

**Book:** “*Alusra fi Maqasid al sharia: Qira’ fi Qadaya al zawaj waltalaq fi Amrika*” The Objectives of Sharia and the family: Critical Reading in Marriage and Divorce in American Muslim Family. Herndon/VA: The International Institute of Islamic Thought (IIIT), 2013. ISBN 978-1-56564-476-2 (In Arabic)



This book is based on my years of research, observation, and cross-continental travel. The book The Objectives of Sharia and the family: Critical Reading in Marriage and Divorce in American Muslim Family describes and analyzes different methodologies in studying the Islamic legal theory and its impact on social and cultural structure in the area of family. The book lays out an essential methodology in dealing with challenges in the American Muslim family. The book presents *maqāṣid al shariah Objectives of Islamic Divine law* to be conceived as a systematic methodology that allows competing ideological, doctrinal, cultural, and religious conceptions to debate in a common conceptual framework and with reference to the end goals. Family and gender are a complex socioeconomic and political phenomenon, and there are no simple cookie-cutter formulas for securing social and economic justice.

The book attempts to answer the following key questions: What are the major challenges that confront American Muslim family especially in Marriage and divorce issues? How do the Imams deal with major problems that affect the family and the community? What is the outcome of their judgments? And how can be evaluated? How can American Muslims integrate the Muslim familial norms and customs within the civil legal sphere? What is the precedent for Muslims to follow the ‘law of the land’ when residing in a non-majority Muslim jurisdiction? What specific measures allow for a marriage to be deemed legitimate within both a religious and civil framework? How can religiously-based conceptions of marriage adapt to present-day circumstances while retaining core moral values and ethical integrity?

The book provides examples of how framing legal discussions in terms of value-driven outcomes can assist, on a practical level, in integrating conflicting ideological perspectives in order to bring about positive socioeconomic, legal and cultural reforms. The book explains and analyzes the legal doctrine of *fiqh al-aqalliyāt* (jurisprudence for Muslim minorities), which arose in an attempt to preserve the positive integration of immigrant Muslims into North American society and beyond. It reveals that these discussions generated a rich intellectual discourse on how religious laws can both reinforce civic

belonging and adapt to meet the practical needs of the Muslim-minority populations. For instance, the book explores how applying *maqāṣid al shariah* led the scholars to come up with a broad consensus that following the laws of the territory within which one resides is compulsory upon Muslims and that a parallel system of law is unnecessary and undesirable. Since civil laws generally attempt to safeguard a person's, life, property, family, and human dignity; hence, it is understood that civil codes, American and otherwise, are roughly in line with *maqāṣid al shariah*. Here, the underlying principle is that key aims of religious law, such as securing the rights of individuals within a family structure, can be secured through civil legislation and not to be left to the Imams. *Maqāṣid* debates enable a given approach to religious or civic law to be weighed and tested in terms of the outcomes and interests of different parties. This book added a new dimension from 21<sup>st</sup> century experiences to the existing body of scholarship on Islamic jurisprudence, the relationship between civil, religious laws and culture in the area of family.

### الأسرة في مقاصد الشريعة: قراءة في قضايا الزواج والطلاق في أمريكا

▪ زينب العلواني



يتناول قضية أساسية من القضايا التي تعيشها الجالية المسلمة في المجتمع الأمريكي، والتحديات التي تواجهها على صعيد الأسرة والعائلة فيما يتعلق بأحكام الزواج والطلاق وملحقاتها. والكتاب ليس كتاباً في الفقه، وإنما هو تأصيل

وتحليل لمعنى المقاصد وتفعيلها لمواجهة التحديات التي تعصف بالأسرة المسلمة المهاجرة والمقيمة في أمريكا وبلاد

الغرب على العموم . إذ تقدم المؤلفة خلاصة تجربتها البحثية الميدانية ومعايشتها لأبناء دينها في مجال العمل الاجتماعي والتدريس في مؤسسات ومراكز الجالية المسلمة في أمريكا الشمالية. وتعرض نماذج تطبيقية لتفعيل المقاصد في القضايا الأسرية، وضوابط وإجراءات وقائية تنطلق من تنزيل النص على الواقع وفق رؤية اجتهادية معاصرة .

ويكشف الكتاب القناع عن كثير من المشكلات الأسرية المسكوت عنها في اوساط الجالية المسلمة. ويوجب على الكثير من الأسئلة منها:

كيف تتم حماية أحكام التشريع من التلاعب بها، وما هي وسائل تفعيل المقاصد فيما يتعلق بالجاليات المسلمة في الغرب؟ وأين يلتقي

التشريع الإسلامي مع القوانين الأمريكية؟ وهل من سبيل لإنصاف المرأة المسلمة وحماية الأسرة في واقع زاخر بالت

