

In verses about marriage and relationships, the Qur'an names several values: *ma'ruf* (that which is commonly known to be good), *mawaddah wa rahmah* (love and compassion), *sakinah* (serenity), *tashawur wa taradi* (consultation and mutual consent), *qist* (fairness), *ihsan* (kindness), and *karamah* (dignity).

But these values unfortunately do not define marriage and family relations in many Muslim laws and practices today. Instead, a husband is often considered the head of the household with absolute authority over his wife. While this patriarchal idea is common across all cultures and religions, in Muslim contexts this idea is justified with reference to the Qur'an, and is captured in a juristic concept known as '*qiwamah*' – a set of fixed rights and duties in marriage in which husbands are expected to protect and provide and wives in turn must obey.

The concept of *qiwamah*, understood to mean male authority over women, is well-known and widely accepted in Muslim communities. It underpins the legal construction of marriage and is used to justify provisions in Muslim family laws that grant men rights and privileges that women do not enjoy.

Contrary to common belief, the term *qiwamah* does not appear in the Qur'an. It is related to the word *qawwamun* in *Surah an-Nisa'* 4:34, which also appears in *Surah an-Nisa'* 4:135 and *Surah al-Ma'idah* 5:8. In all three cases, the term affirms the Qur'anic ethics of justice.

However, early jurists interpreted *qawwamun* in *Surah an-Nisa'* 4:34 based on patriarchal notions of gender relations from their own time and place. They developed *qiwamah* as a legal principle that justifies unequal spousal roles. In our contemporary contexts, this legal framework no longer reflects the justice of Islam and causes harm to marital and family relations.

The other terms used in the Qur'an to explain and define relationships – *ma'ruf*, *mawaddah wa rahmah*, *sakinah*, *tashawur wa taradi*, *qist*, *ihsan*, *karamah* – can and should guide marriage today. This is the best way to follow the message of the Qur'an and the example of the Prophet and thus to ensure well-being within families.



Muslim family laws and practices must promote equality in marriage.



WHY IT MATTERS

Hierarchy and inequality within marriages are harmful to both spouses and children:

Wives' contributions are often not recognized.



Wives provide for and protect their families to varying degrees through financial contributions and/or unpaid care and domestic work. Wives generally bear a disproportionate share of unpaid labour at home. But wives usually do not gain equal status, decision-making responsibilities, shares in family property, or any legal rights or privileges for these contributions.



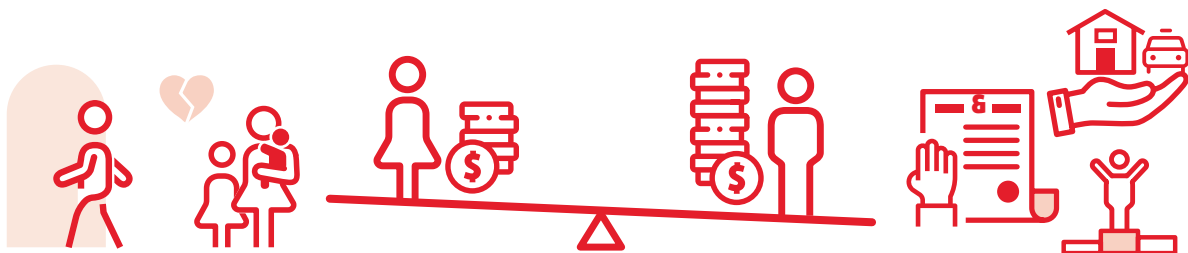
Hierarchy in spousal roles can result in domestic violence.

Laws and practices that provide for unequal spousal roles breed a culture, values, and mindsets in which husbands feel they have a right to hit, rape, or sexually abuse their wives.



Unequal spousal roles can negatively affect children.

Tensions between parents about injustices in their relationship can have a harmful impact on children. Restricting fathers to earning income may decrease their involvement in raising children, which deprives both fathers and children of close relationships with each other.



Assumptions that men are primary income earners may limit the ability of all women to be financially independent.

Such assumptions can lead to working women, married or single, earning less than their male co-workers and can restrict opportunities for women to work formally or informally.

A legal framework which grants men power and authority over women can exacerbate discrimination against women in times of crisis.

Unequal laws allow men to be privileged over women and children in terms of access to scarce resources (e.g., food, healthcare, support services, and emergency funds).

Wives may not be able to conduct legal and financial transactions or manage their own property.

Despite the fact that this is a right in both classical and contemporary family laws, wives sometimes cannot sign contracts, conduct banking procedures, or manage their property on their own because of unequal laws, deference to husbands, negotiated arrangements with families, or lack of awareness of their rights.



Men are delaying marriage or abandoning marriage altogether because of unreasonable financial expectations.

Such unrealistic expectations include high rates of *mahr* (dower) as part of the marriage contract as well as provisions for the family after the marriage takes place. High rates of unemployment or underemployment in many parts of the world accentuate the problem.

Wives may not be able to leave home or move about freely when they are subject to husbands' absolute authority.

In some cases, wives cannot study, work, leave the house, or obtain travel documents without permission from their husbands.

Obligating men to be sole providers is unrealistic and unfair for the whole family.

Under the juristic understanding of *qiwamah*, men are expected and feel obligated to be sole providers and protectors. But in today's economies, household roles and responsibilities must be flexible, depending on who is best able to undertake a role at a particular juncture in the marriage. Expectations that the husband can and will carry household burdens alone can lead to anxiety, feelings of failure, tensions within the couple or family, and sometimes even domestic violence.



Some international human rights obligations related to equality between spouses:

- **Universal Declaration of Human Rights article 16(1):** 'Men and women ... are entitled to equal rights as to marriage, during marriage and at its dissolution.'
- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) article 16(1):** 'States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: ... (c) The same rights and responsibilities during marriage and at its dissolution; ... (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation; (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.'
- **Human Rights Committee (Convention on Civil and Political Rights) General Comment 19, paragraph 8:** 'During marriage, the spouses should have equal rights and responsibilities in the family. This equality extends to all matters arising from their relationship, such as choice of residence, running of the household, education of the children and administration of assets.'
- **Human Rights Committee (Convention on Civil and Political Rights) General Comment 28, paragraph 25:** 'Equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family.'

WHY THE LAWS CAN BE CHANGED

Equality between spouses must be embedded in laws, policies, and practices in a way that is consistent with today's realities. This can and has been done in accordance with teachings from the Qur'an, historical practice, and examples of the Prophet (pbuh) treating family members with trust, respect, compassion, and care:

1 The term '*qiwamah*' – and the concept of *qiwamah* that is articulated in *fiqh* and contemporary laws – does not occur in the Qur'an.

It is related to the word *qawwamun* in *Surah an-Nisa'* 4:34, which the jurists interpreted in a way to sanction male authority and hierarchical gender relations. But this was not the only possible interpretation. In *Surah an-Nisa'* 4:135 and *Surah al-Ma'idah* 5:8, the terms *qawwamun* / *qawwamin* refer to the obligation of all believers to stand firmly for justice and fairness in both private and public domains. The term '*qawwamun*' in *Surah an-Nisa'* 4:34 similarly could have and can be interpreted to stand for maintaining justice in the family.



CONSULTATION AND MUTUAL CONSENT (*tashawur wa taradi*)
FAIRNESS (*qist*)
KINDNESS (*ihsan*)
DIGNITY (*karamah*)

3 The Qur'an offers us a set of values to guide human relationships.

Protection within marriage should be seen as mutual caregiving between two equals, rather than authority, domination, and obedience of one over the other. The Qur'an speaks of marriage as an intimate and serene union in *Surah al-Baqarah* 2:187 ('They are your garments and ye are their garments') and *Surah ar-Rum* 30:21 ('He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy (*mawaddah wa rahmah*) between your (hearts)'). In *Surah an-Nisa'* 4:21, marriage is called a 'solemn covenant' (*mithaq ghaliz*), with *mithaq* derived from *thiqa* (trust). The term '*bi'l-ma'ruf*' (that which is commonly known to be good) appears in the Qur'an 20 times in relation to marriage and how women and men should treat one another. Other values include consultation and mutual consent (*tashawur wa taradi*), fairness (*qist*), kindness (*ihsan*), and dignity (*karamah*).

2 The Qur'an repeatedly emphasizes equality in human relationships.

- *Surah an-Nisa'* 4:1 specifies that God created a soul (*nafs*) and its mate (*zawj*), and from this equal pair, multitudes of people were created. The verse then links this equality in creation and partnership with devotion to God (*taqwa*).
- The concept of *tawhid* (the oneness of God) entails the idea that God has a direct relationship with each individual, and no one individual has a higher status than another.
- Human beings are God's *khilafah* (trustees) on earth (*Surah al-Baqarah* 2:30). All people, regardless of gender, are responsible for managing life on earth, doing justice, and enjoining the good and forbidding evil (*Surah at-Tawbah* 9:71).
- Similarly, all humans are required to be just, do good, and perform 'righteous deeds' in both private and public domains, and all will be rewarded for such deeds (*Surah an-Nahl* 16:90; *Surah ali-Imran* 3:195; *Surah an-Nisa'* 4:124; *Surah an-Nahl* 16:97; *Surah al-Ahzab* 33:35).



4 Stories in the Qur'an and Sunnah demonstrate how the Prophet's spousal relationships were based on communication, consultation, mutual trust, and care, rather than authority and obedience.

The Prophet reportedly had gentle and intimate connections with his wives, cared for and comforted family members, took part in housework, and valued his wives' opinions and counsel. His wife Aishah reported that in his house the Prophet 'mended sandals and patched garments and sewed' (al-Albani).



WHERE REFORM HAS HAPPENED

Several countries have acted to change laws and policies to ensure equality between spouses:

Algeria:

The Family Code requires each spouse to cohabitate in harmony, mutual respect and kindness, contribute jointly to the preservation of the family's interests, the protection of their children and the provision of a sound education for them, and mutually agree in the management of the family's affairs, including the spacing of births.

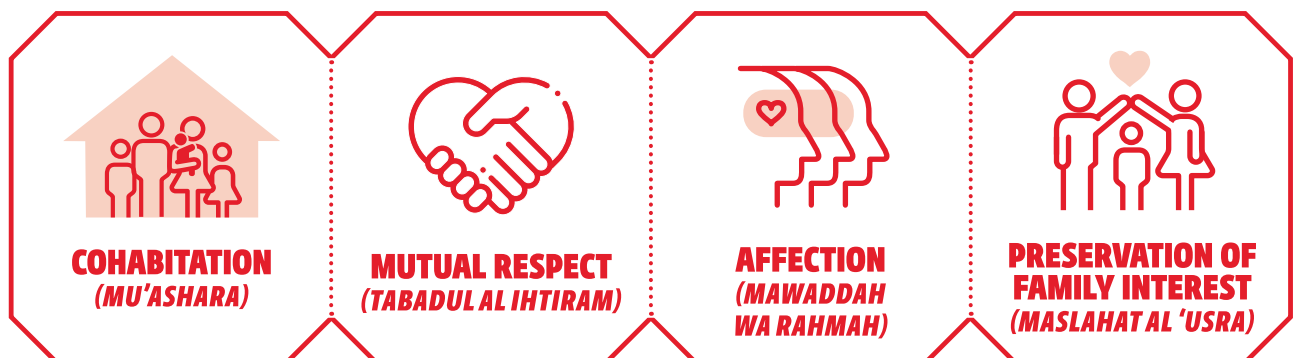
Turkey:

Under the Constitution and the Civil Code, the family is based on equality between spouses.

Morocco:

The Family Code (Moudawana) recognises marriage as a partnership of equals and specifies the 'mutual rights and duties' between spouses which includes:

(i) cohabitation (*mu'ashara*), mutual respect (*tabadul al ihtiram*), affection (*mawaddah wa rahmah*) and the preservation of the family interest (*maslahat al 'usra*);



(ii) both spouses assuming the responsibility of managing and protecting household affairs and the children's education; and

(iii) consultation (*tashawur*) on decisions concerning the management of family affairs.



HOW TO ENSURE EQUALITY AND JUSTICE

Marriage must be grounded in Qur'anic values such as fairness, justice, and equity (*qist*, '*adl*, *insaf*), love and compassion (*mawaddah wa rahmah*), serenity (*sakinah*), dignity (*karamah*), consultation and mutual consent (*tashawur wa taradi*), kindness (*ihsan*), and that which is commonly known to be good (*ma'ruf*).

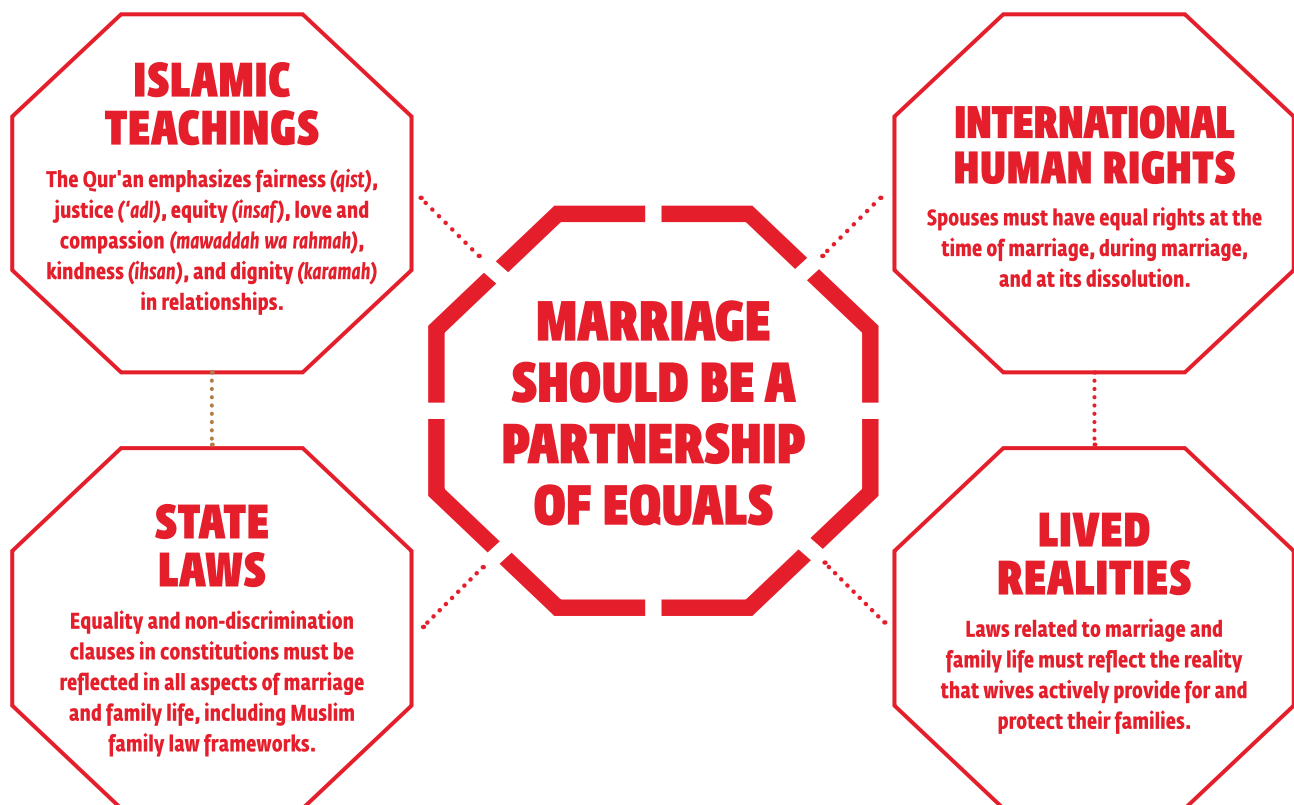
The Qur'an draws on these values in multiple verses. It also emphasizes the equality that exists between all humans, regardless of gender and race, in creation, on

earth, and in the hereafter. All humans are called on to serve God and perform righteous deeds.

The Prophet Muhammad (pbuh) practised these values in his own family, and they are recognized globally within universal human rights standards.

It is these values, and not hierarchical ideas imposed by humans about the concept of *qiwamah*, that must guide marital relationships.

Promote family well-being in our societies by promoting equality in marriage.



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