Mughni (Vol. 8, p. 123) considers good behavior towards one's wife not only an ethical virtue but a religious duty, the abandonment of which is considered a sin.

4-1-5. Maliki School

The Maliki jurisprudential school, by centering on the concept of "al-Ma'ruf" (that which is recognized as good and proper by the custom of society) [, not merely as an obligation to what is intrinsically good and worthy, but as an indicator for identifying what is conventional and accepted in society], provides a realistic framework for regulating marital relations. In this approach, "urf" (custom) plays the role of a diagnostic criterion; meaning the limits and quality of the spouses' duties – especially the husband's behavior – are assessed based on what is "conventional" in the social context of time and place. Ibn Rushd al-Hafid also explicitly emphasizes in Bidayat al-Mujtahid that the husband's behavior must conform to the conventional standard recognized and accepted by the society in which he lives (Ibn Rushd, 1997 CE, Vol. 2, p. 54).

In his analysis, Ibn Rushd introduces "*al-ma'rūf*" as a criterion for interpreting ambiguities in marital rights. For example, regarding *nafaqah* and the level of expenses the husband is obliged to provide, societal custom determines its quantity and quality. This approach shows that Maliki jurisprudence views Sharia in dynamic interaction with changing social conditions and explains rulings within the framework of "*urf*," which is itself one of the sources of legal deduction in this school (Ibn Rushd, 1997 CE, Vol. 2, p. 55).

The inextricable link between observing "al-ma'rūf" and preserving women's "human dignity" is a strength and distinguishing feature of Maliki jurisprudence. This means that the husband's behavior should not lead to humiliation, insult, or the trampling of the woman's personality, even if within the framework of certain religious rights. Al-Kharshi, in his commentary on Mukhtasar Khalil, states that any behavior considered customary insulting or against a woman's honor is forbidden and void (Al-Kharshi, undated, Vol. 4, p. 207).

The scope of "al-Ma'ruf" goes beyond financial and livelihood matters and includes communication styles, methods of dispute resolution, and even expressions of love and attention. For example, a society's custom might consider a husband's participation in some household chores or accompaniment to social gatherings as part of a good husband's behavior. Al-Sanhuri, in Mawsu'at al-Fiqh al-Maliki, writes that abandoning such matters, which are deemed necessary by custom, can constitute a case of hardship and constriction (*usr wa haraj*) for the woman (Al-Sanhuri, 2003 CE, p. 291).

Ultimately, the Maliki school's emphasis on "al-ma'rūf" as a religious duty is actually a guarantee for the dynamism and flexibility of family rulings and the prevention of unreasonable rigidities. This perspective defines women's rights not in rigid and fixed forms but within the context of a living society, considering her honor and social status. Al-Dusuqi, in his gloss on Al-Sharh al-Kabir, notes that the ultimate criterion in disputes concerning behavior is the custom of virtuous and good people in that same society (Al-Dusuqi, undated, Vol. 2, p. 305).

Overall, a comparative analysis indicates that all jurisprudential schools, although with different evidence, unanimously agree on the necessity of ensuring a woman's psychological security as a religious obligation. The analysis of the scope of the religious ruling concerning a woman's right to psychological security in the jurisprudence of the five schools, and the jurisprudential sanctions for enforcing this right, confirm this claim:

Table of the Scope of the Type of Religious Ruling concerning the "Principle of a Woman's Right to Psychological Security" in the Five Schools of Jurisprudence:

Type of Religious Ruling on the Principle Right	Core Evidence	School
Religious obligation of the husband to respect psychological security	Kind Companionship (Mu'asharat bil-Ma'ruf) - Negation of Harm (Idha')	Imamiyya
Religious obligation framed as a religious imperative for the man to behave non-harmfully	Expansion of Nafaqah - The La Darar Rule	Hanafi
Religious obligation (wajib shar'i) to respect psychological security	Obligation of Good Companionship (Wujub Husn al-Mu'asharah)	Shafi'i
An undeniable and necessary right (haqq) for the woman	The Hadith "Khayrukum li-nisa'ih" (The best of you are those best to their wives)	Hanbali
A binding customary obligation validated by Sharia (ilzam 'urfi mu'tabar mu'ayyad min al-shar')	Observing Customary al-Ma'ruf	Maliki

Table of the Scope of Jurisprudential Sanctions in Case of Violation of a Woman's Right to Psychological Security in the Five Schools

Instances of Psychological Idha' (Harm/Annoyance)	Jurisprudential Sanction in Case of Violation	School
Humiliation - Threat - Instilling Fear	Hardship and Constriction (Usr wa Haraj) - Right of Refusal (Haqb al-Habs) in some cases	Imamiyya
Emotional neglect - Constant monitoring or severe control	Objecting to Deficient Nafaqah as a means of claiming rights	Hanafi
Humiliation - Threat - Instilling Terror	Condemnation as a sign of faith deficiency; possibility of judicial guidance	Shafi'i
Intimidation - Causing Grief - Terrorizing	Possibility of divorce due to harm/annoyance; judicial intervention	Hanbali
Continuous mental anguish - Severe emotional neglect	Judicial intervention in severe harm/annoyance cases; enforcing the obligation to reform companionship	Maliki

4-2. Analysis of the Positive Laws of Iran and Egypt in Light of Jurisprudential Findings

The analysis of the positive laws of Iran and Egypt in light of the jurisprudential findings indicates the existing capacities within the current laws of Iran, where the official school is Imamiyya, and Egypt, where the majority of society follows the Hanafi school. These capacities and gaps are structured as follows:

4-2-1. Existing Capacities in the Positive Laws of Iran

a. The Civil Code

Article 1103 of this Code, inspired by jurisprudential texts, obliges husband and wife to treat each other with kindness. Iranian judicial precedent interprets this concept as including respectful behavior, refraining from foul language, and psychological violence. This article, based on interactional jurisprudence, emphasizes the mutual responsibility of couples.

In general, the concept of "husn mu'asharat" (kind companionship) is a fluid term that is redefined with social developments. Meanwhile, in judicial precedents, the most common instances of psychological violence, including humiliation, threat, and illogical restriction of communications, overshadow the kind relationship between couples.

Article 1119, by providing for the possibility of including a power of attorney for divorce as a condition (shart) in the marriage contract, places an effective legal tool at women's disposal. Accordingly, a woman can stipulate the right to divorce for specific cases, including the husband's violation of duties arising from kind companionship.

This article represents optional rights in Iran's legal system. Furthermore, the possibility of stipulating a power of attorney for divorce is considered a tool for regulating power in family relationships. In practice, proving a violation of kind companionship requires authentic evidence.

b. The Family Protection Law

Article 21 of the Family Protection Law (adopted 2012/1391 AP) obliges the entire legal system of the Islamic Republic of Iran to specially support permanent marriage and register temporary marriage in cases of the wife's pregnancy, mutual agreement, or a condition within the contract, in order to prioritize and strengthen family relationships.

Meanwhile, Article 10 of the said law explicitly states that the court has the authority to postpone court sessions at the request of one or both spouses, up to a maximum of two times, in order to provide an opportunity for peace and reconciliation.

Furthermore, with the aim of strengthening family foundations, preventing the increase of family disputes and divorce, and attempting to create peace and reconciliation, the judiciary is obliged to establish family counseling centers alongside family courts within three years from the date this law comes into effect (Family Protection Law, adopted 2012/1391 AP, Article 16).

The note to this article states that in areas where family counseling centers affiliated with the State Welfare Organization exist, courts may also utilize the capacity of these centers.

The overarching goal of mentioning this article is that the legislator seeks to create a specialized and preventive structure alongside the judicial system. Moreover, this article creates a time-bound legal duty (three years) for the Judiciary to establish the necessary infrastructure to support the family.

This section demonstrates a cooperative approach across governmental branches. Instead of parallel work, existing capacities of the Welfare Organization are utilized, which saves resources and leverages existing expertise.

Article 19 of this law also states that family counseling centers, while providing counseling services to couples, implement the court's requests within the specified deadline and attempt to create reconciliation in relevant cases. If reconciliation is achieved, these centers prepare a reconciliation deed; otherwise, they submit their expert opinion regarding the causes and reasons for non-reconciliation in writing and independently to the court.

Family counseling centers generally have three main duties: First, providing counseling services, meaning helping couples understand the roots of their disputes and find solutions. Second, attempting to create reconciliation, meaning active and targeted intervention for conciliation between the parties. Third, preparing reports for the court. In case of success, preparing a reconciliation agreement, which is a type of official document to end the dispute. In case of failure, providing a reasoned and scientific expert report explaining the reasons for the failure of reconciliation.

The aforementioned articles, taken together, show that the legislator, aiming to preserve the family, has designed a phased, multi-stage process:

- **First:** Creating an opportunity, i.e., granting time to the spouses (Article 10).
- **Second:** Creating infrastructure, i.e., providing specialized tools (counseling centers) (Article 16).
- **Third:** Specialized action and reporting, i.e., using those tools for practical action and assisting the court in issuing a verdict (Article 19).

This approach changes the judicial system's approach from mere arbitration to active crisis management with scientific and specialized tools. The ultimate goal of the mentioned propositions is for the legislator to consider divorce as the last resort after passing through the mentioned filters. So, generally, these articles create a multi-layered system to prevent family breakdown and promote conciliation. The purpose of Article 10 is to provide an opportunity for couples to think, talk, and return to life by allowing the court to postpone proceedings. Because the passage of time can prevent hasty decisions in crisis situations. Furthermore, such a delay can be used to utilize counseling services, intervention of family elders, or direct negotiations. Hence, it can be emphasized that these articles create a specific support chain that strengthens women's psychological security in several levels:

Level One: Creating a Safe Space for Protest and Dialogue

In many families, women lack the ability to express dissatisfaction and protest due to family considerations, dependencies, or fear of the consequences and creating tension. Article 10, by granting a "deferral opportunity" at the request of even one party, gives the woman the power to stop the hasty divorce process without needing the husband's agreement. Because a woman can use this article to create time for reflection and gathering evidence (in cases of violence). She can also distance herself from a sudden crisis, such as a severe argument, and make wise decisions in a calmer atmosphere. Consequently, this article provides a kind of control tool for the woman, making her feel more in command of her life, which itself forms the main foundation of her psychological security.

Level Two: Entry of a Neutral, Specialized Third Party

Articles 16 and 19 represent the peak of support for a woman's psychological security, because in family disputes, the woman often feels lonely and isolated. According to these articles, counseling centers enter the field as formal, neutral, and specialized institutions; the mere presence of a neutral institution that hears the woman's voice can, in itself, strengthen her sense of psychological security.

Furthermore, many psychological harms to women (such as humiliation, control, emotional neglect, verbal violence, etc.) are not visible. Specialized counselors can identify and name these hidden violences. In their reports (based on the wording of Article 19), they can transfer these cases under the heading "reasons for non-reconciliation" to the court in a reasoned and scientific manner. Such a report will serve as an authentic document that can corroborate the woman's claim and remove her from a position of baseless allegations. For example, a woman who has suffered emotional violence for years might not be able to prove this effectively in court, but the counselor in their report might write: "Due to the existence of a persistent pattern of emotional violence and systematic humiliation by the husband, the ground for psychological security for continuing married life is lost, and reconciliation is impossible."

Level Three: The Necessity of Distinguishing between "Possible Reconciliation" and "Harmful Reconciliation"

Article 19 contains the most crucial point for a woman's psychological security: reconciliation is not the main goal at any price. Because a reconciliation deed is another expression of mutual consent. Therefore, reconciliation is meaningful when the woman's basic rights and security are

preserved. If a woman is forced into reconciliation under pressure or threat, this reconciliation itself is a new form of violence. Therefore, a report stating the impossibility of reconciliation is equivalent to the woman's psychological salvation. When the counseling center declares, in a scientific and reasoned manner, that reconciliation is impossible, it is effectively announcing to the court and society that continuing this life is hazardous for this woman's mental health. Such a report lifts the emotional burden and feelings of guilt from the woman's shoulders. The law grants her legal and psychological legitimacy to exit an unhealthy life situation.

The analysis of the above articles indicates that the legislator's approach is not merely to prevent divorce but to prevent a destructive life. Furthermore, psychological security is a prerequisite for preserving the family, as the law implicitly accepts that a family where the woman's psychological security is disregarded is unhealthy and not worth preserving. Also, the mentioned legal propositions provide diagnostic and support tools. By establishing counseling centers and requiring reasoned and scientific reports, the law creates a diagnostic system to differentiate between resolvable disputes and harmful, destructive relationships. Therefore, it can be said that these laws transform the woman from a passive complainant in court to an active actor in a supportive process where her voice is heard, understood, and supported by specialized institutions.

c. The Code of Civil Procedure of Public and Revolutionary Courts in Civil Matters

Article 178 of the mentioned code states that at any stage of civil proceedings, the parties have the authority to end their lawsuit by establishing conciliation (Civil Procedure Code of Public and Revolutionary Courts in Civil Matters, adopted 2000/1379 AP).

Also, Article 184 states that after reaching a conciliation, the court concludes the proceedings and issues a conciliation report (gozaresh-e eslahi). The contents of the conciliation deed, prepared according to the above articles, are binding and valid for the parties, heirs, and their legal successors and are enforced like court judgments, whether the subject of the conciliation pertains to the disputed lawsuit or includes other claims or matters.

These articles represent an important tool for reducing tension and ensuring the psychological comfort of the disputing parties. Voluntary conciliation instead of compulsory litigation reduces the tense atmosphere of the family environment. Furthermore, its process expedites the resolution of disputes.

d. The Draft Bill for the Protection of Dignity and Support for Women against Violence

This bill, which is currently in its final stages of approval (submitted by the government to the parliament for legal procedures in 2020/1399 AP), is, in fact, a long and forward step to fill many of the mentioned gaps. [The time-consuming nature of this bill's approval process requires a more detailed investigation of its causes and influencing factors.] The analysis of this bill within the framework of the present research is as follows:

1. Strengths and Progressive Points for Implementing the Bill

This bill explicitly defines psychological and emotional violence and lists some of its common instances in today's world, such as: humiliation, insult, swearing and using obscene words, threats of divorce or remarrying, preventing continuous communication with relatives, deprivation and continuous emotional neglect, etc. Such definitions have the potential to fill the main legal gaps and significantly reduce the difficulty of proving such violence.

Furthermore, the bill clearly states that preventing a woman from working against her will, using her property without her consent, and non-payment of nafaqah (maintenance) without a valid reason are considered instances of violence. This approach aligns with the expansion of the concept of nafaqah discussed in the Hanafi jurisprudence section.

Additionally, the bill does not merely rely on divorce as a solution but, for the first time, provides criminal penalties for non-physical violence. Such penalties include fines, mandatory training courses, free community service, and even imprisonment in severe cases, suggesting significant deterrent potential. Moreover, it provides for the establishment of a special police force for women's protection and a family and child court with specialized judges.

Furthermore, the bill obligates the government to include the prohibition of violence against women in school curricula and media programs, establish counseling centers, and design and implement necessary educational and cultural programs to enhance public culture regarding the avoidance of violence, preservation of dignity, and protection of women against violence (Articles 12 and 13).

2. Focal Points and Challenges for Implementing the Bill

Despite the aforementioned strengths, there are also focal points and challenges for implementing this bill. This means that the full success of this bill and the correct understanding and implementation of its provisions depend on culturalization in society and adequate training for judges and police. Because if a judge interprets instances of psychological violence as normal marital issues, the bill will effectively lose its efficacy.

Furthermore, establishing a specialized police force, training personnel, and creating specialized courts requires allocation of significant budget and resources, which can be a major challenge for implementing the bill.

e. Legislative Gaps and Challenges

Despite the mentioned capacities in the legislative domain, framed within legal articles (e.g., Articles 1103 and 1119 of the Civil Code and articles of the Family Protection Law), Iran's legal system faces the following gaps and challenges in ensuring women's psychological security:

1. Lack of an Objective and Comprehensive Definition of Concepts: "Psychological Security" and "Psychological Violence"

Legal articles like "husn mu'asharat" (kind companionship) (Article 1103 of the Civil Code) or "usr wa haraj" (hardship and constriction) (Article 1130 of the Civil Code) are, in fact, general and fluid concepts that the presiding judge interprets in a customary manner. This leads to contradictory judgments and lack of clarity for citizens and judges. Explanation: If a woman is a victim of "systematic emotional neglect," "humiliation," or "psychological control," she can hardly prove these concepts in court under the heading of "usr wa haraj" or "violation of kind companionship." Because these behaviors are not defined in an illustrative manner in any law.

2. Difficulty in Proving Psychological Violence

Creating a tense environment or persistent humiliation is practically, most of the time, not provable in court with authentic documents (like written evidence or eyewitnesses). In these cases, the burden of proof lies with the woman, and psychological violence often lacks tangible evidence. Therefore, in many cases, due to lack of sufficient evidence, these lawsuits may be closed, and the woman forced to continue and tolerate unhealthy living conditions.

3. Weak and Insufficient Deterrent Sanctions

If a woman proves the violation of kind companionship or psychological harm/annoyance (idha'), there is no effective sanction for it. This means that judicial precedent mainly limits nafaqah (maintenance) to material needs, and "psychological nafaqah" as a separate and claimable right has no place, as it is considered a non-financial right of the woman, and in many cases, there is no sufficient sanction for it. Although the right of refusal (haqb al-habs) mentioned in Article 1085 of the Civil Code exists for the right to nafaqah, this article and this right are usually applied to guarantee the payment of financial nafaqah, and invoking it for lack of psychological security has

no precedent in judicial practice. Furthermore, no specific deterrent punishment is provided for psychological violence.

4. Existence of Traditional Interpretations of Qiwwamah in Article 1105 of the Civil Code

In explaining the concept of a man's qiwwamah (guardianship/maintenance), there are differing views among scholars and jurists. Some traditional interpretations consider qiwwamah to imply the right to supervise and control the woman's behavior, viewing it as a basis for exerting dominance which, if excessive, can undermine the woman's psychological security. This means interpreting qiwwamah as a right to control, supervise, or dominate (Tabarsi, 1993/1372 AP, Vol. 3, pp. 68-69). In contrast, some contemporary jurists and scholars, by re-examining jurisprudential propositions across the five schools, believe that qiwwamah is not a tool of dominance but an ethical and legal responsibility for ensuring peace, mercy, and justice in the family (Sadiqi Tehrani, 1986/1365 AP, Vol. 7, pp. 36-38). This means defining qiwwamah as the responsibility to ensure justice and mercy. This research, relying on the latter view, argues that a responsibility-oriented interpretation of qiwwamah is more aligned with the foundations of women's psychological security.

5. Ineffectiveness of the Educational and Counseling System in Preventing and Resolving Marital Disputes

Although Articles 16 and 19 of the Family Protection Law have positive aspects, nonetheless, counseling for couples is often provided after disputes arise and on the verge of divorce. There is no mandatory educational program for communication skills and awareness of mutual rights before marriage and during married life, which is a serious obstacle to preventing disputes and preserving the family foundation.

6. Practical Implementation Challenge of the Conflict between "Husband's Headship" and "Kind Companionship"

Article 1105 of the Civil Code, by recognizing the husband's headship (riyasat) over the family, is sometimes misinterpreted in practice. Some, by incorrectly citing this article, consider it a license for psychological control and illogical restriction of the woman's freedoms.

In analyzing this apparent conflict, it must be emphasized that the husband's headship in Islam means "the responsibility to manage and supervise the family" within the framework of respecting the woman's rights and human dignity, not "the right to despotism and imposing one's opinion." Nevertheless, despite possessing valuable general principles, the Iranian legal system faces serious shortcomings at the implementation level and in providing effective practical mechanisms to resolve these conflicts.

4-2-2. Existing Capacities in the Positive Laws of Egypt

Egypt's legal system, as the most populous Arab country, is a blend of civil law (influenced by French law) and Islamic jurisprudence (predominantly Hanafi). In this country, laws are made by Parliament (the legislative branch), ensuring their compliance with the "general principles of Sharia" "and the enforcement of laws is overseen by irremovable judges in the "Supreme Constitutional Court". The Court's method of applying Egyptian government laws to the fundamental principles of Sharia follows a two-stage methodology. In the first stage, the fundamental principles of Sharia related to the raised issue are identified.

Thus, in the first stage, the Court examines the Quran, Sunnah, and the jurisprudential rules of the four schools to identify the fundamental principles of Sharia. According to the Court, fundamental principles are found in the clear and unambiguous verses (muhkamat) of the Quran and authentic Sunnah... In the second stage, the Court determines whether the law in question contradicts the identified and known fundamental principles of Sharia? The rulings issued by the Court, delivered

by seven judges, are final, non-appealable, have *res judicata* authority, and are published in the Official Gazette. In this area, laws related to the family and women's rights are derived from legal propositions based on this system. Therefore, regarding the legal requirements for ensuring women's psychological security, the provisions of Law No. 1 of 2000 CE, known as the "Personal Status Law" or "Khul' Law," as well as the Egyptian Penal Code, constitute the most important legal capacities in this regard:

a) The Egyptian Personal Status Law

In the Egyptian Personal Status Law, a woman has the right to request judicial divorce, known as *tatliq* (divorce for harm). This means the law grants the woman the authority and right to request divorce from the court in case of harm and hardship. (Law No. 1 of 2000 CE issuing the law regulating certain situations and litigation procedures in personal status matters, according to the latest amendment issued on September 5, 2020, Article 20).

Generally, Egyptian law includes a section on dissolution of marriage, defined and presented in laws for deadlock and unsolvable situations (Law No. 1 of 2000 CE and the law on rulings of maintenance and certain personal status matters, amended by Law No. 100 of 1985 CE). Egyptian judicial practice has expanded the concept of harm (*darar*), not limiting it to physical harm. Therefore, inspired by the approach based on the existence of moral harm, this type of harm is considered alongside material harm, thus allowing for granting the woman the right to separate, considering legal and ethical responsibility within the family legal system in this system.

Thus, such an approach considers continuous psychological abuse like humiliation, insult, severe emotional neglect, and creating a tense environment as instances of harm that make married life unbearable for the woman. This perspective aligns with the expansion of the concept of "psychological *nafaqah*" in Hanafi jurisprudence. Because Hanafi jurisprudence, which is the main basis of Egypt's Personal Status Law, does not limit *nafaqah* to material needs but extends its scope to preserving the woman's dignity and mental health. Therefore, obliging a man to pay *nafaqah* is not limited to providing food and shelter. Rather, he is obliged to provide a safe environment free from insult and humiliation for his wife.

Consequently, when a man, through behaviors like continuous humiliation, severe emotional neglect, and creating tense environments, deprives the woman of her existential security, such an interpretation makes married life unbearable for the woman, allowing her to request judicial divorce under Article 20 of the Personal Status Law. Furthermore, the institution of *khul'* is also placed as a pre-emptive solution in the wording of Article 20 of the Egyptian Personal Status Law. Accordingly, a woman can request divorce from the court, even without proving harm, by returning all or part of her dowry (*mahr*) to her husband. The court is then obliged, after attempting reconciliation, to accept this request. This institution provides a powerful tool for women to exit an unhealthy life in situations where their psychological security is compromised for any reason (even without the ability to prove it in court). This mechanism removes the burden of proof from the woman's shoulders.

On the other hand, the Egyptian legislator's emphasis on summoning two arbitrators before issuing a divorce decree are derived from Islamic jurisprudence based on the explicit wording of the Quranic verse (An-Nisa/35). Therefore, this matter is also stipulated and emphasized in the Personal Status Law. Hence, the court is obliged, in case of a woman's request for divorce due to "disobedience (*nushuz*)" or "harm (*darar*)," before the substantive hearing, to invite two arbitrators (*hakam*), one from the wife's family and one from the husband's family, who possess the qualities of justice (*adalah*), to effect "reform" between the spouses. This institution is not merely a formal procedure but indicates a conscious legislative policy prioritizing the preservation of the family

nucleus. This process allows for reflection, re-dialogue, and anger reduction. However, this institution is also a two-way guarantee.

b) The Egyptian Penal Code

Although the Egyptian Penal Code does not have an independent chapter explicitly titled "psychological violence," it adopts an indirect approach to criminalization by addressing some of its clear instances in scattered articles. For example, the Egyptian Penal Code specifies a punishment for defamation/insult called "al-sabb" (verbal abuse), which can include swearing, humiliation, and using offensive words by the husband towards his wife. Also, slander/defamation called "al-qadhf" (false accusation of adultery/unchaste acts) is mentioned, which involves attributing forbidden and dishonorable acts contrary to religion and public morality; these articles directly address the social honor and dignity of the woman, which are pillars of her psychological security (Egyptian Penal Code, 2003 CE, Articles 302 and 306).

Furthermore, some articles criminalize acts of creating pressure, intimidation, and threats as examples of psychologically abusive behaviors; if committed by the husband, they can constitute acts that undermine the woman's dignity and psychological peace (Egyptian Penal Code, 2003 CE, Article 375, replaced by Law No. 24 of 1951 CE). These are prosecutable and punishable. Therefore, Egyptian judges can use a broad interpretation of these general laws as a type of criminal support for vindicating women's rights and as a criterion for assessing harm (darar) in tatliq (divorce) lawsuits.

c) Legislative Gaps and Challenges in Egypt

Although the positive laws of Egypt, such as the Personal Status Law and the Penal Code, address concepts like harm (darar) and crimes based on threat, intimidation, insult, and attributing dishonorable acts, etc., there is no explicit and objective legal definition of "psychological violence" in these texts.

Such ambiguity and lack of explicit explanation force the judge into difficulty in enumerating instances of psychological violence, which can sometimes lead to contradictory judicial rulings. For instance, a specific behavior like the husband's prolonged silence or mutism might be considered an instance of harm in one court but not in another. Such inconsistency can jeopardize women's legal security and make their access to justice unreliable.

Therefore, the difficulty of proving claims of psychological harm in judicial courts, despite the concept of harm being expanded in judicial practice, remains a problem for women. The burden of proving claims of psychological harm, such as humiliation, emotional neglect, etc., lies with the woman who makes the claim. Because psychological violence often lacks objective evidence like a medical certificate for physical injuries. Thus, proving it in court is difficult. Women often resort to witness testimony to prove their claims, but this also has obstacles; witnesses are often unwilling to testify, or their testimony is insufficient. Such obstacles effectively cause many women to abandon their complaints. Those who do not abandon them face the difficulty of the emotional and financial costs of litigation.

In conclusion, it can be noted that proving moral harm (darar ma'nawi) requires the existence of clues, indications, and witness testimony, which is often unprovable in most cases, and this is an undeniable challenge in this area.

Another challenge is the lack of direct and deterrent criminal sanctions. The Egyptian legislator's primary solution in facing psychological violence is granting women the right to request divorce. Although this right is of great value, it functions as a civil sanction and lacks criminal deterrent effect. For many severe instances of psychological violence, such as house arrest, preventing communication with family or friends, or systematic psychological torture, the Egyptian Penal

Code does not provide specific and direct criminal sanctions. In this system, punishing a man who makes his wife's life difficult through psychologically violent actions is merely allowing the wife to separate from him. Such a response not only fails to deter the offender but might implicitly suggest to society that such behaviors are not taken seriously, as they carry no criminal consequences.

4-2-3. Comparative Analysis of Iran and Egypt

Table of the Fundamental Components of a Woman's Right to Psychological Security and their Comparison in the Laws of Iran and Egypt

Arab Republic of Egypt	Islamic Republic of Iran	Fundamental Component
Hanafi school as the majority school	Imamiyya (Ja'fari) school as the majority school	Official School of Law
Expansion of <i>nafaqah</i> concept, <i>Lā Ḍarar</i> rule, concept of harm (<i>ḍarar</i>)	Honorable companionship (<i>ma'rūf</i>), prohibition of harm (<i>idhā'</i>), rule of hardship (' <i>usr wa haraj</i>)	Jurisprudential Basis for the Right to Psychological Security
Judicial divorce for harm (<i>tatlīq lil-ḍarar</i>) and the institution of <i>khul'</i> (Egyptian Civil Code, 2000, Part One)	Hardship (' <i>usr wa haraj</i>) (Art. 1130 Civil Code) - condition for delegated divorce (<i>tafwīḍ al-ṭalāq</i>) - institution of <i>khul'</i>	Fundamental Legal Mechanisms
Gap exists. However, the concept of harm (<i>ḍarar</i>) has been expanded by judicial practice.	Gap exists. However, the "Dignity Protection Bill," if ratified, will fill this gap.	Need for a Comprehensive Definition of "Psychological Violence"
In the process of "judicial divorce for harm (<i>tatlīq lil-ḍarar</i>)," it is upon the woman. In the process of <i>khul'</i> , the burden of proof is removed.	For proving the mechanism of hardship (' <i>usr wa haraj</i>), it is upon the wife.	Burden of Proof for Psychological Violence and on Whom it Falls
Criminal sanctions are weak. However, they can be considered indirectly (through general laws like defamation).	Criminal sanctions are weak. However, the "Dignity Protection Bill" provides for criminal penalties for this.	Need for Criminal Sanctions
The institution of <i>khul'</i> exists as an efficient and fast solution. The concept of harm (<i>ḍarar</i>) has been expanded in judicial practice.	Mandatory counseling is strongly emphasized (Family Protection Law). Provision for specialized police and courts is included in the "Dignity Protection Bill."	Strengths of the Legal System
Proving "harm (<i>ḍarar</i>)" in practice is difficult. Specialized institutions like special police for women's protection do not exist.	Proving psychological hardship (' <i>usr wa haraj</i>) is often difficult. Traditional and biased interpretations exist regarding "guardianship (<i>qiwāmah</i>)" and husband's authority.	Weaknesses of the Legal System

According to the table above, both legal systems of Iran and Egypt, inspired by Islamic jurisprudence, have paid attention in some way to the existence of women's rights to live in an environment free from harm. However, Egypt, by ratifying the institution of *khul'*, has taken more practical steps towards empowering women and enabling them to exit unhealthy lives. Such a mechanism can prevent many evidentiary challenges.

On the other hand, Iran, by providing for mandatory counseling institutions, especially with the drafting of the "Dignity Protection Bill for Women," has the strength of clearly and specifically defining psychological violence and providing criminal sanctions for it. Thus, if this bill is ratified, Iran will be more advanced than Egypt in terms of the direct criminalization of psychological violence

Table of the Degree of Compliance of Jurisprudential Components for the Right to Psychological Security in the Laws of Iran and Egypt

Reflection in Iranian Laws	Jurisprudential Component	Degree of Compliance (Egypt)	Reflection in Egyptian Jurisprudence and Laws	Degree of Compliance (Iran)	Reflection in Iranian Laws	Jurisprudential Component
Article 1103 Civil Code	Obligation (Wujub) of Kind Companionship	Relative-General Compliance	General obligation to observe ethics and al-ma'ruf within the framework of Hanafi jurisprudence. The law does not explicitly state it, but the spirit governing Personal Status laws is based on it.	Complete Compliance	Article 1103 Civil Code	Obligation (Wujub) of Kind Companionship based on Quranic verses
Article 1130 Civil Code (Usr wa Haraj)	Negation of Harm/Annoyance (Idha') and Harm (Darar)	Complete-Practical Compliance (due to judicial expansion of darar)	Article 20 of the Personal Status Law (Law No. 1 of 2000) which permits "tatliq (divorce) for darar (harm)". Egyptian judicial practice interprets darar to include psychological abuse.	Relative Compliance	Article 1130 Civil Code (Usr wa Haraj)	Negation of Harm/Annoyance (Idha') and Harm (Darar)

Article 1130 Civil Code	Woman's Right in Cases of Ushr wa Haraj	Complete-Practical Compliance (simpler and dual mechanism: tatliq and khul')	Article 20 of the same law (tatliq for darar). Also, the khul' institution, even without proving darar, provides a way out of ush wa haraj.	Complete Compliance	Article 1130 Civil Code	Woman's Right in Cases of Ushr wa Haraj
Limited to material needs	Expansion of the Concept of Nafaqah	Relative-Theoretical Compliance (strong in jurisprudence, weak in law)	In Hanafi jurisprudence, "providing sak an al-qalb" (psychological peace) is considered part of nafaqah. However, Egyptian laws have not explicitly made this claimable in court.	Incomplete Compliance	Limited to material needs	Expansion of the Concept of Nafaqah
Article 1130 Civil Code (indirectly)	The La Darar Rule	Complete Compliance	It is the main basis for "tatliq for darar" in Article 20 of the Personal Status Law. This rule is the direct legal support for defending women against any mental and psychological harm.	Relative Compliance	Article 1130 Civil Code (indirectly)	The La Darar Rule
Weak; Stipulated in the Dignity Protection Bill (pending)	Criminal Sanction	Incomplete Compliance	General criminal laws (e.g., insult and slander); no specific law for directly criminalizing psychological violence.	Incomplete Compliance (in transition)	Weak; Stipulated in the Dignity Protection Bill (pending)	Criminal Sanction

According to the above table, one of the strengths of Iran's legal system is the definition of general and value-based concepts like kind companionship (husn mu'asharat) and hardship and constriction (ushr wa haraj) in the Civil Code. Nevertheless, one of the weaknesses is the fluidity of these concepts, difficulty of proof, and insufficient sanctions. In this area, the Dignity Protection Bill can compensate for this deficiency.

Also, one of the strengths of Egypt's legal system is the operationalization of jurisprudential concepts within the framework of specific and practical approaches, such as *tatliq* in cases of harm, especially *khul'*, which removes the burden of proof from the woman. However, the lack of explicit and extensive stipulation in the law and the lack of direct criminalization of psychological violence are existing weaknesses.

In conclusion, it can be said that both countries possess significant jurisprudential support, but Egypt has forged ahead in the practical implementation of *khul'*, while Iran, with the Dignity Protection Bill, has taken a longer stride towards criminalization and establishing a comprehensive system to protect women. On the other hand, the mentioned strengths can serve as an applicable model for other Islamic countries

5. Discussion and Conclusion

5-1. Discussion

The synthesis of findings and the analysis conducted in this research show that the concept of "psychological security," although a modern term in psychological literature, has deep roots in Islamic texts. The comparison of the opinions of the five jurisprudential schools demonstrates that all of them, relying on various evidence, from Quranic verses like "*Wa 'ashiruhunna bil-ma'ruf*" to narrations of the Infallibles (AS) and jurisprudential rules like "*La darar*," unanimously agree on the obligation to ensure a woman's psychological security. Therefore, all Islamic schools, despite differences in evidence, agree on the obligation to ensure a woman's psychological security. The main and fundamental difference lies in the enforcement guarantees and mechanisms for operationalizing such a right within its scope of application.

From the perspective of comparative jurisprudence, the principle of reconciliation (*sulh*) is one of the axiomatic and accepted principles in Imamiyya and Sunni jurisprudence (*al-sulhu ja'iz bayn al-muslimin*), and it has been greatly emphasized. Analyses from the perspective of dynamic jurisprudence indicate that the concept of a man's headship (*riyasat*) in married life means his responsibility to provide tranquility (*sukun*), not his right to despotism or bullying towards the woman.

A noteworthy point in this review is the commonality among the schools regarding the necessity of preserving a woman's human dignity and the prohibition of any behavior that causes her harm/annoyance (*idha'*) or psychological harm (*darar*). Although the phrasing and cited evidence differ, the final result in all schools is the same: the husband is obliged to create a safe and stress-free environment for his wife. Nevertheless, there is no definitive mechanism to ensure against forced reconciliation between couples within supervisory frameworks.

According to the mentioned points, the distinguishing features of Iranian and Egyptian law in the field of women's psychological security in the family can be explained within the framework of the strengths and weaknesses of each. Considering the aforementioned legal propositions in Iran's legal system, the most important strengths of Iranian laws in this area are reliance on strong jurisprudential concepts. Given that a large part of Iran's Civil Code is based on Imamiyya jurisprudence, concepts like kind companionship (*husn mu'asharat*), negation of harm/annoyance (*nafy idha'*), and the rule of hardship and constriction (*usr wa haraj*) are evident in the said law, providing a significant theoretical framework for protecting women against psychological violence. Also, the special emphasis on mandatory counseling based on the Family Protection Law and the Dignity Protection Bill; mandatory counseling is considered a preventive and supportive action that can help reduce psychological violence. A notable point is that the Dignity Protection Bill, if passed, can be used to protect women and Iran will surpass Egypt in terms of directly criminalizing psychological violence.

The Dignity Protection Bill provides for the establishment of specialized courts and police forces to handle domestic violence cases, which can help expedite the judicial process and increase the effectiveness of the judicial system, and this is another strength of Iranian law.

Nevertheless, weaknesses are also evident, such as the ambiguity and fluidity of concepts like hardship and constriction (*usr wa haraj*) and harm/annoyance (*idha'*) in the Civil Code, which are defined vaguely and fluidly, making these concepts difficult to prove in practice. Also, traditional and biased interpretations of "*qiwamah*" and the husband's headship (*riyasat*) can favor men in domestic violence cases and undermine women's rights. Furthermore, the criminal sanction for psychological violence in Iran is currently weak in some cases. The lack of specialized institutions like a special police force for women's protection can lead to reduced effectiveness of preventive measures and handling of domestic violence cases.

The aforementioned legal propositions in Egypt's legal system are also noteworthy. Scrutiny and analysis of these propositions indicate that strengths are evident in it. For example, Egypt, by passing the *khul'* institution (in the form of divorce by mutual agreement between the woman and the man), has provided an efficient and fast mechanism for women to exit unhealthy lives. This mechanism removes the burden of proof from the woman and allows her to exit the marital relationship without needing to prove the man's violence.

Furthermore, Egyptian courts have expanded the concept of harm (*darar*) to include psychological abuse. Such expansion allows women to defend themselves against psychological violence. The emphasized jurisprudence in Egypt is Hanafi jurisprudence, which considers providing *sakan al-qalb* (psychological peace) as part of *nafaqah*, which has the potential to help protect women against psychological violence.

Nevertheless, weaknesses are also evident in these propositions. For example, Egypt's Personal Status Law does not fully address psychological violence; however, it lacks a comprehensive definition of this concept and explicit stipulation in the law. Moreover, Egypt lacks a specific law for the direct criminalization of psychological violence. Also, although the concept of harm (*darar*) has been expanded in the country's judicial practice, proving it in practice remains difficult. Furthermore, the lack of specialized institutions and special police for women's protection can lead to reduced effectiveness in preventive measures and handling of domestic violence cases.

Analysis of the strengths and weaknesses of both systems indicates the advantages of Iranian laws over Egypt in the form of reliance on strong concepts and the provision of the Dignity Protection Bill, which, if passed, could be a major step towards criminalizing psychological violence and creating a comprehensive support system for women. Meanwhile, the advantage of Egyptian laws over Iran lies in the operationalization of jurisprudential concepts through the *khul'* institution and the expansion of the concept of harm (*darar*) in judicial practice. Nevertheless, its weakness lies in the lack of explicit stipulation in the law and the lack of direct criminalization of psychological violence.

5-2. Conclusion

According to the above points, the most important results of the research are framed as follows:

1. This research, through a comparative analysis in two areas – the jurisprudence of the five schools and Iran's legal system – suggests that a woman's psychological security in the family institution is an undeniable right with a solid jurisprudential foundation. Definitive Quranic texts with concepts like *sukun* (tranquility), *mawaddah* (love), and *rahmah* (mercy) testify to this claim, and jurisprudential findings show that Islamic Sharia has progressively and proactively paid attention to the spiritual and

emotional aspects of women in marital life, not merely commanding men to avoid abuse but obligating them to create a safe, loving, and respectful environment.

2. All five jurisprudential schools, citing Qur'anic and narrative evidence and employing rules like negation of harm/annoyance (*nafy idha'*), *la darar* (no harm), unanimously agree on the obligation to ensure a woman's psychological security as a binding religious-doctrinal ruling (*hukm taklifi ilzami*). The point of difference is mainly in the core evidence and jurisprudential sanctions such as the right of refusal (*haqb al-habs*), applying hardship and constriction (*usr wa haraj*), or objecting to the payment of *nafaqah*.

3. In the realm of Iranian positive law, the articles of the Civil Code and the Family Protection Law possess significant theoretical capacities. Nevertheless, due to the generality and fluidity of concepts like kind companionship (*husn mu'asharat*), the difficulty of proving psychological violence, and the weakness of sanctions, they practically face serious challenges.

4. The "Dignity Protection and Women's Support against Violence Bill," by providing an objective definition of instances of psychological violence and stipulating criminal sanctions and specialized institutions, has taken a long and necessary step to fill existing legislative gaps.

5. Woman's psychological security is a jurisprudential and religious right that exists in Islamic texts. However, transforming this theoretical right into an enforceable right in Iran's legal system requires passing the said bill, specialized training for judges, and culturalization in society.

6. The comparative analysis of Iran and Egypt indicates that neither legal system can be complete on its own. The *khul'* institution in Egypt is an efficient model for empowering women and reducing evidentiary obstacles, and the preventive and comprehensive approach in Iran, within the framework of the Dignity Protection Bill (if passed and implemented), can provide a complete model for ensuring women's psychological security. Therefore, combining the strengths of both systems can provide useful solutions for implementation in Islamic countries.

7. Despite the legal and jurisprudential provisions, the most important challenge in the field of "psychological security" is the issue of proving the claim in court. Proving physical violence is usually possible with forensic medical certificates and visible effects (like bruises or injuries), but proving psychological violence, verbal threats, and persistent humiliation in the closed environment of the home faces great difficulties in terms of evidence (such as the need for witnesses) in judicial practice.

8. Overall, the legislative approach in Iran has moved towards recognizing and criminalizing psychological violence against women, although the full implementation of these protections requires the final approval of relevant bills, the creation of supportive infrastructures, and a change in the practical procedures for proving claims.

9. The research findings indicate that both Iran and Egypt possess significant jurisprudential support, but Egypt has forged ahead in operationalizing jurisprudential concepts and empowering women through the institution of *khul'*. In contrast, Iran, by providing the Dignity Protection Bill, has taken a longer stride towards criminalization and establishing a comprehensive system to protect women.

10. Generally speaking, it can be said that Egypt has an advantage in terms of the speed and ease of women exiting unhealthy lives, while Iran has greater potential in terms of

criminalization and creating a comprehensive support system in the future (if the bill is passed). Ultimately, both countries have the opportunity to benefit from each other's experiences to improve their legal system regarding women's psychological security.

6. Recommendations

To overcome existing challenges and maximize the operationalization of this research's achievements, the following recommendations are presented in three areas:

First Area: Necessity of Legislative Recommendations in Lawmaking Interactions

- It is recommended that in future laws, objective examples be formulated to recognize such a right. In laws to be ratified in the future (like the "Women's Security Bill") or in an addendum to the Civil Code, objective instances of "psychological violence" and "behavior contrary to good companionship" (such as continuous humiliation, threats, unreasonable restriction of communications, creating a sense of fear) should be clearly defined.
- It is recommended, inspired by Islamic and ethical sources, to consider urgent protective mechanisms. Provide for the possibility of issuing a temporary judicial order by the court to prohibit the violent person from contacting, approaching, or any harassing action immediately after the woman's complaint.
- It is recommended that Article 1105 of the Iranian Civil Code be redefined in light of women's psychological security. In interpreting or amending this article, emphasize that "guardianship" means "the responsibility of managing the family based on consultation and mutual rights," and any misuse of it is considered a violation of "good companionship."

Second Area: Necessity of Judicial Recommendations to the Judiciary

- It is recommended to develop uniform guidelines for family court judges to diagnose and establish psychological violence and rely on it in rulings on hardship ('usr wa haraj). Also, in relevant cases, the use of psychological reports from accredited centers should be made mandatory as primary evidence for proving psychological violence.
- It is recommended to strengthen the cooperation of judicial bodies with family counseling centers and make referral to these centers in the initial stages of disputes a standard procedure.

Third Area: Necessity of Recommendations for Comparative Studies

- It is recommended to model the institution of khul' from the Egyptian system. The Iranian legislator, while preserving the conditions and religious criteria, should consider a mechanism similar to "khul'" in Egypt so that women who, for any reason, find continuing life a threat to their psychological security but have difficulty proving hardship ('usr wa haraj), have the possibility to exit an unhealthy relationship more quickly and with less judicial complexity by forfeiting part of their financial rights. Likewise, joint working groups between judges from Iran and Egypt should be formed to exchange judicial practices in interpreting concepts like harm (darar) and hardship ('usr wa haraj) and to develop a judicial doctrine on psychological violence, allowing for the exchange of judicial experiences.

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