

## THE PROBLEM OF WIFE NUSHUZ IN PREVENTING DOMESTIC VIOLENCE: IDEALITY AND REALITY

**Nur Faruq Thohir**

IAIN Ponorogo

Email: umarfaruqthohir@iainponorogo.ac.id

### **Abstract:**

*The thick patriarchal lifestyle legitimizes guys to usually be advanced figures over ladies. If there are guys and ladies, then guys are required to be leaders, ladies are as fans only. The categorization is usually primarily based totally on sex, now no longer skills, eligibility, and management capabilities. This patriarchal lifestyle additionally influences the formation of households, wherein ladies are required to retain to obey their husbands despite the fact that the husband's regulations intimidate them. If the spouse resists, the spouse is taken into consideration nushuz to her husband. According to classical scholars, a nushuz spouse might also additionally also be overwhelmed primarily based totally on Surah An-Nisa' [4]:34. This verse should be reinterpreted in order that it does now no longer come to be legitimacy for guys to dedicate arbitrariness or even home violence. Through maudhui interpretations which might be additionally blended with Indonesian legislation, this library article became compiled to benefit a greater complete and gender responsive knowledge. The studies became performed with the aid of using knowledge asbab al-nuzul, munasabah verses and contextualizing them with cutting-edge conditions. This examine located that the idea of nushuz does now no longer legalize violence towards wives. The beating of a spouse who commits nushuz contained in An-Nisa' (4): 34 should be interpreted as an act to train lessons, now no longer to harm or maybe dedicate violence. The spouse's nushuz act towards her husband in order that the husband is authorized to conquer her is whilst the spouse commits 'fahisyah mubayyinah' particularly zina, in accordance to An-Nisa' (4): 19. Even the thrashing of a husband to his spouse till she is injured may be declared as a husband's nushuz to his spouse, due to the fact primarily based totally on Al-Baqarah (2): 229 the husband can truly divorce her in an awesome way, no want to do violence to his spouse.*

**Keywords:** Nushuz; The husband's arbitrariness; fahisyah mubayyinah

### **Abstrak:**

Gaya hidup patriarki yang kental melegitimasi laki-laki untuk selalu menjadi figur yang maju dibandingkan perempuan. Kalau ada laki-laki dan perempuan, maka laki-laki wajib menjadi leader, perempuan sebagai fans saja. Kategorisasi biasanya didasarkan sepenuhnya pada jenis kelamin, bukan keterampilan, kelayakan, dan kemampuan manajemen. Gaya hidup patriarki ini juga mempengaruhi pembentukan rumah tangga, dimana perempuan dituntut untuk tetap patuh pada suami meskipun peraturan suami mengintimidasi mereka. Jika istri menolak, maka istri dianggap nushuz kepada suaminya. Menurut ulama klasik, istri nushuz juga bisa kewalahan berdasarkan surat An-Nisa' [4]:34. Ayat ini harus ditafsirkan kembali agar tidak lagi menjadi legitimasi bagi laki-laki untuk melakukan kesewenang-wenangan atau bahkan kekerasan dalam

rumah tangga. Melalui tafsir maudhui yang juga dipadukan dengan perundang-undangan Indonesia, artikel perpustakaan ini disusun untuk memberikan manfaat pengetahuan yang lebih lengkap dan responsif gender. Kajian dilakukan dengan bantuan ilmu asbab al-nuzul, ayat-ayat munasabah dan mengontekstualisasikannya dengan kondisi terkini. Kajian ini menemukan bahwa gagasan nushuz kini tidak lagi melegalkan kekerasan terhadap istri. Pemukulan terhadap pasangan yang melakukan nusyuz yang tertuang dalam An-Nisa' (4): 34 seharusnya dimaknai sebagai perbuatan untuk melatih pelajaran, sekarang bukan lagi untuk mencelakai atau mungkin melakukan kekerasan. Perbuatan nusyuz istri terhadap suaminya agar suami berwenang menaklukannya adalah sedangkan istri melakukan fahisyah mubayyinah khususnya zina, sebagaimana An-Nisa (4): 19. istri sampai terluka dapat dinyatakan sebagai nusyuz suami kepada pasangannya, karena berdasarkan Al-Baqarah (2): 229 suami benar-benar dapat menceraikannya dengan cara yang mengagumkan, tidak ingin melakukan kekerasan terhadap suaminya. pasangan.

**Kata Kunci:** *Nushuz; kesewenang-wenangan suami; fahisyah mubayyinah*

## INTRODUCTION

The problem of gender bias with social structure (Gall, 2007: 73-78), culture (Hanafi, 2016: 144), perception and interpretation (Kasmavati, 2013: 55-68), marginalization, hatred (Nurmila, 2021: 97-126) and patterns formed by society itself. The fear that has gripped women recently is the increase in incidents of sexual harassment and violence against women in public places and educational institutions. Harassment has significant consequences for women's mental health and physical well-being because harassment frightens and offends people (Kate Pike et al., 2021: 1238-1251). On the other hand, there is a lot of discrimination against women in society based on religious reasons (Kusha, 2007: 58-72).

The provisions of the idea of the spouse's *nushuz* in the direction of her husband which have been formulated with the aid of using classical students as 'spouse's disobedience to her husband' together with leaving the residence with out the husband's permission and so forth want to be restricted and reviewed. The idea of *nushuz* in Islamic regulation absolutely does now no longer legalize all types of violence in opposition to wives. The beating of the spouse who's *nushuz* in An-Nisa '(4): 34 ought to be interpreted as an act to educate lessons, now no longer to harm even do violence, not to mention injure the spouse's limbs. Meanwhile, the husband's act of hitting his spouse till she is injured or different types of violence dedicated with the aid of using the husband in opposition to the spouse can then be declared because the husband's *nushuz* in opposition to the spouse (Lucky, 2013: 157).

Textually it can be understood that in the Qur'an there is a verse that contains an order to beat a wife who commits *nushuz*. This is as contained in An-Nisa '(4): 34:

و التي تخافون نشوزهن فعظوهن واهجروهن في المضاجع واضربوهن فان اطعنكم فلا تبغوا عليهن سبيلا

... *The women for whom you are worried about their nushuz, then advise them and separate them in their beds, and beat them ...*

Meanwhile, beating is an act of home violence, that's taken into consideration a criminal offense in fine regulation in Indonesia. This is as showed in Law Number 23 of 2004 regarding the Elimination of Domestic Violence. Article 1 of the Law states that acts of home violence are "any act towards a person, specifically a woman, which ends up in bodily, sexual, mental distress or suffering, and/or forget of the family, which includes threats to act, coercion, or bodily deprivation of liberty. a criminal offense withinside the home sphere". Meanwhile, what is supposed through the 'scope of the family' in Article 2 of the PKDRT Law consists of husband, spouse, and children; humans who've own circle of relatives family members with (husband, spouse and children) because of blood family members, marriage, breast feeding, care, and guardianship, who stay withinside the family; those who paintings to assist the family and live withinside the family (Nurhasanah, 2020: 281).

This article attempts to speak about the idea of *nushuz* in fiqh and make efforts to reinterpret the order to conquer the spouse who's *nushuz*, in order that it isn't taken into consideration a 'legalization' of sorts of home violence as regulated in wonderful regulation in Indonesia.

## METHOD

This article is a literature study that explains the importance of reinterpreting the concept of nusyuz to avoid male arbitrariness or violence through the perspective of verses in the Qur'an. Sources of data in this literature study were collected from several literature related to the concept of nushuz such as verses An-Nisa' (4): 34, An-Nisa' (4): 19, Al-Baqarah (2): 229 as well as several supporting hadiths which also discuss about this nushuz. Once collected, the data is then analyzed through Maudhui's interpretation in a descriptive analytical manner (Mustaqim, 2019: 74).

The Discourse in terms of male arbitrariness is usually related to the Surah An-Nisa' verse 34 where the analysis is carried out by linking this Surah An-Nisa' (4): 34 with other verses, through *munasabah*, and also *asbab al-nuzul*. Through *munasabah* verses this research can find out the relationship between one verse and another verse which discusses *nushuz* and its relationship. Through *asbab al-nuzul* this article can in depth understand the situation surrounding the incident where this verse was revealed.

The book that is widely used as the basis for conducting the analysis in this article is the book *Ahkam al-Qur'an* by Imam al-Jassas which explains the laws about how the concept of nushuz actually is seen from the side of tafseer. Apart from that, this article also follows the thoughts of Sayyid Muhammad Husain at-Tabataba'i through his book *al-Mizan fi at-Tafsir* which prohibits violence from being committed anywhere, especially in the household, not only against wives but also against husbands. Apart from these two books, there are actually many other references used in this article, all of which we have mentioned in the references section.

## RESULT AND DISCUSSION

### 1. *Nushuz and Domestic Violence*

Men and Women each stay as individuals of society. However, in a few cases, there may be an imbalance withinside the sample of members of the family among the two. The male discern is diagnosed with the chief and protector for girls; as a strong, brave, tough, decisive and rational person. Meanwhile, the lady discern is taken into consideration a mild creature, whiny, spoiled and should constantly be protected. Sorting out those developments has been socialized for a long term in society. So, every one lives and grows on this sample. So, every located himself in line with the photo that existed withinside the community (Nurhasanah, 2020: 83). The hassle is, the difference among guys and girls, creates a few injustice. For example, the dominance of guys over girls each withinside the family and withinside the international of labor and existence in society (Nurmila, (2021): 135).

In fact, every so often guys devote violence in opposition to girls, each bodily and mental violence, and girls turn out to be helpless objects. On the alternative hand, if a lady fights, she is taken into consideration to have dedicated *nushuz*. *Nushuz* is actually the masdar shape of the phrase *nasyaza* which means "land that rises up high". Meanwhile, terminology, *nushuz* has numerous meanings, including; According to Hanafiyah fuqaha, it's far displeasure that takes place among husband and spouse. Fuqaha Malikiyah offers understanding, the enmity that takes place among husband and spouse. According to the Syafi'iyah students, *nushuz* is a dispute that takes place among husband and spouse. While the Hambaliyah students outline it as displeasure from the spouse and husband followed with the aid of using disharmony (al-Sadlani, 1993: 26).

Meanwhile, *nushuz* from the husband's aspect closer to his spouse, consistent with Hanafi clerics, is withinside the shape of the husband's hatred for his spouse and abusing her. The Maliki jurists outline it through the mindset of a husband who's adverse to his spouse, except that he additionally hurts her both through hijr or beatings that aren't allowed through syara', insults and so on. Syafi'iyah pupils outline it through the mindset of a husband who's adverse to his spouse through beatings and different acts of violence and being unkind to her. Meanwhile, the Hambali cleric defines it as harsh remedy of a husband in opposition to his spouse through beating and cornering or now no longer giving his spouse the rights together with the proper to stay and so on (Zainuddin, 1954: IV: 78).

Meanwhile, the expertise of the spouse's *nushuz* closer to her husband, consistent with Hanafiyah pupils is the spouse leaving the residence with out her husband's permission and remaining herself off to her husband, despite the fact that she has no proper to do so (Misbah, 2002: 1-2). According to Maliki pupils, *nushuz* is the release of the spouse from the compulsory strains of obedience, forbidding her husband to have amusing with her, leaving the residence with out her husband's permission due to the fact she is aware of that her husband will now no longer permit it, leaving Allah's rights

together with now no longer looking to take a bath, prayer and fasting in Ramadan and remaining all doorways for her husband. Meanwhile, consistent with the Syafi'iyah pupils, *nushuz* is the spouse's disobedience to her husband and the violations devoted in opposition to the provisions which can be required through Allah SWT. to him. Hambaliyah pupils outline it as a contravention devoted through a spouse in opposition to her husband at the provisions required of him from the rights of marriage (al-Sadlani, 1993: 26-27).

Meanwhile, the word 'violence' withinside the Indonesian dictionary is described as a violent nature (sure things), violent activities, coercion, spasms (Purwodarminto, 1984: 489). The term 'violence' withinside the big Indonesian dictionary is likewise described as 'the act of someone or organization of humans inflicting damage or demise to any other character or inflicting bodily or assets harm to others' (Mulia, 2005: 155). The word 'violence' is the equal of the word 'violence' in English, despite the fact that the 2 have exceptional concepts. Violence in English is described as an assault or invasion of someone's bodily or intellectual integrity. Meanwhile, the word 'violence' in Indonesian is typically understood to simplest contain bodily attacks (Faqih, 1997: 7).

Apart from the variations withinside the etymological meanings of 'violence' and 'violence' stated above, presently violence isn't simplest described physically, however additionally psychologically. As is presently known, violence in opposition to other halves or home violence (hereinafter abbreviated as home violence) can take the shape of bodily violence, mental violence and sexual violence, in addition to home forget about (Jassas, 1940: 213). Domestic violence, consistent with the definition of Law Number 23 of 2004 regarding PKDRT is "any act in opposition to someone, mainly a female that consequences in bodily, sexual, mental distress or suffering, and/or forget about of the household, along with threats to dedicate acts, coercion or deprivation. freedom a criminal offense withinside the home sphere".

Meanwhile, in line with Nettler, violent crime is usually described as an occasion wherein someone illegally and deliberately bodily injures, or threatens to dedicate acts of violence in opposition to every other character wherein the varieties of assault, robbery, rape and homicide are conventional examples of significant violent crimes. Borgatta, 1992: 2228).

From the outline of the definition of home violence above, the supposed home violence is centered at the sample of relationships which are constructed or which have been constructed among own circle of relatives contributors in home lifestyles which will be clean to see, each perpetrators and sufferers are all contributors withinside the own circle of relatives environment (Kusha, 2007). : 59-60).

The scope of home violence is first, husband, wife, or kids, second, human beings who've own circle of relatives relationships with husbands, other halves or kids due to blood family members of care and guardianship who stay withinside the family, and third, individuals who paintings to assist the house. (Kusha, 2007: 71). The men in the family should be the protectors of the women members of their families, instead of committing violence against them. Likewise, if there are women who resist, for certain

reasons they cannot be considered as having committed nushuz, because they may be seeking justice for themselves.

## **2. Positive Legal Provisions at the Elimination of Domestic Violence**

Awareness of discrimination and unfair remedy of women, each withinside the public sphere and withinside the household, has penetrated in Indonesian society today. Thus, home violence has now been regulated as an offense and sanctions were set for the perpetrators. Law Number 23 of 2004 regarding the Elimination of Domestic Violence, is a criminal provision that regulates acts of home violence, case coping with procedures, safety of sufferers and sanctions for perpetrators.

This law changed into enacted with the subsequent considerations:

1. That each citizen has the proper to sense secure and loose from all types of husband violence.
2. That all styles of violence, specially home violence, represent a contravention of human rights and against the law in opposition to human dignity and a shape of discrimination that have to be abolished.
3. That sufferers of home violence, maximum of whom are women, need to acquire safety from the nation and/or society so as to keep away from and be loose from all varieties of violence or threats of violence, torture, or remedy that degrades the diploma and dignity of humanity.
4. Whereas in fact instances of home violence arise a lot, at the same time as the Indonesian prison gadget has now no longer assured safety for sufferers of home violence (Suprianto, 2014: 72).

As for what is supposed via way of means of home violence in Article 1 of this Law, it's far defined as any act in opposition to a person, in particular a woman, which leads to physical, sexual, mental distress or suffering, and/or overlook of the family, which include threats to act, coercion, or deprivation. independence a criminal offense with inside the home sphere. Meanwhile, the scope of the family in Article 2 of the PKDRT Law consists of husband, spouse, and children; human beings who've own circle of relatives members of the family with (husband, spouse and children) because of blood members of the family, marriage, breastfeeding, care, and guardianship, who stay with inside the family; individuals who paintings to assist the family and live with inside the family (Ubaidillah, 2020: 82-84).

Elimination of home violence is finished primarily based totally on admire for human rights, justice and gender equality, non-discrimination and sufferer protection. While the intention is to save you all types of home violence, guard sufferers of home violence, take motion towards perpetrators of home violence, and keep a harmonious and rich household (Ubaidillah, 2020: 85).

Strictly speaking, home violence is regulated in Article five of the PKDRT Law which states that:

*'Everyone is prohibited from committing domestic violence against people within the scope of his household, by: a) physical violence; b) psychological violence; c) sexual violence, or; d) neglect of the household'.*

Based at the article, styles of home violence are divided into bodily violence (ie acts that reason pain, fall unwell or severely injured), mental violence (ie acts that reason worry, lack of self-confidence, lack of capacity to act, emotions of self-confidence, and/or excessive mental struggling on a individual), sexual violence (i.e. forcing sexual sex finished on folks that stay with inside the family environment, and forcing sexual members of the family in opposition to one individual with inside the family with any other individual for business functions and/or or particular functions), or family forget about (inclusive of folks that reason monetary dependence through restricting and/or prohibiting right paintings internal or outdoor the house in order that the sufferer is below the manipulate of that individual) (PKDRT Law articles 5-9).

Strictly speaking, home violence is regulated in Article five of the PKDRT Law which states that 'Everyone is unlawful from committing home violence in opposition to humans with inside the scope in their family, through: a) bodily violence; b) mental violence; c) sexual violence, or; d) forget about of the family'. Based at the article, home violence is split into bodily violence (ie acts that reason pain, fall unwell or severely injured), mental violence (ie acts that reason worry, lack of self-confidence, lack of capacity to act, self-confidence , and/or excessive mental struggling on an individual), sexual violence (i.e. pressured sexual sex finished on folks that stay with inside the family environment, and forcing sexual members of the family in opposition to one individual with inside the family with any other individual for business functions and/or certain), or family forget about (inclusive of folks that reason monetary dependence through restricting and/or prohibiting right paintings internal or outdoor the house in order that the sufferer is below the manipulate of that individual) (Moqsith, 2015: 133-137).

Although violence in opposition to ladies has been legally prohibited, ladies who're sufferers of violence occasionally do now no longer dare to combat back, or even document such acts of violence. Kedang they have a tendency to be silent and take delivery of the situation. This is in part because of his 'powerlessness'. Women withinside the family (as wives) do now no longer need to document for worry that her husband will harm her more, or worry that a divorce will occur, for example. Women as housewives, on the whole economically weak. They do now no longer paintings and most effective obtain a residing from their husbands, so they're now no longer prepared withinside the occasion of a divorce. On the opposite hand, widow popularity receives a terrible stereotype in society. Not infrequently, if a divorce occurs, the blame is at the woman. For example, it's far taken into consideration incorrect to attend to the family, now no longer being capable of serve her husband properly and so on (Nurmila, (2021): 98-100).

### ***3. Interpretation of the Nushuz Verses***

With regard to *nushuz*, An-Nisa '(4): 34 states, which means:

الرجال قوامون على النساء بما فضل الله بعضهم على بعض و بما انفقوا من اموالهم. فالصالحات قنتت  
حفظت للغيب بما حفظ الله و التي تخافون نشوزهن فعظوهن واهجروهن فى المضاجع واضربوهن فان  
اطعنكم فلا تبغوا عليهن سبيلا. ان الله كان عليا كبيرا

*"The men are the leaders for the women, because Allah has favored some of them (men) over others (women), and because they (men) have spent part of their wealth. Therefore, a pious woman is one who obeys Allah and takes care of herself when her husband is not around, because Allah has taken care of (them). The women for whom you are worried about their nushuz, then advise them and separate them in their beds, and beat them. Then if they obey you, then do not look for ways to trouble them. Verily Allah is Most High, Most Great."*

In relation to the verse above, *Tafsir al-Jalalain* explains that guys are leaders, particularly folks that manipulate ladies, train and defend them, due to what Allah has desired a number of them over others, which includes blessings in phrases of knowledge, intellect, guardianship, and so on, and the wealth they (guys) spend on them. Furthermore, it is miles defined that pious ladies are obedient to their husbands, looking after themselves and their honor while their husbands aren't around, due to the fact God has sorted them through creating a will to their husbands (Wichelen, 2009: 1).

As for the ladies who worry that they'll devote *nushuz*, that's a disobedience to their husbands through disobeying his orders, then endorse them to worry Allah, and separate the beds, i.e. circulate to every other mattress if they may be nonetheless doing *nushuz*, and beat them with a blow. which does now no longer harm if through isolating their beds they have got now no longer lower back to doing good. If they have got lower back to doing what their husbands ordered, then do now no longer search for approaches to conquer them to do wrong (Hanafi, 1954: 274).

Al-Jassas relates this verse to the spouse's responsibility to her husband. The dialogue starts offevolved with a proof of the *nushuz*, that the verse is associated with the narrations which kingdom that the *nushuz* verse become found out because of sure events. Namely, there has been a person who injured his spouse. Then the spouse's brother got here to the Messenger of Allah, and he stated that the person have to be qisas (al-Jassas, 1940: 266). Another narration quoted states that there has been a person who slapped his spouse, in order that the Messenger of Allah. ordered qisas, then the verse become found out. Meanwhile, Abu Bakr (quoted through al-Jassas) said that there may be no qisas among women and men besides the qisas of the soul (al-Jassas, 1940: 267).

Meanwhile, there may be every other narration which states that it's miles permissible to slap a spouse if she commits *nushuz*, and Allah lets in hitting her. This records is associated with the *nushuz* verse, that for ladies who're afraid to do *nushuz*, then endorse them, then their beds are separated and subsequently they may be beaten. So this verse starts offevolved with the assertion that 'guys are leaders for ladies'. According to al-Jassas, '*qawwam*' is meant as someone who ought to train manners or



make it civilized, deal with it, and deal with it (al-Jassas, 1940: 267). Thus, Allah favors guys over ladies, each in phrases of reason, in addition to withinside the earnings given to ladies (Engineer, 1999: 97).

However, in line with him, this verse has numerous meanings. One of them is the prevalence of fellows over girls withinside the house, specifically that guys are those who cope with and manual their wives. This additionally method that the husband has the proper to preserve her at domestic and forbid her to go away the house, whilst the lady or spouse have to obey and receive all her orders, as lengthy because it isn't for disobedience. Furthermore, it's far compulsory for the husband to offer a dwelling primarily based totally at the sentence "and due to what he earns from his wealth" (al-Jassas, 1940: 267).

Regarding pious girls, in line with al-Jassas, this is as indicated through the verse, specifically girls who're obedient to Allah and their husbands, cope with anything, whether or not assets or otherwise, while her husband isn't around, additionally cope with herself. Regarding the spouse's responsibility to her husband, al-Jassas additionally cites a hadith because of this that that the first-class of a spouse is that if her husband sees her, he makes her happy, if her husband orders her, then he obeys her, and if her husband leaves her, then he continues his assets and himself. The hadith turned into narrated through Abu Ma'syar from Sa'id entity entification al-Mabquri from Abu Hurairah (al-Jassas, 1940: 278).

As for al-Jassas' clarification approximately the remedy of the husband while his spouse commits *nushuz*, primarily based totally at the verse, the primary is 'advising him', i.e. reminding him to worry Allah and His punishment. Then, 'separate the bed', i.e. there are numerous opinions, specifically setting apart the language or ostracizing him with words, leaving jima' or now no longer having intercourse with him, and setting apart the bed. As for the next, specifically 'permissibility to overcome her', associated narrations are quoted, specifically that if the spouse has lower back to obey her husband after being separated from her bed, then it isn't permissible to hit her. the hadith turned into narrated through Ibn Abbas (al-Jassas, 1940: 268).

This is likewise supported through a narration this means that that 'Fear Allah toward ladies due to the fact you all have taken them as a accept as true with from Allah and made lawful for you their honor (sex) with the phrase of Allah, and for you in order that your other halves do now no longer devote sexual sex with different men. that you do now no longer like for your bed, then beat your other halves with a blow that doesn't purpose injury, and your other halves are entitled to sustenance and right clothes'. The hadith turned into narrated through Ja'a long way bin Muhammad from his father, from Jabir bin Abdillah (al-Jassas, 1940: 268-269).

#### **4. Reinterpretation of the Nushuz Verses; A Contemporary Ijtihad**

One of the verses of the Qur'an this is frequently taken into consideration now no longer to guard girls is An-Nisa' (4): 34, which states that guys are leaders for girls, and legalizes beating husbands whilst better halves do *nushuz*. This verse is frequently used

as an excuse to aid patriarchal culture, specifically that guys are leaders for girls each in society in standard and withinside the household. In Tafsir al-Mizan, it's miles said that the words '*rijal*' and '*nisa*' withinside the verse aren't standard in nature, specifically male and female. However, women and men of their courting withinside the household, specifically husband and spouse. Because withinside the verse it's also defined approximately pious girls who contend with themselves whilst their husbands aren't around, in addition to guys's moves whilst girls do *nushuz*. So, women and men on this context are husband and spouse of their household (al-Tabataba'i, 1989: IV: 343-346).

In line with the opinion above, Asghar Ali Engineer additionally said that the context of the verse is confined best to the household. According to him, normatively, certainly the Qur'an locations guys in an advanced role to girls. However, the Qur'an does now no longer anticipate or kingdom that social shape is normative. A social shape is unsure and is usually changing, and if in a social shape in which girls aid their households, or end up pals with guys, girls should be same or maybe advanced to guys and play a dominant position of their households as performed through guys (Engineer, 1999: 237).

As for the permissibility of beatings withinside the verse, it may be understood primarily based totally at the unique occasions that caused the revelation of the verse (*asbab al-uzul al-Khashshah*). That is, the verse turned into found out after a person injured his spouse, after which his brother complained to the Messenger of Allah, so he ordered him to do *qisas*. In some other narration, it's miles defined that there has been a person who slapped his spouse, and the Messenger of Allah ordered to be *qisas*, in order that the verse turned into found out (al-Tabataba'i, 1989: 170).

Based at the *sabab al-nuzul*, it may be understood that the verse is certainly withinside the context of a household, and beatings had been allowed at that point to cancel the Prophet's choice approximately *qisas*. However, the thrashing in this example have to be interpreted to educate a lesson, now no longer to harm the wife.

Regarding the thrashing of the wife, there's a hadith of the prophet as follows:

اتَّقُوا اللَّهَ فِي النِّسَاءِ فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ، وَإِنَّ لَكُمْ عَلَيْهِنَّ أَنْ لَا يُؤْطِنَنَّ فُرُوجَكُمْ أَحَدًا تَكْرَهُنَّ فَإِنْ فَعَلْنَ فَأَضْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرِحٍ، وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ.

*"Fear Allah against women because you all have taken them as a trust from Allah and made lawful for you their honor (intercourse) with the word of Allah, and for you so that your wives do not commit sexual intercourse" with other men you do not like in your bed, then beat him. your wives with a blow that does not cause injury, and your wives are entitled to sustenance and good clothing'*

Based at the hadith above, it's miles permissible to overcome the spouse due to the fact the spouse commits a heinous adultery. In Tafsir al-Mizan it's also said, regarding the rationale of An-Nisa '(4): 19 concerning the prohibition to control, specifically restraining, narrowing the motion of steps and curbing. The prohibition is given an exception, specifically in the event that they do '*fahisyah mubayyinah*'. The

term '*fahisyah*' is normally used withinside the Qur'an to consult adultery, while '*mubayyinah*' from the phrase *bayyana*, is similar to *abana*, *isatabana*, *tabayyana*, which has a tendency to intend proof, in order that the heinous act in query is a verified adultery (al-Tabataba'i, 1989: IV: 254-255).

Therefore, it's miles essential to impeach the bounds of *nushuz*, in order that beating the spouse is allowed. Based on the rationale above, it need to now no longer be said that the spouse's *nushuz* to her husband is that if the spouse commits adultery that's actual or verified that the spouse has devoted adultery (al-Jassas, 1940: 268-269). So far, *nushuz* is handiest understood as a spouse's disobedience or disobedience to her husband. The idea of *nushuz* noted above need to be reviewed, because of modifications withinside the socio-cultural situations of contemporary society. Just as a spouse who leaves her husband's residence is taken into consideration a *nushuz*, in recent times ladies are greater unbiased and capable of cross or even paintings outdoor the home, so this can not be appropriate (Faqih, 1997: 79).

Although the act of thrashing is justified in Islam, while the spouse commits *nushuz*, this beating does now no longer imply an act of violence, due to the fact the cause of the thrashing isn't to hurt, however to educate a lesson. Even in different verses there's an order to have suitable members of the family with the spouse and a prohibition towards hurting the spouse or a prohibition towards doing damage to the spouse. The command to companion the spouse with *ma'ruf* and the prohibition to mistreat the spouse is contained withinside the QS. Al-Baqarah (2): 228-229, and An-Nisa' (4): 19. In fact, in Tafsir al-Mizan, it is miles said that An-Nisa' (4): 19 concerning the command to companion ladies properly is general, specifically withinside the lifestyles of society. This verse comes right all the way down to the situation of Arab society that makes ladies as inheritance, who may be married without paying a dowry, or handiest to be managed till he dies after which his assets is inherited (al-Tabataba'i, 1989: IV: 253-254).

It is a way of life that isn't always right and issues ladies, so the verse changed into discovered to forbid that way of life. That is, forbidding (the use of the phrase 'now no longer lawful') to inherit ladies through force, i.e. marrying them thru inheritance. This prohibition is then emphasised withinside the subsequent verse, particularly an-Nisa' (4): 22 (ie 'and do now no longer marry ladies whom your fathers have married...'). Then observed through the prohibition to control, particularly restraining, narrowing the motion of steps and curbing. The prohibition is given an exception, particularly in the event that they commit '*fahisyah mubayyinah*' as defined in an-Nisa' (4): 19. The term '*fahisyah*' is generally used withinside the Qur'an to consult adultery, at the same time as '*mubayyinah*' from the phrase *bayyana*, similar to *abana*, *isatabana*, *tabayyana*, which have a tendency to intend proof, so the heinous act in query is a demonstrated adultery.

This exception is contained in QS. Al-Baqarah (2): 229 (al-Tabataba'i, 1989: IV: 254-255). The term '*ma'ruf*' is something this is acknowledged through human beings of their society, no person does now no longer recognise or deny it. It has additionally been defined withinside the Qur'an that each one human beings (each male and female)

are a harmony of humanity that comes from one origin. They want every different and shape society. Each of them has a specialty, together with guys being robust and firm, at the same time as ladies are mild and loving. However, every desires every different (al-Tabataba'i, 1989: IV: 256). As for the human beings while the verse changed into discovered, it changed into now no longer according with the above-cited nature. They do now no longer just like the presence of ladies in society. Women are taken into consideration people who're much less or imperfect in addition to children. Women should stay all the time following guys.

In addition, the act of thrashing the husband towards his spouse which could motive harm is taken into consideration as violence towards the spouse, it is able to be stated because the act of *nushuz* husband towards his spouse because the idea of *nushuz* above (al-Tabataba'i, 1989: IV: 257).

this is where the problem lies, because in a high patriarchal culture, in the end, everything must be centered on male power and control. women are only followers or secondary decision makers. Unfortunately, men, sometimes with their excess power, can commit violence against women and when women fight back to demand justice, they are accused of *nushuz* against their husbands. even though it could be that the husband is indeed wrong and the wife deserves justice. This husband's arbitrariness is actually also a husband's *nushuz* towards his wife.

## CONCLUSION

1. Through the rational discussion, it is able to be concluded that the idea of *nushuz* in Islamic regulation does now no longer legalize violence towards wives. The beating of the spouse who commits *nushuz* contained in An-Nisa '(4): 34 must be interpreted as an act to educate lessons, now no longer to harm or maybe do violence, due to the fact the thrashing must now no longer injure. Meanwhile, the husband's act of hitting his spouse till he's injured or the husband's violence towards his spouse may be declared as *nushuz* of the husband towards his spouse.
2. The idea of the spouse's *nushuz* in the direction of her husband formulated with the aid of using preceding students as a spouse's disobedience to her husband which incorporates leaving the residence without permission and different minor denials. want to be revisited. Even primarily based totally at the hadith that permits the husband to conquer his spouse who commits adultery, in addition to the verse that permits the husband to make it tough for his spouse (Surah Al-Baqarah (2): 229), it is able to be formulated that the spouse's act of *nushuz* towards her husband in order that the husband is permitted to conquer him is whilst the spouse commits '*fahisyah mubayyinah*'

specifically *zina*.

3. If the husband accuses the wife of having committed *nushuz* outside the category that is justified by shari'ah, then it is actually the husband himself who has committed *nushuz* to his wife.

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