

The Sharī'ah Status of Intention and Will in Nikāḥ and Ṭalāq: A Review

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ABSTRACT

This research examines the Sharī'ah status of intention (qaṣd) and will (irādah) in the matters of nikāḥ (marriage) and ṭalāq (divorce), which are among the most sensitive and impactful institutions in Islamic family law. The study begins with an introduction to the centrality of intention in Islamic jurisprudence, highlighting the well-established legal maxim “acts are judged by intentions” and its relevance to personal status laws. It explores how intention and conscious will influence the validity, effectiveness, and legal consequences of marital contracts and divorce pronouncements. The core research questions addressed in this study include: What is the juristic meaning of intention and will in the context of nikāḥ and ṭalāq? To what extent is intention a prerequisite for the validity of marriage contracts and divorce declarations? How do different Islamic schools of thought interpret cases involving coercion, error, jest, anger, intoxication, or ambiguous expressions? The research adopts a qualitative and analytical methodology based on the study of primary Sharī'ah sources, including the Qur'ān and Sunnah, as well as classical fiqh literature from the major Sunni schools and relevant contemporary legal discussions. A comparative approach is employed to analyze areas of agreement and divergence among jurists, supported by selected modern case studies to demonstrate practical implications. The study further evaluates how intention-based rulings align with the objectives of Sharī'ah (maqāṣid al-sharī'ah), particularly the preservation of family, lineage, and social stability. The significance of this research is multifaceted: for society, it promotes responsible and conscious behavior in marital decisions, reducing misuse and impulsive actions; for the Muslim community, it clarifies religious rulings related to marriage and divorce, helping individuals navigate complex situations with legal and moral awareness; and for academicians and researchers, it offers a systematic framework for understanding intention-centered jurisprudence within Islamic family law. The study concludes that while external expressions hold legal weight, Sharī'ah gives substantial consideration to intention and will in order to uphold justice, prevent harm, and protect the sanctity of the family institution.

Keywords: Nikāḥ, Ṭalāq, Intention (Qaṣd), Islamic Family Law, Sharī'ah Rulings.