

## Promoting the Mental Health of Women and Children through the Provisions of Islamic Jurisprudence: A Comparative Study between Jordanian and Kuwaiti Legislation

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### Abstract

**Objectives:** This study aims to explore the measures taken to enhance the mental health of women and children in Islamic jurisprudence. It also compares the relevant legislation in Jordan and Kuwait.

**Methods:** The study relies on inductive, analytical, and comparative approaches to define mental health from an Islamic perspective, identify its components, and explain the Islamic concept of a balanced personality. It further aims to clarify the legal foundation of factors and approaches related to mental health, including the Islamic criterion for measuring mental health. The study also tracks the legal steps that enhance the mental health of women and children, comparing these with the legislation in Jordan and Kuwait.

**Results:** From an Islamic perspective, mental health represents a relative balance achieved by Muslims through worshiping God. This balance acts as a shield against mental and physical illnesses, promotes tranquility and happiness, and enables individuals to become active members of society. Among other findings, the study provides an in-depth analysis of Muslim scholars' contributions to discussions on mental health. It also reveals that mental health depends on regulating impulses, meeting needs, and controlling emotions, forming an interdependent, non-compensatory relationship. Notably, the Islamic standard used to assess mental health is a four-dimensional criterion.

**Conclusions:** The researchers recommend that mental health professionals and religious counselors consult jurisprudential studies linking psychological issues to solutions in Islamic law. They also suggest mandatory pre-marriage awareness courses on the importance of children's mental health and how to promote it.

**Keywords:** Psychological health enhancements; sharia-compliant measures; Jordanian legislation

### تعزيز الصحة النفسية للمرأة والطفل من خلال أحكام الفقه الإسلامي: دراسة مقارنة بين التشريعين الأردني والكويتي

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### ملخص

**الأهداف:** تهدف هذه الدراسة إلى استكشاف التدابير المتخذة لتعزيز الصحة النفسية للمرأة والطفل في الفقه الإسلامي، وتتناول الدراسة المقارنة بين التشريعات الأردنية والكويتية.

**المنهجية:** تعتمد الدراسة على المنهج الاستقرائي والتحليلي والمقارن لتعريف الصحة النفسية من وجهة نظر إسلامية، وتحديد أركانها، وتوضيح المفهوم الإسلامي للشخصية المتوازنة، وتوضيح الأساس الشرعي للعوامل والمقاربات المتعلقة بالصحة النفسية. كما تلمح الدراسة إلى توضيح المعيار الشرعي لقياس الصحة النفسية وتتبع الخطوات الشرعية التي تعزز هذا الجانب الصحي للمرأة والطفل، مع مقارنة ذلك بالتشريعات الأردنية والكويتية.

**النتائج:** إن الصحة النفسية من منظور إسلامي تشكل توازناً نسبياً يحققه المسلمون من خلال تحقيق العبودية لله. وهذا التوازن يكون المناعة ضد الأمراض العقلية والجسدية، ويعزز الطمأنينة والسعادة بنجاح، ويحول الفرد إلى عضو فعال في المجتمع. ومن بين الاكتشافات الأخرى الكشف المتعمق عن مساهمات علماء المسلمين في المناقشات حول الصحة النفسية. كما تبين أن الصحة النفسية تتوقف على تنظيم الدوافع، وتلبية الاحتياجات والتحكم في العواطف، وبالتالي تشكيل علاقة متبادلة تكاملية غير تعويضية. والجدير بالذكر أن المعيار الشرعي المستخدم لتقييم الصحة النفسية هو معيار رباعي الأبعاد. الخلاصة: يوصي الباحثان بأن يستعين المختصون في الصحة النفسية والمرشدون النفسيون الدينيون بالبحوث الفقهية التي تثبت العلاقة بين المشكلات النفسية وحلولها في الشريعة الإسلامية، كما يوصي الباحثان بتنفيذ دورات توعوية إلزامية للمقبلين على الزواج، تهدف إلى التعريف بأهمية الصحة النفسية للأطفال، وسبل تحقيقها.

**الكلمات المفتاحية:** تعزيز الصحة النفسية، التدابير المتوافقة مع الشريعة، التشريعات الأردنية.

## 1. Introduction

Psychological health is an esteemed aim and a noble objective that individuals strive to achieve throughout their lives. Its importance has become integral to modern human existence, making the pursuit of psychological well-being a pressing demand. This is because psychological health is directly associated with stability and optimal quality of life. It represents an ultimate objective that individuals seek through their behaviors and interactions with others (Al-Sharqawi, 1999). Furthermore, psychological health functions as a preventive and therapeutic approach against all psychological disorders, permeating all stages of human life: childhood, adolescence, adulthood, and old age.

Conversely, it can be observed that Islamic Sharia has paid unparalleled attention to the human soul, encouraging Muslims to ponder the mysteries of the soul and acknowledge Allah's power in creation. As stated in the Quran, "And in your own selves! So, do you not perceive?" [Quran, 51:21]. Islam offers explicit guidance for every aspect of life, addressing matters such as family care, attention to the welfare of parents and the elderly, and emphasis on education and employment (El Azayem and Hedayat-Diba, 1994). Sharia also emphasizes that success in this world and the afterlife hinges on the purification and cleansing of the soul, whereas failure is tied to following personal desires and straying off the righteous path. As mentioned in the Quran, "Successful indeed is the one who purifies their soul, and doomed is the one who corrupts it!" [Quran, 91:9-10].

Islamic law has paved the way in examining psychological health, well-being, security, and stability of the soul. It delves into all aspects that uplift human beings, enhancing their values in this world and beyond. Psychological health is a significant matter in Islamic law and is an objective that is sought to be achieved. This is because a Muslim can only fulfill their religious and worldly duties when there is a spiritual balance and mental resilience (Al-Attar, 2012, p. 3). In undertaking this, individuals explore the causes of health and illness, scrutinize the states and fluctuations of the soul, understand various emotions, and attempt to discern the soul's needs. All these elements fall under the domain of psychology.

Given the paucity of Islamic studies that emphasize aspects of enhancing psychological health in jurisprudential rulings, this study introduces the concept of psychological health from the Islamic heritage. It also aims to clarify the legal foundation for the factors upon which psychological health depends. It further discusses the legal criterion used to determine the level of psychological health, accompanied by explanation of jurisprudential rulings that enhance the psychological health of women and children.

### 1.1. Significance of the study

The importance of this study is underscored by its relatively unexplored subject matter and the objectives it sets out to achieve. These can be summarized in the following points:

1. Highlighting the Sharia measures applied by Islamic law to fortify the psychological health of women and children.
2. Clarifying the factors that determine the presence or absence of psychological health.
3. Emphasizing the attention Islamic Sharia provides in establishing diverse approaches to psychological health.
4. Observing the contributions from prominent scholars of Sharia in the field of psychological health.
5. Explaining how enhancing psychological health may impact the evaluation of behaviours in women and children.
6. Referencing Jordanian and Kuwaiti legislations that coincide with Islamic Sharia regarding related issues.

### 1.2. Research questions

The problem of this study revolves around the primary research question: "What are the factors that enhance the psychological health of women and children in Islamic jurisprudence, and to what extent do they align with the provisions of Jordanian and Kuwaiti legislations?" To answer this central research question, the study includes the following sub-questions:

1. What is psychological health?
2. Upon which factors does psychological health depend?
3. To what extent does Sharia emphasize the establishment of methodologies for psychological health?
4. What jurisprudential rulings support the psychological health of women and children?

5. In which legal provisions have the Jordanian and Kuwaiti laws demonstrated alignment with Sharia in promoting the psychological health of women and children?

### **1.3. Rationale of the study**

The subject of psychological health and its enhancers in Islamic jurisprudence is a topic that, to the best of my knowledge and research, has not been independently addressed or compiled into a scientific thesis or scholarly research. Therefore, this study intends to bridge the research gap in this field and facilitate reading for those interested in related studies. It also aims to draw a connection between jurisprudence and psychological health, comparing the rulings with Jordanian and Kuwaiti laws.

Furthermore, the topic under investigation is of significant importance as it concerns two essential segments of society: women and children. It is a dynamic subject because it pertains to the human psyche and the life events that influence it. This study has intimate connections to the fields of jurisprudence and psychology, and it aims to counter any claims that the Islamic religion neglects women and their concerns. By anchoring the psychological health of women in jurisprudential rulings concerning women, it effectively refutes such misconceptions.

This study also contributes to the upbringing of a generation of Muslims free from psychological frailty and mental illnesses. It further underlines the uniqueness of the Islamic approach in preventing and treating psychological disorders, showcasing its competence in balancing the needs of the body and the soul.

## **2. Previous studies**

While the topic of this study has not been explored before, there are studies conducted within the same field. For instance, a study by Suaad Adam (2020) on Sharia objectives in psychological health was undertaken. This research briefly discusses the concept of psychological health in its general sense and underscores the role of Sharia objectives in achieving psychological health, reducing the prevalence of psychological disorders, and their treatment. However, this current study concentrates on jurisprudential rulings about two specific groups, namely women and children, emphasizing rulings specific to them.

Another research conducted by Al-Omari (2017) focuses on the consideration of psychological aspects of accountable individuals in Islamic jurisprudence. This study aligns with the current one in examining the legal evidence regarding the attention given to the psychological aspect of individuals in general, and the importance of Sharia's consideration of psychological aspects and the resulting consequences in the doctrinal, worship-related, transactional, and ethical contexts. The research explores various methods used by Sharia when considering psychological conditions while issuing rulings for responsible individuals. However, Al-Omari (2017) did not dig deeper into rulings designed to enhance psychological well-being, particularly for women and children, which is the primary aim of this study.

Additionally, Rahma (2014) conducted a study on the Islamic approach to achieving psychological health. This research aligns with the present study by outlining the categorization of the human psyche in Islam and expounding the concept of psychological health. It also concurs with this study in adopting the recent updates in psychology, which introduce an ethical and religious dimension after initially being confined to psychological disorders. However, Rahma (2014) focuses on showcasing Islamic psychological treatments through the activation of Islamic beliefs and legal rulings. In contrast, this study is anchored in fortified legal rulings and treatments pertaining to psychological health, particularly concerning women and children.

Al-Tawaleh (2013) also conducted a comparative study on child rights as outlined in the convention on the rights of the child. Both Al-Tawaleh's research and the current study examine the stage of childhood in terms of its definition and some rights associated with children. However, they differ in that Al-Tawaleh's research is a comparative study between the provisions of Islamic jurisprudence and international conventions on child rights. In contrast, this study investigates the elements supporting psychological health in jurisprudential rulings and subsequently compares them with the equivalent cases in Jordanian and Kuwaiti legislation. Additionally, the primary focus diverges in both studies: this study delves into the field of psychological health branching from Islamic psychology, whereas Al-Tawaleh's is a comparative jurisprudential study based on documents related to international relations.

Al-Arnaout (2013) investigated children's and women's rights in Islam, along with international agreements and treaties. His study shares some categorizations with the current research, particularly concerning child rights. Al-Arnaout divided child rights into financial and moral rights, somewhat similar to the categorizations discussed in this study. However, they differ in some areas. Al-Arnaout's research addresses children's and women's rights in Islamic Sharia in comparison to international agreements and treaties, focusing on rights rather than general legal rulings. In addition, his research does not delve into the foundation of psychological health in jurisprudential rulings or highlight aspects related to the human psyche in these rulings. In contrast, this study uniquely investigates psychological health in terms of its definition, characteristics, and historical references to Islam's interest in psychological health.

On the other hand, Al-Sindi's study (2008) centered on Islamic Sharia's care for children's rights. Both Al-Sindi's research and this study approach children's rights through a tripartite division: social, educational, and financial rights. In the section on educational rights, Al-Sindi briefly outlines the child's right to psychological education, underlining the right to equitable treatment among children, the right to mercy and play, and the daughter's right to special kindness, among other aspects. However, a significant divergence exists between the two studies. This study offers a comprehensive approach to jurisprudential rulings that support the psychological health of women and children in all branches of Islamic jurisprudence. It primarily focuses on studying psychological health as a branch of Islamic psychology, consequently presenting sequential discussions explaining psychological health and its characteristics among Muslim scholars, along with defining criteria for measuring psychological health.

Aziz (2011) conducted a study on the role of Personal Status Law in caring for the mental and physical health of women. Besides presenting the broad concept of psychological health, it emphasizes evidence and religious texts that bolster psychological aspects in women. Aziz's study (2011) takes on a more legal than religious approach, treating the subject matter from a legal perspective based on Iraqi and Syrian Personal Status Law. Conversely, this study leans more towards religious aspects, basing its arguments on evidence from jurisprudential texts and deductions, before comparing them with legal legislation. Moreover, Aziz's research (2011) focuses exclusively on women, unlike the current study that includes both women and children. In addition, this research makes a comparative evaluation of Kuwaiti and Jordanian legal legislation, unlike Aziz's study which delves into the Personal Status Law under Iraqi and Syrian law.

### **3. Methodology**

In order to achieve the objectives of this study, it employs several approaches. It adopts the inductive approach which entails examining texts, scholars' views, and relevant laws via induction. Additionally, it adopts the analytical method which involves analyzing evidence, texts, and their implications. Furthermore, it uses the comparative approach, as seen through the juxtaposing of Sharia and legal rulings, in order to identify points of agreement and discrepancies between them.

More specifically, a number of techniques were used throughout the conduct of this study. First, the issue was framed by clearly defining the topic under investigation to illuminate the intended purpose of the study. If there is consensus among scholars, the ruling is mentioned with supporting evidence. In cases of significant disagreement, various opinions are presented, evidence is clarified, and a judgment is rendered. Sometimes, the study may limit itself to outlining the principal opinion on the matter without delving into protracted disputes. The investigation also incorporates the positions of Jordanian and Kuwaiti legislations on the issue, followed by an explanation of the effects of the aforementioned on psychological health.

Further techniques include relying on primary sources whenever possible, relying on established jurisprudential schools, avoiding anomalous opinions, numbering Quranic verses and specifying their Surahs, citing Hadiths and mentioning their levels of authenticity.

### **4. Findings and discussion**

#### **4.1. Psychological Health**

Psychologists tend to follow two directions or approaches when defining psychological health:

First, there is the negative approach which defines psychological health as the absence of mental or psychological illnesses (Fahmy, 1995, p.15). However, this definition is considered primitive and restrictive because it outlines the most

basic levels of psychological health and does not provide a comprehensive understanding of it. Simply being devoid of illness does not imply the attainment of psychological health. Second, the positive approach perceives psychological health as a state of harmony among different psychological functions. Several significant definitions are offered, followed by an encompassing definition:

Al-Qawsi (1952, p.6) delineates psychological health as the complete harmony or integration amid diverse psychological functions, along with the ability to confront ordinary psychological crises typically encountered by humans, coupled with a positive sentiment of satisfaction and happiness. This definition envisages psychological health from a positive standpoint, stressing the necessity for harmony and collaboration among psychological processes leading to positive outcomes. This internal and external peace culminates in a sense filled with satisfaction and happiness. Though the definition does not explicitly reference the religious dimension, upon referring to Al-Qawsi's explanation of this definition (ibid), it becomes evident that the ability to navigate psychological crises is linked to the individual's religious strength.

Zahran (2008), a professor of psychology, defines psychological health as a relatively stable state characterized by an individual's psychological, personal, emotional, and social harmony. In this state, one experiences happiness with oneself and others, is able to self-actualize, and utilize one's abilities and potential to the fullest extent. The individual can confront life's demands, portrays an integrated personality, exhibits normal behavior, and possesses good manners, all allowing them to live in peace and tranquility. Psychological health is also defined as the state in which a person feels secure and content when demonstrating good manners towards their Creator, themselves, and others (Morsi, 1989).

The World Health Organization (WHO) (2005, p.13) describes psychological health as a state of well-being in which an individual realizes their abilities, can handle the normal stresses of life, can work productively, and make contributions to their community. In Kuwaiti law, which adopts the Maliki school (Al-Hibri, 2000), psychological health is defined as a state of psychological and social stability whereby an individual can achieve accomplishments in accordance with their personal abilities. This enables the individual to deal with the ordinary pressures of life, work, produce, and contribute to their community. As for Jordanian law, the Jordanian legislation does not offer an explicit definition of psychological health. The only reference found is in the fourth chapter of the Public Health Law titled "Mental Health and Addiction." Here, the concept of psychological health is circumscribed around the basic understanding of being free from psychological illnesses only.

Based on the above definitions, it is clear there are notable differences among them, attributable to the influence of the definer's perspective, grounded in the nature of their beliefs, environment, and culture (Kuwaiti Health Law, Law No. 14). This results in the definition of psychological health being context-specific, suitable for one region but not necessarily for another. In addition, among Muslim scholars such as Al-Qawsi and Zahran, the definition of psychological health underscores the addition of the religious dimension and the highlight of spirituality. This contrasts with Western psychology and the definition provided by the World Health Organization. The discrepancy can be linked to the philosophical foundation of Western psychology, which denies the concept of the soul, relying solely on the existence of the mind and body (Al-Sharqawi, 1989, p. 56). Western psychology prioritizes the empirical study of psychological facets through observation and self-experimentation, with some Western psychologists even insisting on disregarding the religious aspect in understanding human nature (Karazon, 1997, p. 71). In contrast, Islamic psychology is founded on divine revelations stated in Allah's book, the Creator of the soul and the world, comprehending its reality, conditions, what purifies it, and what corrupts it, as stated in the Quran: "And no one can inform you 'O Prophet' like the All-Knowledgeable" [Quran, 35:14].

The aforementioned definitions share some or all of the following concepts: freedom from illnesses, happiness and good manners, self-realization, and internal harmony. The latter can be interpreted as a balance between the demands of the soul or mind and the intellect and body. They also highlight achieving social balance by creating harmony in rights and duties. While these definitions intersect in these areas, each definition emphasizes certain aspects more than others. Some definitions are characterized by detail and extensive explanations, as seen in Zahran's definition (2008). As such, none of these definitions are exhaustive or immune to criticism from a particular perspective.

In Islam, the concept of psychological health is not complete without addressing four aspects (Morsi, 1997, p.61). The first one is the spiritual aspect, which pertains to the individual's knowledge about their Creator and the purpose of their existence, which is to worship Allah alone. It also encompasses acceptance and contentment with the decree and destiny set by Allah. This necessitates the absence of existential emptiness (Al-Shennawi, 2001, p.10), an absence that denotes not knowing the Creator and the purpose of one's creation.

Secondly, there is the psychological aspect, which includes the development of an Islamic personality characterized by fairness, honesty, contentment, and the attainment of happiness for the serene soul. This aspect involves self-awareness, resilience to psychological disturbances, emotional balance, and a positive perspective on life, especially after experiencing shocks or psychological crises, referred to in Islamic terms as trials, tribulations, or tests that are inescapable in a Muslim's life. As mentioned in the Quran: "Do people think once they say, 'We believe,' that they will be left without being put to the test?" [Quran, 29:2]. Thirdly, there's the social aspect, which encompasses honesty with others, acceptance, work ethic, and social responsibility. Fourthly, the biological aspect denotes the individual's physical well-being and freedom from bodily diseases.

Following the above discussion, the study proposes a comprehensive definition of psychological health in Islam. It can be defined as a relative state of balance attained by a Muslim through fulfilling devotion to Allah. This results in immunity against the impact of psychological and physical illnesses, the achievement of tranquility and happiness, and becoming an effective individual within society.

This definition encompasses the four aspects of psychological health: spiritual, psychological, social, and biological. The spiritual aspect entails achieving devotion to Allah and actions of the heart, such as patience in the face of trials and contentment with Allah's decree for his servants. It also incorporates physical actions, such as acts of kindness through charity and assisting others.

The psychological aspect, as mentioned in the definition, revolves around the idea of "a relative state of balance." This suggests the ability to control emotions, manage motives, and exhibit dominion over them. Essentially, it means forming an Islamic personality characterized by balance. The term "relative" is used intentionally, as this degree of balance varies among individuals and across different life stages.

Regarding the social aspect, it becomes apparent through the individual's positive engagement within society. The biological aspect is hinted at by the phrase "immunity against psychological and physical illnesses." The definition intentionally avoids the term "freedom," substituting it with "immunity." This is because being completely free from illnesses suggests that their absence is a prerequisite for achieving psychological health. This perspective can be viewed in two ways:

1. Firstly, by acknowledging that humans, due to their innate nature, may encounter physical illnesses from time to time; however, this does not necessarily compromise their psychological health. Here, "humans" specifically refers to believers who have achieved devotion to Allah. For such believers, physical illness does not lead to despair or weakness. Instead, it is viewed as an opportunity to earn rewards from Allah. They bear it patiently, understanding that it serves as expiation for their sins, thereby boosting their psychological resilience.

2. Secondly, this perspective accommodates the fact that certain psychological illnesses may affect individuals in this worldly life, even those of faith, due to inevitable whispers from Satan. However, what sets this group apart from others is their faith-based immunity, or as psychologists refer to it, psychological resilience. This resilience prevents these illnesses from spreading, multiplying, and escalating their negative impact on the individual. Believers are aware of these psychological illnesses and their remedies, guided by the teachings of the Quran: "Indeed, when Satan whispers to those mindful 'of Allah', they remember 'their Lord' then they start to see 'things' clearly" [Quran, 7:201]. Thus, a believer does not lose the attribute of a tranquil soul and is not entirely stripped of the designation of being "mentally healthy."

Furthermore, the preceding definition, besides what has been mentioned, underlines the outcomes of psychological health: the attainment of tranquility and happiness. These are two fundamental pursuits in this worldly life: internal and external happiness, and a contented soul.

#### **4.1.1. Definition of Psychological Health Enhancers**

Psychological health enhancers are categorized, based on their source, into two types: internal enhancers, which emerge from the self or the psyche, such as optimism and contentment; and external enhancers, which are acquired through factors outside the self, such as encouragement and motivation. In our study, we specifically refer to external enhancers derived from the rulings of Islamic jurisprudence. Within Islamic jurisprudence, psychological health enhancers pertain to the legal rulings that directly or indirectly contribute to the development, reinforcement, and strengthening of psychological health in individuals.

#### **4.2. Legal measures that enhance women's psychological health and their equivalent in Jordanian and Kuwaiti legislation**

Sharia measures consist of a set of preventive and therapeutic procedures enacted by the Islamic legal system to uphold a recognized religious interest and ward off potential or actual harm (Al Saeed, Sharifa and Al Kharousi, 2020). The outcomes of Sharia measures in Islamic jurisprudence include the achievement of individual happiness in both worldly life and the afterlife. Sharia measures, represented by legal rulings, strive to prevent all psychological disorders, along with establishing the foundations of mental resilience.

Islamic law has outlined a practical approach in the two branches of jurisprudence: worship and transactions (Al-Zuhaili, 2006, p. 33), which comprise various issues and rulings. This approach transcends merely indicating what is permissible and impermissible, as it provides a comprehensive behavioral education method that harmonizes individuals' internal feelings with their external conduct (Rahma, 2014). Its aim is to fulfill their needs, regulate their motives, control their emotions, and ultimately achieve their psychological health.

##### **4.2.1. The zakat of women's adornments and its impact on women's psychological health**

Scholars unanimously agree on the obligation of Zakat on gold and silver ornaments if they are being utilized in a prohibited manner. They also coincide on the obligation of Zakat on ornaments prepared for trade. However, there is a marked disagreement among scholars – may Allah have mercy on them – regarding the obligation of Zakat on permissible ornaments prepared for personal use, once they reach the threshold and a lunar year has passed. The question arises whether Zakat is obligatory in this scenario or not.

The impact of the perspective that advocates the obligation of Zakat on women's ornaments becomes apparent in various aspects of psychological health, including the following:

**Activating the Preventive Approach:** The obligation of Zakat on a woman's used ornaments has a protective effect on her, guarding her from falling into negative traits such as miserliness. Zakat purifies the soul of the giver from the afflictions of stinginess and greed. As mentioned in the Quran: "Take from their wealth 'O Prophet' charity to purify and bless them and pray for them—surely your prayer is a source of comfort for them. And Allah is All-Hearing, All-Knowing" [Quran, 9:103]. It also shields women from excessive self-love, vanity, selfishness, pride, and arrogance towards others. This ruling serves as a preventive measure for women against succumbing to the servitude of wealth (Al-Raoush, 2017), instilling in them the habit of giving and contributing to please Allah and bring happiness to others. It liberates women from the guilt and sin resulting from neglecting the poor, transitioning them from a state of anxiety to a state of contentment. This is achieved through the elimination of feelings of selfishness and miserliness and the emergence of feelings of generosity, fraternity, and altruism.

**Contributing to Regulating Motivations:** The impact of this ruling is manifested in shaping a woman's personality by refining the motive of ownership. This is because the soul inevitably forms an attachment to owned ornaments. Hence, this ruling serves as a reminder that wealth is considered a trust from Allah, placed in the hands of humans to be spent in ways that please Allah and fulfill the rights of the underprivileged. This ruling liberates individuals from selfishness, purifies their souls, and cleanses them from an overindulgence in worldly pleasures.

**Fulfillment of Needs:** One of its impacts involves assisting in satisfying various needs, such as the need for receiving others' affection, achieving significant accomplishments, and experiencing a sense of self-worth and societal value. This instills in the giver the feeling of being generous and independent. This contributes to achieving self-harmony and societal

harmony, forming a positive and cheerful personality that adapts to others, finding happiness in their presence, and engaging with them. This strengthens the sense of social belonging due to effective mutual support, and the individual experiences happiness and self-satisfaction. In line with modern psychological concepts, humans' satisfaction with themselves is considered crucial to their satisfaction with society. People feel happy when they believe they have succeeded in bringing happiness to others.

**Developing a Component of Personality – the Social Component:** Zakat is considered one of the elements of the Islamic solidarity system, redistributing income and wealth among the affluent and the less fortunate. The individual who gives Zakat feels like an essential part and an influential actor within this significant system. This sense, coupled with the act of giving and contributing, encapsulates the true meaning of social responsibility.

#### **4.2.2. The competence in marriage and its impact on the psychological health of women**

The scholars differed in considering the competence of the husband in the contract of marriage, and this can be seen from two perspectives:

The first perspective: The majority of scholars concluded that competence between spouses is essential in the contract of marriage, and they derived this from the following:

1. The purpose of marriage, as encapsulated in the Quranic verse: "And one of His signs is that He created for you spouses from among yourselves so that you may find comfort in them. And He has placed between you compassion and mercy. Surely in this are signs for people who reflect." [Quran, 30:21], is to achieve tranquility, affection, love, and mercy. The attainment of these qualities requires compatibility, as they cannot be realized without it. A noble soul does not find tranquility with an ignoble soul; instead, such an association becomes a source of enmity, discord, and hatred (Al-Qarafi, 684H, p. 211). Aisha (may Allah be pleased with her) narrated that she purchased a slave girl named Buraira and stipulated her loyalty. She informed Prophet Muhammad (peace be upon him) about this, who said, "Set her free, for loyalty lies with the one who grants freedom." Consequently, Aisha emancipated her. Prophet Muhammad then offered Buraira the choice to either stay with her husband or depart. She chose herself, saying: "If he gives me such and such, which is not proven to be with him, I would choose him" (Al-Bukhari, no. 2536). Al-Shafi'i stated in Al-Umm that the hadith of Buraira is fundamental in the issue of compatibility. When Buraira's husband was no longer suitable for her following her freedom, as he remained a slave, Prophet Muhammad (peace be upon him) offered her the decision to either stay with him or separate. She chose herself (Al-Shawkani, 1259H, p. 155), illustrating that if compatibility was not a factor, the meaning of choice would be nullified.

2. It is reasonable to presume that interests generally align among equals, as from a psychological viewpoint, a person of noble character resists dependence on someone considered inferior. This is unlike the perspective of the other party, as a spouse who is deemed inferior would not be disturbed by the ignobility of their circumstances. Furthermore, seeking someone inferior lowers one's status, while seeking someone noble elevates it. As a result, there are compromises that occur between spouses in a marriage, and a marriage usually cannot succeed without such compromises. Bearing the burdens of marriage without compatibility is a challenging matter that weighs heavily on those of sound temperament (Al-Kasani, 587H). "Marriage is contracted for a lifetime and includes purposes and objectives such as companionship, affection, intimacy, and establishing family ties. Without competence, achieving these goals becomes difficult" (Al-Bayhaqi, no. 13481).

The second perspective does not consider compatibility in the marriage contract except in matters of religion, supporting this view with the Quranic verse, "O believers! Avoid many suspicions, 'for' indeed, some suspicions are sinful. And do not spy, nor backbite one another. Would any of you like to eat the flesh of their dead brother? You would despise that! And fear Allah. Surely Allah is 'the' Acceptor of Repentance, Most Merciful." [Quran, 49:13]. All individuals are equal in honor in terms of their origin from Adam and differ only in religious matters, which involve obedience to Allah and following His Messenger (Ibn Kathir, 774H). The verse does not specify that the most noble in the sight of Allah is based on lineage or social status. This suggests competence is not considered in these matters related to marriage. As a response to this, it can be argued that these distinctions are related to matters of the afterlife, whereas the rules of marriage regard



compatibility as a realization of the desired benefits from it.

The Jordanian Personal Status Law regards religious and financial competence as prerequisites for marriage. Specifically, Article 21-A states that it is a condition for the validity of marriage that the man be religiously able and financially capable, implying that the husband should be able to afford the immediate dowry and the wife's expenses. This article indicates that according to Jordanian law, competence is assessed based on religious adherence and financial capacity. Conversely, the Kuwaiti Personal Status Law considers competence solely in terms of religious suitability. According to Article 35, the criterion for competence is suitability in religion. The law confines the consideration of competence to religion, aligning with the Maliki school of thought on this matter (see Welchman, 2007).

The enlightened approach considers the psychological impact in affirming the issue of compatibility in marriage, considering the psychological aspects of the woman and her guardians. These considerations have influenced legislations intended to safeguard the Muslim family from its inception. Deeming compatibility as a condition in the marriage contract leads to the preservation of marital life and the family from its very beginning. Requiring compatibility ensures the stability and continuity of marriage. Religious, social, and economic harmony between spouses is a true indicator of marital compatibility, directly linked to the psychological well-being of both partners (Muhammad, Mai, and Al-Husseini, 2020).

Marital compatibility is the counterpart term to "competence" in the field of psychological health. It signifies a sense of harmony, emotional attachment, affection, love, and mutual care for both partners. It involves feelings of satisfaction, happiness, agreement in marital life, and the ability to successfully navigate the challenges of marital life (Abu Musa, 2008). The higher the compatibility, the greater the spouses' ability to withstand life pressures, overcome psychological and social crises, and lead a happier life. They can effectively utilize their abilities and energy to fulfill family responsibilities.

On the contrary, if the level of marital compatibility decreases, conflicts between partners escalate, eventually leading to a family breakdown (Al-Douri, 1984, p.268). When there is religious, social, and financial alignment between spouses (Al-Dahri, 2008. P. 83), they are considered to be compatible in marriage. This compatibility suggests that each partner's behavior is acceptable to the other due to social harmony, intellectual agreement, competence in fulfilling marital roles, and mutual support. Rights are not pursued aggressively but approached with forgiveness and facilitation.

On the other hand, if there is no agreement between spouses and their behaviors are opposing and conflicting, it signals tension in the relationship. Over time, the relationship becomes detrimental, and this harm extends to the children. Aggressive and withdrawn behaviors in children serve as a key indicator of a toxic parent-child relationship under such circumstances.

#### **4.3. Legal measures that enhance children's psychological health and their equivalent in Jordanian and Kuwaiti legislation**

The childhood stage is regarded as one of the most critical phases in a person's life, as it serves as the foundation for all subsequent stages. It is the richest period in terms of religious, social, organic, and psychological development for an individual. When a Muslim child has a childhood free of psychological, mental, and physical disturbances, their upbringing progresses in a moderate and balanced manner. This influence becomes evident in their behavior upon reaching adolescence, as children tend to replicate what they have absorbed during their childhood. Adding to the importance of this stage is the fact that a child's mind and soul are akin to soft dough, meaning they possess receptive hearts and open minds. The caregiver assumes the responsibility of shaping this dough according to the selected mold. If the shaping is done correctly and a good mold is chosen, the outcome is pleasing to the observer. Conversely, the opposite is true.

Childhood concludes with adolescence, which is determined by one of two factors: either the appearance of signs of adolescence, these are detailed in scholarly works and are too numerous to mention here, or the child reaching the age of fifteen. According to Article 12 of the Jordanian Civil Law, legal capacity is attained through reaching the age of majority, defined as eighteen years. Consequently, the age of eighteen is considered the dividing line between childhood and youth. Conversely, the Kuwaiti Civil Law sets the age of majority as twenty-one full Gregorian years in Article 96: 1- Every person who has reached the age of majority shall have full legal capacity to perform legal acts, unless a continuous guardianship or trusteeship over his property has been ruled before that. 2- The age of majority is twenty-one full Gregorian years.

#### **4.3.1. The child's right to breastfeeding and its impact on the child's psychological health**

Surveying various legal systems, it is evident that no legal system has emphasized the right of breastfeeding for an infant as the Islamic legal system has. Islamic law has defined the sufficient period for breastfeeding, identified the right to breastfeed, and organized the responsibilities and fees associated with it (Al-Tall, 2006, p. 279). Breastfeeding is both a right and duty for the newborn aimed at preserving their life from harm. The matter is not left to the emotional whims of the woman, which could be affected by marital disputes. If the marital relationship remains intact between the parents, the mother breastfeeds her infant; this is considered a positive behavior between spouses (Al-Faifi, 1992). However, if divorce occurs, she is obliged to breastfeed under certain conditions, which will be explained later.

Breastfeeding holds immense psychological significance as it establishes the mother as the primary source of nourishment for the child (Al-Bahi, 1956, p. 40). Undeniably, natural breastfeeding is a key factor in fostering emotional bonding between the mother and her child. Breastfeeding contributes to the psychological stability of the infant, particularly when it is regular and complete during the initial two years of the child's life. Moreover, breastfeeding has an influence on the child's behaviors, leaving an enduring impact on their future (Al-Faifi, 1992).

Ibn Al-Jazari describes the relationship between the infant and the nursing mother, stating that the infant is directly nurtured by her, and she influences his body, his health, and his illnesses. She feeds him her milk, instills in him her ethics, her habits, her health, her ailments, and her affection. Like a tender branch nourished by its mother tree, he grows with a balanced temperament and a fully formed personality (Idris, 1986). In other words, breastfeeding shapes and modifies the child's temperament; a newborn who is breastfed by a virtuous woman usually exhibits her righteousness in his behavior. Conversely, if the child is breastfed by an immoral polytheist, the impact may be reflected in the child's conduct and may even influence his inclination towards her religion. Therefore, some scholars disapprove of Muslim children being breastfed by immoral polytheistic women (Ibn Qadamah, 1981, p. 155).

The process of natural breastfeeding is nourishing and fulfills the infant's primary physiological needs, including the need for food, drink, and affection. Moreover, natural breastfeeding serves as a dietary, preventive, therapeutic, and developmental system.

##### **4.3.1.1. The opinion of the law on the matter**

In the Jordanian Personal Status Law, a series of legal provisions align with the aforementioned religious measures. In the second chapter of the law, Article 166 states that the mother is obligated to breastfeed her child if the child or its father does not have the means to hire a wet nurse, and if no donor is found, or if the father cannot find anyone other than the mother to breastfeed the child, or if he refuses anyone else for the purpose of breastfeeding.

Article 169 further designates that the mother has the right to breastfeed her child, and she is given precedence over others for a fair fee proportionate to the financial situation of the one responsible for the child's expenses, unless she demands a higher fee. In such a case, the one responsible for expenses is not burdened, and the fee is imposed from the date of breastfeeding until the child reaches two years of age, unless weaning happens before that.

Similarly, in the Kuwaiti Personal Status Law, Article 186 states: "The mother must breastfeed her child if it is not possible to feed him with someone else's milk." The explanatory memorandum notes that the law lays down a general rule for cases where the judiciary obliges the mother to breastfeed her child when it is impossible to nourish him with anything other than her milk for any reason. It has been determined that if it becomes feasible to nourish the child without natural breastfeeding, and this alternative does not harm him, then the mother is not obliged to breastfeed.

One of the merits of Kuwaiti law, acknowledging the importance of breastfeeding for the child, is the provision for working women. According to the Kuwaiti Labor Law, in the fourth chapter concerning women's employment, Article 25 states that a working woman must be granted two hours for breastfeeding during work, according to the conditions and circumstances determined by the Ministry's decision. Under this law, women are allocated two hours to perform breastfeeding, either at the beginning or end of their work or during official working hours.

#### **4.3.2. The child's right to lineage and its impact on the child's psychological health**

Lineage is a right of the child, established by the mere occurrence of the legal basis for this right, which is marriage -

the only path recognized by Sharia for the procreation of offspring. As Allah Almighty states: "And Allah has made for you spouses of your own kind and given you through your spouses children and grandchildren" [Quran, 16:72]. The confirmation of this right is independent of the acknowledgment of the spouses. Once lineage is established, no one has the right to deny it (Owaid, 2020), and it is forbidden for anyone to alter or disavow it. Denying lineage leads to injustice to the offspring, confusion in lineages, severance of family ties, and the spread of corruption in society (Al-Sindi, 2008). Sharia has put in place various measures to preserve the lineage of the child, including:

- The lineage of a child born within a marriage, whether valid or invalid (Ibn Abidin, 1995), is attributed to the husband, as stated by the Prophet Muhammad (peace be upon him): "the boy is for the owner of the bed, and the stone is for the adulterer" Ibn Abdul Barr commented: "The Messenger of Allah (peace be upon him) attributed every child born on a bed to the man associated with it in every circumstance until he negated it with explicit cursing." The scholars unanimously agreed that a free woman becomes a bed via the contract, allowing for intercourse and the possibility of pregnancy. Ibn Qayyim stated, "The consensus of the scholars is that establishing lineage through the bed is agreed upon by the entire Ummah." This indicates that the child's lineage is confirmed to his father through the institution of marriage, as agreed upon by the jurists.

- The necessity of waiting periods for divorced and widowed women is established to prohibit them from marrying another man during this period. This prohibition aims to preserve lineages, prevent their mixing, and ensure the clarity of parentage, evidenced by the purification of wombs during the waiting period. Islam also prohibits adoption and nullifies its effects, as it involves mixing lineages and falsely claiming kinship with someone other than the biological father. The Quranic verse "Nor does He regard your adopted children as your real children" [Quran, 33:4] emphasizes the importance of maintaining accurate lineage. Sharia discourages zina (fornication or adultery), stating in the Quran, "Do not go near adultery. It is truly a shameful deed and an evil way" [Quran, 17:32]. Committing adultery (that is, zina) leads to severe consequences, such as the child born out of wedlock being considered illegitimate. Additionally, a man can only disavow the lineage of his child through explicit and witnessed cursing, typically invoked in cases of confirmed adultery by the wife.

In the Jordanian Personal Status Law, under the section on lineage, Article 157-J states: "The court has the authority to establish the paternity of the child through definitive scientific means, taking into consideration the provisions regarding proving lineage through marital cohabitation" (Jordanian Personal Status Law). The law aligns with the Islamic principle of proving a child's lineage through marriage, whether the contract is valid or invalid (Abu Tayeh, 2023). The term "marital cohabitation" is broad enough to encompass both valid and invalid contracts, and the law has expanded to include modern medical scientific methods in conjunction with marital cohabitation (ibid).

As for the Kuwaiti legislator, Article 169 in the Personal Status Law states that a child born within a valid marriage is attributed to the husband under two conditions: 1) The minimum duration of pregnancy has elapsed since the marriage contract. 2) The impossibility of physical encounter between the spouses is not proven from the date of the contract to the birth. The explanatory memorandum specifies that the minimum duration is six months and that the requirement of the possibility of encounter prevents attributing children to spouses who have not physically met their mothers. If the minimum duration has passed since the valid marriage contract, and the possibility of encounter is established, the child's lineage is confirmed. Otherwise, if the impossibility of encounter is proven, lineage is not established (Al-Sharyan, 2019).

## **5. Conclusion**

After clarifying the concept of psychological health and comparing the mentioned regulations for women and children with their counterparts in Jordanian and Kuwaiti legislations, the following key conclusions have been drawn:

1. Restructuring the field of psychological health on Islamic foundations is possible, and building a comprehensive model of Islamic psychological health independent of its traditional version is also feasible. This is because Islamic heritage, with its distinct philosophies and related theories, possess unique features and components that set them apart from others. They ensure superiority over other theories by incorporating religious, ethical, and social values that are nearly absent in other philosophies.

2. The comprehensive definition of psychological health in Islam: A relative state of balance reached by a Muslim

when fulfilling devotion to Allah. This results in immunity against the effects of psychological and physical illnesses, the attainment of tranquility and happiness, and becoming an effective member of society.

3. Psychological health enhancers in Islamic jurisprudence refer to legal rulings that directly or indirectly contribute to the development, support, and strengthening of psychological health in individuals.

4. Psychological health in Islam has four main dimensions: the spiritual, psychological, social, and biological ones. The psychological well-being of the morally responsible individuals holds significant importance in Islamic jurisprudence.

5. Sharia law takes into consideration the psychological aspects of women in the majority of its jurisprudential rulings. This serves as a response to those who claim that Islam does not value women and their rights. This is evident from the study of jurisprudential rulings related to women and their impact on women's psychological health.

6. Sharia measures encompass a set of preventive and therapeutic actions that the legal system establishes to achieve a recognized legal interest and prevent potential harm or address existing harm.

7. One of the merits of Kuwaiti law lies in catering to the psychological health of children by enabling working nursing mothers to dedicate flexible hours from their official working schedules to fulfill their maternal duties.

8. The merits of Kuwaiti law are apparent in its provision for the psychological health of children, whereby it allows working nursing mothers to dedicate flexible hours from their official working schedules for fulfilling their maternal duties.

## 6. Recommendations

Based on the findings discussed above, the study recommends the following:

1. Psychological health professionals and religious psychological counselors should leverage jurisprudential research that establishes connections between psychological problems and their solutions in Sharia, especially those addressing diseases resulting from family issues. This is because family jurisprudence offers numerous resolutions to such problems.

2. Enriching prescribed Islamic books at various educational levels with jurisprudential rulings that enhance the psychological well-being of children. Through this, children can be effectively educated. Such education has a profound impact on promoting psychological health.

3. Implementing mandatory awareness courses for those planning to marry. These courses should aim to introduce the importance of children's psychological well-being and the methods to achieve it. Early education serves as a preventive measure against parenting mistakes and falling into psychological disorders.

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