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## Resolution of Matrimonial Discord in the Qur'an: A Purposive Exegesis of the verses of *Nushuz*

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### Abstract

Purposive Exegesis (*At-Tafsir al-Maqasidi*) is the interpretation of the Qur'an based on its purposes. The purposes of the Qur'an which are embedded in it were variously inferred by Qur'anic scholars through the ages. Though distinct, the inferences are in no way contradictory. The application of these purposes as the basic framework for Qur'an exegesis has been employed by considerable number of early and modern exegetes, differing only in proportion and depth. This paper identifies the Qur'anic purposes for the family structure and uses them as its framework for interpreting the Qur'anic texts for resolving marital discord (*nushuz*) in matrimony. This method is adopted to reveal its relevance and to forestall its abuse by several modern writers; who succumb to alien modern ideologies and found it vital to challenge the Muslim exegetical traditions, as a necessary tool to prove their ideologies through different pretexts. The paper found that the Qur'an addresses *nushuz* as a matrimonial discord caused either by the husband or the wife and provided gradual mutual and disciplinary measures to curb it. This is in consistence with its objectives of ensuing sustainable love, happiness, cordiality, and righteousness in the family. The measures of admonishment, desertion in bed, beating, mutual reconciliation, family arbitration and ultimately divorce are consistent with the Qur'anic purposes of the family. They represent the preventive and curative measures of solving marital discord in the Qur'an. If these are religiously followed, discord shall be reduced to the barest minimum in the Muslim matrimony.

**Keywords:** *Nushuz*, Discord, Matrimony, Purposive, Exegesis, Resolution

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## **1.0 Introduction**

The family institution is the constitutive unit of the society, if it is built on sound foundations the society stands firm. It stands venerable to imminent destruction if its right pillars are missed. Therefore, the Qur'an has provided detail guidance regulating the family more than any other social institution (Abu Zahrah N. D: 97). Stressing this fact, Al-Faruqi succinctly said:

The family is the single relation which the Qur'anic revelation saw necessary to regulate with general principles as well as with the most detailed prescriptions, as witness the Qur'anic laws of marriage, divorce and inheritance (1983: 332).

These detailed prescriptions are intended to provide shield to the Islamic civilization against intruding systems that may seek to adulterate its foundation.

This paper clarifies one of these Qur'anic prescriptions concerning familial recalcitrance (*nushuz*) being one of the prescriptions that were both theoretically and practically abused in the Muslim nations and beyond, and one of the areas of modern debates between Muslims of various backgrounds in the modern world. The paper uses a *Maqasid*-based approach in exposing the Qur'anic guidelines for the resolution of *nushuz*. This is called purposive exegesis (*At Tafsir al Maqasidi*) in the Tafsir literature (Aliyu 2014:161). The choice of this approach is because of its capacity of resolving many ideological conflicts in interpretation of the scriptural texts and reconciliation of differences of opinions among Muslim jurists in areas of disputes. The paper is divided into six sections namely, introduction, concept of purposive exegesis, purposes of the Qur'an in family relations, concept of *nushuz*, resolution of *nushuz* in the Qur'an and conclusion.

## **2.0 Purposive Exegesis of the Qur'an**

Exegesis (*Tafsir*) simply denotes interpretation or explanation of the Glorious Qur'an (AlZarkashi1984: 2: 149) Al-Dhahabi (2000: 1:14) At Tayyar (1422:27-28)). While purposive is an adjective from purpose which simply means intention and aim (Hornby 2000:948), something is said to be purposive when it is having a clear and definite purpose. Purposive Exegesis of the Qur'an (*At Tafsir al Maqasidi li al Qur'an*) technically means: An exegesis which is clearly based on the objectives of the Qur'an (Aliyu 2014: 161). Objectives of the Qur'an are the

underlying wisdoms, higher purposes behind its text as a whole and at the levels of its chapters, themes, sentences, and words.

This type of exegesis belongs to the classical as well as a modern trend in *Tafsir* tradition. It is classical because it has its basis in the *Tafsir* literature and modern because its principles and styles are only being developed recently (Aliyu 2014:166-170, Islam and Khatun 2015). For an exegesis to qualify as purposive (*maqasidi*) it has to show markedly, its appreciation of the general objectives (*al maqasid al ammah*) of the Qur'an, the specific objectives (*al maqasid al khassah*) of the chapters of the Qur'an, and the minute objectives (*al maqasid al juz'iyah*) of respective themes of the Qur'an. In addition, it must apply the above in the process of *Tafsir* or explaining the individual verses of the Qur'an.

To appreciate the objectives of the Qur'an, its chapters and themes, an exegete can undertake an independent inductive study of the Qur'an to discover for himself. He can also adopt or adapt earlier set of objectives espoused by the exegetes. Many scholars have inferred these objectives and arrived at complementary conclusions (Aliyu 2014: 178-205 Islam & Khatun 2015). There are also numerous attempts at highlighting the objectives of the chapters by scholars like Al Biqa'i (1987), Al Farahi (2008), Ibn Ashur (1984), Sayyid Qutb (N.D.), Shihatah (1976), and ArRabi'ah(2011) among others. Again, objectives of selected themes of the Qur'an were also studied in and outside the *Tafsir* literature throughout the history of *Tafsir* to the contemporary times. The contributions of Ibn Ashur (2006) and Al-Faruqi (1983) on the objectives of family structure are outstanding and apt for this study.

The sources and principles of purposive exegesis -also referred to as Objective-Based Exegesis-(Islam and Khatun, 2015) are: the objectives of the Qur'an, Qur'anic texts, Hadith, consensus, *Maqasid al Shari'ah* and Arabic Language. This implies that this trend is a developed form of the classical *tafsir* using its tools and sources with more emphasis on definite identified objectives of the Qur'an. It uses the *maqasid* of Qur'an to elucidate the text, specify or restrict it. It also amplifies the meaning, generalises the import of the texts and overrides existing interpretations. It, as well, reconciles between different views in classical and modern exegesis and prefers those that are more *maqasidic* as plausible and

more accurate meaning of the Qur'an (see for some practical examples, Yunus 2002:146-152 and Aliyu 2014: 12).

This paper applies this *Maqasid*-Based approach to expose the Qur'anic verses treating family crisis or refraction which it referred to as *nushuz*. It shall define it and explicate the verses that gave guidance for its remedy, based on the Qur'anic objectives for establishment of family institution, as related to the general objectives of the Qur'an and chapters to which the verses under discussion fall.

### **3.0 Objectives of Family Institution in the Qur'an**

The Qur'an is a purposeful and purposive Book. It is generally intended to provide the best of guidance for the welfare and happiness of man as the vicegerent of Allah on earth (Aliyu 2014: 149). The Qur'anic guidance is classified into fixed and dynamic. The fixed relate to the fundamental spheres of human life that are constitutive to realization of its core values which are above time and space. They are never affected by the vicissitudes of place and time. The specific prescriptive guidance on family relations belongs to this sphere. This is so because "regardless of which is cause and which effect, civilization and the family seem to be destined for rising together or falling together (Al-Faruqi 1983: 158). To the dynamic sphere belong the general principles relating to politics, economy, state and governance. These areas are dynamic in nature and shall continue to evolve and develop by factors of time and space.

Family is defined variously, but for the purpose of this paper, the operational definition given by Abd al Ati (1977: 19) is adopted, thus:

A special kind of structure whose principles are related to one another through blood ties and/or marital relationships, and whose relations is of such a nature as to entail mutual expectations that are prescribed by religion, reinforced by law and internalized by the individual.

The family is established, inferring from the Qur'an, for the following purposes:

1. Actualization of the *tawhid* (unity of Allah) or *ibadah* (worship) of Allah and its perpetuation among humankind (Qur'an 30: 21, 66:6).

2. Sustenance of mutual cooperation, love, mercy, harmony and happiness between human beings and thereby perpetuating their existence on earth (Qur'an 30:21, 223, 16:72, 4:19). This cooperation and interdependence of man and woman in ensuring fullness of life for each other through mutual affection, mutual confidence and mutual protection as husband and wife has been stressed by using a metaphor of profound beauty. They are a garment unto you, and ye are a garment unto them in Qur'an 2: 187 (Ansari 2:193)
3. Training for societal formation and reformation based on the *tawhid* paradigm (Qur'an 66:6). Therefore, it requires leadership and set of rules and regulations in all aspects. This explains why Family is the single area of relations that Qur'an provides minute details on how to establish and sustain (Al-Faruqi 1983:332).

#### **4.0 Marital Discord (*Nushuz*) in Islamic Tradition**

*Nushuz* literally means hillock or rising from the ground (Azhari 11:209, Ibn Manzur 5:417, Al-Fairuz Abadi 1: 527). A woman is described as perpetrating *nushuz* (*nashiz*) when she is recalcitrant and disobedient towards her husband and a man is said to be so when he treats his wife brutally (Ar-Razi: 310, Al-Fairuz Abadi 1:528, Zabidi: 1:418, Wehr 966).

The word is used and repeated in the Qur'an five (5) times in the contexts of ethics of assembly (Qur'an 58:11), creation (Qur'an 2:259) and matrimonial discord (Qur'an 4: 34 and 128). It denotes rising up in the first two contexts, rebellion and ill treatment in the last context (Al-Qurtubi 3:296, Ibn Ashur 28:39, Pickthall, Ali M., Usmani Translations).

In Islamic Law, *Nushuz* is broadly defined in two senses, the first being general, denoting discord emanating from either of the spouses and the specific denoting wife's recalcitrance, rebellion and refraction.

Some of the general definitions are as follows:

1. Violation of marital duties on the part of either the husband or the wife (Wehr 966)
2. Dissention or desertion of any of the couple towards his partner

3. Recalcitrance of the woman towards her husband and brutal treatment of the wife by the husband (Wehr 966).

The specific definition is provided by the Kuwait Encyclopaedia of Islamic Law (الموسوعة الفقهية الكويتية) ascribing to the Maliki, Shafi'i and Hambali schools as: "Refraction of wife from compulsory obedience to her husband" (Wizarat al-Awqaf wa al-Shu'uoon al-Islamiyyah 40:286).

This paper adopts the first sense which is supported by the Qur'anic usage as alluded above, hence the translation of *nushuz* as *matrimonial discord*. This shall be further clarified under the *nushuz* verses.

The wife's *nushuz* is manifested in any form of deliberate dereliction of her compulsory duty to her husband. This includes denying him of her bed, cheating in bed, admitting those he resents to his house –whether in his presence or absence-, embezzling his wealth, hurting him with obnoxious words of derogation and abuse, exposing his secrets, going out of home without his permission, refusal to take care of the home, etc (Al-Judai' 35-36). Abdul 'Ati (158) added in the list: "her aversion to her husband, hatred toward him, disinterest in his companionship, or attraction to another person".

Husband's *nushuz* is manifested in any form of unjustifiable aversion and desertion. This includes denial of her maintenance, preferring her co-wife to her detriment, physical violence, and those attitudes of wife's *nushuz* mentioned above, etc.

*Nushuz* in all its manifestations; either by the husband or the wife is prohibited (*haram*) by the consensus of Muslim scholars. Some have listed wife's *nushuz* among major sins (Adh-Dhahabi 339) considering the authentic *ahadith* threatening the *nashiz* with Allah's wrath (Al-Bukhari 3337, 5196, 5198, and Muslim 1436), Angel's and *al-Hurul-Ein's* course (Ibn Hanbal 22101 and At-Tirmidhi 1174) and non-acceptance of her Salah (At-Tabarani 478).

*Nushuz*, has some legal implications in Islamic law, like denial of feeding, shelter, sexual intimacy, etc. (Wizarat al-Awqaf wa al-Shu'uoon al-Islamiyyah 40:290-294).

## 5.0 Verses of *Nushuz* and their General Meaning

The Qur'anic verses on marital discord are numerous, but are generally concentrated in Surat al-Baqarah (Qur'an 2: 226-232, 236-237, 241), al-Nisa'i (Qur'an 4: 19-21, 34-35, 128-130) al-Nur (Qur'an 24: 6-9) al-Ahzab (Qur'an 33: 27-31) and al-Talaq (Qur'an 1-7). However, many studies on *nushuz* tend to restrict discussion on the verses of Surat al-Nisa'i (Qur'an 4: 34 & 128) having contained *nushuzahunna* and *nushuzan* respectively (Wadud 1999:75). Some even refer to the former (i.e., Qur'an 4:34), only, as the *nushuz* verse (Shaikh: 1997: 5). This restriction might have also emanated from the conception of *nushuz* as wife's refraction on her duty to her husband, exclusively (Abd al-Ati, ND:157-8, Hidayatullah 2014:122).

To this paper, Qur'an 4: 34-5 and 128-130 are considered as the *nushuz* verses. This is in consideration of the appearance of the word (*nushuz*) in the context of the five verses. The verses are presented below.

### 5.1 Verses of *Nushuz* (Text and Translation)

Allah says, concerning the *nushuz* of the wives:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ أَطَعْنَكُمْ فَلا تَبْغُوا عَلَيْهِنَّ سَبِيلاً إِنَّ اللَّهَ كَانَ عَلِيماً كَبِيراً (34) وَإِنِ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِن يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا (35)

This is translated by Ali Y. (54) thus:

Men are the Protectors and Maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient and guard in (the husband's) absence what Allah would have them guard. As for those women on whose part ye fear disloyalty and ill-conduct, admonish them (first). (Next) refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them means (of annoyance): For Allah is Most High, great (above you all). If ye fear a breach between them twain, appoint two arbiters, one from his family and the other from hers; if they wish for peace, Allah will cause for

their reconciliation: For Allah hath full knowledge, and is acquainted with all things (Qur'an 4:34-5).

Allah also says, concerning the *nushuz* of the husbands:

وَإِنِ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ مُحْسِنًا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا (128) وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمِيلِ فَتَدْرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ عَفُورًا رَحِيمًا (129) وَإِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلًّا مِنْ سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا (130)

This is also translated by Ali Y. (62-63) thus:

If a wife fears cruelty and desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves, and such settlement is the best; even though men's souls are swayed by greed. But if ye do good and practice self-restraint, Allah is well acquainted with all that ye do. Ye are never able to be fair and just as between women, even if it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practice self-restraint, Allah is Oft-forgiving, Most Merciful. But if they disagree (and must part), Allah will provide abundance for all from His all-reaching bounty: for Allah is He that careth for all and is Wise (Qur'an 4: 128-130)

## **5.2 General Meaning of the Verses**

Men are the managers of women in the family institution. This degree is allocated to them because of what Allah has bestowed on them above that which he bestowed on women of physical and psychological strength and endurance and because of what they were charged with; to cater for women from their hard-earned lawful wealth.

The righteous women are duty-bound to Allah and their husbands in right courses and are keepers of their chastity and their husbands' wealth in their absence as Allah ordered them to do. These women deserve your respect, kind treatment, love, and mercy. You should therefore keep these attitudes with them to maintain peaceful, successful, prosperous, and perpetual matrimonial home.

As for those women from whom you fear dissention and disobedience that may lead to marital discord among you, discipline them through an in-house threefold measure viz; polite and private admonition, then separate beds with them if they persist in their refractory behaviors and finally beat them to show your anger without injuring their body or slapping their faces. And when they return to the right course after any of the measure, then you should forget the issue and continue with your normal relations. Indeed, Allah is the Most High and Great and with that He turns to whoever returns to Him and pardons his indiscretions. This is how to forestall marital discord which is caused by the wife's recalcitrance.

As for husband's desertion and dissention, if a wife fear any from her husband, she should be proactive in attracting him back to normalcy through mutual conciliation, which could be attained through wise admonition, as well, and all other lawful in-house measures of reconciliation. Reconciliation is, indeed, better for the maintenance of the purpose of matrimony. Human souls are given to egoism, but if you treat one another with kindness and piety, Allah will reward you for that as He is fully abreast of all that you do.

Allah then admonished the husbands, that though perfect justice between co-wives in polygyny is impossible, even if the husbands crave to achieve it, this should not justify mischief against any of them. Equity in possible physical rights must be sustained to keep all the wives happy. And whatever you may do to reconcile any rift between you and your wives in piety shall mend your previous errors and be a cause for forgiving your past sins, for Allah is Most Forgiving, Most Merciful.

When the discord could not be settled after all the in-house measures and the relation is threatened by continuous conflicts from both spouses, then, and only then, two trustworthy and trusted arbiters; one from the family of the husband and another from the family of the wife, should intervene to make peace between the couple. However, is their effort, if they mean well, Allah will ease their way towards reconciliation and normalisation of the marital relation between the couple. Allah is indeed fully acquainted with all that you intend and do.

When this family reconciliation also fails to bring the crises to end the last resort is to dissolve the marriage in the best way. This becomes the necessary

measure to prevent domestic violence and living in anarchy. If the separation is done in the peaceful way Allah shall enrich each of the spouses and replace them with better partners with whom they shall enjoy marital bliss. Allah is indeed ever Ample-given and Wise.

#### **6.0 Resolution of *Nushuz* in the Qur'an**

The Qur'an has provided through the text mentioned above and other corresponding verses a framework for resolving the marital discord; whether it is precipitated by either of the couple or by both. A purposive study of the verses reveals that the framework comprises preventive and curative measures both of which could be attained at intra-house, inter-family, and societal levels. The preventive measures are the bases on which the marriage should be build which is represented in the training of the couple in responding positively to the ideals of caring (*qiwamah*), righteousness (*salah*) obedience (*qunut*) and protection (*hifz*). The in-house curative method for the wives' *nushuz* is the tripartite disciplinary measures of preaching (*wa'z*), staying aloof in the bed (*al-hajr fi al-madja'*) and beating (*al-darb*) by the husbands. And the in-house curative measure for husband's *nushuz* is the compressive amicable settlement (*sulh*) by the wives. The inter-family measure is employed when the *nushuz* reaches to the level of unabated disagreement (*shiqaq*) by the couple. Two arbiters (*hakam*) are appointed either by the couple, the family, community elders or leaders to resolve the disputes. When all these could not end the discord, then last resort is the dissolution of the marriage (*firaq*) which could be resorted to by the husbands through divorce (*talaq*) or the wives through divestiture (*khul'*) or self-redemption (*fida'*) or by the court of law (*faskh*).

It is however lamented that Muslims fail to utilize this framework universally (Ali Y. 168 Note549). This could have been caused by so many factors including ignorance of the framework by many couples. Another factor is the modern challenge of traditional Muslim scholars' understanding of some of these measures as masculine, patriarchal and misogynist interpretation sanctioning gender superiority complex, Domestic Violence (DV) and Intimate Partner Violence (IPV) and so on (Shaikh 4, 17, Al-Hibri 206, Ibrahim & Abdallah 4). Qur'an 4:34 was even referred to as the "chastisement passage" (Al-Hibri 204-206).

This section presents the Qur'anic framework with the underlying wisdom (s) behind each step and attempts to answer or refute some of the challenges in the light of the standard general methods of Qur'an exegesis and purposive exegesis in particular.

## **In-House Preventive Measures**

### **6.1 Leadership in Muslim Matrimony**

Family being the constitutive unit of the Muslim society is based on leadership. This is to actualise its objective in instilling the tauhid paradigm in the offspring from their tender ages. According to Al-Faruqi, family is the ultimate social unit that provides the theatre of relationship where in the moral part of the Divine Will may be fulfilled by human decision and action (131-132).

This leadership is appointed by Allah Himself as an inelastic injunction of the family. The headship of the Muslim family is vested on the husband as a responsibility and a condition for righteousness of the man and success of his family. This is the import of the managerial office of *qawamah* in Qur'an 4:3. If this responsibility is discharged diligently; it confirms the degree accorded to men (husbands), by Allah, above women (wives) in Qur'an 2:228, despite their established similarity and equality in crucial levels of religion, ethics and civil life (Qur'an 3:195, 9:71-72, 16: 97, 60:12, 5:38, 24:2 and 4:32).

That men are the leaders at home does not necessarily suggest the notion of gender superiority. The Prophet of Islam while emphasizing the differential roles of husbands and wives described each of them as "caretaker". He said:

وَالرَّجُلُ رَاعٍ فِي أَهْلِهِ وَهُوَ مَسْئُولٌ عَنْ رَعِيَّتِهِ، وَالْمَرْأَةُ رَاعِيَةٌ فِي بَيْتِ زَوْجِهَا وَمَسْئُولَةٌ عَنْ رَعِيَّتِهَا

A man is a leader/caretaker in his family and shall be held responsible about his stewardship of his subject. And a woman is leader/caretaker in her husband's house and shall be held responsible for her stewardship of her subjects (Bukhari 893, Muslim 1829).

In fact, the addition of "children" in the Muslim's rendition of the hadith: "and a woman is a caretaker/manager of her husband's household and children" leaves no room for the assumption of gender superiority from the text. The wife is the second in command and she takes care of everybody there, in the way espoused by the verse, which makes her a righteous woman. If the couple

appreciate and accept their status as responsible members of the household with defined leadership and followership, the chance of matrimonial discord is cut to the barest minimum from the onset of their marital union.

## 6.2 Righteous Men (Husbands)

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

This section of the verse contains the appointment and the qualification for the appointment of husbands as managers in the matrimonial home. The appointment is *qiwama* and the qualification is a two-fold duty of appreciation of the Allah-given strength (*fadl-Allah*) and support or maintenance of the wives (*al-infaq*).

*Qawwamun* is a superlative (intensive form of) verbal noun of *qa'im* which denotes, according to Arabic and Qur'anic Dictionaries (Ibn Manzur 11:371-372, Al-Isfahani 690) and authoritative English Translations of the Qur'an (Ali, Y. A., M., Pichthal, Asad, Usmani), caretaker, protector, manager and supporter. This is also the meaning given to it by the classical and Modern Qur'an commentators using variant words denoting: leaders and protectors (Markaz ad-Dirasat wa al-Ma'lumat al-Qur'aniyyah (MDMQ) 6:333-4, Ibn Ashur 5:38, Abu Zahra 3; 1667). This is also buttressed by the direct commands of the Qur'an to men on issues bordering on the leadership and protection of the family throughout the Qur'an. Allah has described men as protectors because they are commanded to play the role. The extent of the protection is left unrestricted to encompass all kinds of protection at all times that can ensure safety and happiness of the wives to best of the husbands' abilities.

Men are appointed to discharge this responsibility and are honoured -as righteous- if they do so, because of their inherent potentialities for it, which Allah has given them more than the women. This *fadl* relates to physical, psychic, and emotional strengths that are necessary for the responsibility of fatherhood, home protection and livelihood earning. Al-Faruqi succinctly explained this when he writes thus: "the family is a home which requires defence and for the substance of which full-time struggle after the home is a necessity. Men are evidently better disposed for this duty than women (1983: 134)".

To translate *qawwamuna* as 'supporters' as in Yuksel *et al* (93), is a restriction of the comprehensiveness of the care Allah commanded towards

women. It is also contrary to the ordinary meaning of the word *qa'iman* in Arabic and the Qur'an parlance (see for example Qur'an 13:33). This translation might have been done in favour of the reformists' aversion to patriarchy as the normative system of Islamic Family. But this aversion negates the letter and spirit of the Qur'an as well as its purpose for the Muslim family. Patriarchy, a social organization in which a male is the family head, is, as rightly asserted by Al-Faruqi (1983: 133-4), the only form of family life which mankind has tried and observed since creation.

The word *ba'ad* meaning 'some' which occurred twice in the phrase *bi ma faddala Allahu ba'dahum ala ba'ad* is not defined. This makes it amenable to various understandings. Majority of scholars hold the former as referring to men and the latter to women. This is in consideration of the succeeding part of the verse which reads "and for what they support them from their means" or translated differently "and with what they spent out of their wealth" which markedly referred to the men (Tabari 8: 290, Ibn Ashur 5: 39). But the Qur'an did not put it straight for the purposes of allusion to the nature of the excellence (*fadl*) as being (a) generic, i.e., it is not every man that excels every woman, as being (b) that (excellence) of a part on the other of the same body as emphasized in Qur'an 3:193 and 4:25 and as being (c) for the general good of all in the family (Abu Zahra 3: 1668, Rida 5:57).

The second quality for the husbands' appointment is what they spent of their wealth in maintenance of the wives. This refers to their economic rights and all its components starting from the dowry to shelter, cloth, feeding, etc. Failure to discharge this responsibility leads to actual and, according to some jurists, legal withdrawal of the appointment. According to Al-Qurtubi (5: 169):

Scholars understood from Allah's saying: (وبما أنفقوا من أموالهم) that any husband who fails to maintain his wife seizes to be her caretaker and as such she has the right to demand for dissolution of the marriage, for the disappearance of the purpose for which marriage is established (i.e., care and maintenance of the wife).

Summarily, Man's instrumental authority in the house on his wife means his responsibility to guide, protect, maintain and care for his wife with all his

physical, intellectual and economic strengths. The discharge of this responsibility qualifies him to be a righteous husband. This is taken from the quality given to wives who diligently discharge their matrimonial duties in the succeeding part of the verse. If husbands are chosen from the righteous men, the issue of marital discord would be forestalled from the contract of the marriage.

### **6.3 Righteous Women (Wives)**

فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ

This section of the verse describes the righteous women (*salihat*), who are the ideal wives and role models, to be those who qualify to some two qualities in two pithy words, viz; devoutly obedient (*qanitat*) and guardians (*hafizat*). This summarizes the qualities of righteousness in the Muslim women. *Qunut* according to Al-Isfahani (684) denotes "perpetual obedience with humility". The object of obedience in the verse is certainly Allah being the only one deserving of absolute obedience. This is in consistence with the purpose of family as a social unit that instils and guards *al-tawhid* in its members. "There can therefore be no *al-tawhid* without the family", Al-Faruqi rightly emphasized (1983:133).

It is also an act of devotion to Allah on the part of the wives to be obedient to their husbands in prescriptive and restrictive manners enshrined in the law of Allah. This is in appreciation and reciprocation or complementation of the husbands' care and maintenance and for the success of the family. There must be guided leadership and responsible followership to build a successful family.

It is in consideration of this that some commentators, like Tabari, interpret *qanitat* in the verse to mean "obedient to Allah and to their husbands" (8:294). The same interpretation is attributed to Qatadah, Muqatil ibn Sulaiman and Muqatil ibn Hayyan (MDMQ 6:337).

Obedience to husbands is also alluded to in the verse in two ways; (1) When these righteous wives were contrasted with the disloyal and refractory wives (*nashizat*). Nobody –as far as our research on the topic goes- interprets *nashizat* as disobedient or disloyal to Allah. (2) When Allah admonishes the husbands "not to seek any means of annoyance" on the *nashizat* when they returned to obeying them using the word: *da'ah* which is equally used for obedience to Allah in many places in the Qur'an.

Moreover, the Prophet, who is vested with the responsibility of explicating the Qur'an in words and action (Qur'an 16:44) has described the righteous women as "obedient to their husbands" (MDMQ 6:337) and threatened the disobedient wives with curse and other woes in the hereafter, as alluded above.

To argue that *qunut* is exclusively used for subservience to Allah as misconstrued by Wadud (74) and to consider its interpretation in the verse to mean obedient to husbands as a form of deification of the man and therefore a form of shirk, is -to say the least-, absurd. This is however the postulation of a famous Muslim feminist; Sadiyya Shaikh. In her words:

Women's obedience to their husbands assumes sacred proportions ... this inadvertently project men as divine intermediaries, if not demi-gods, as the objects and instruments of female accountability. The feminist critique which is pertinent in this regard is "it is idolatrous to make males more 'like God' than females" (Shaikh 10).

Wadud's sweeping generalization, in which she claimed that the recipients of *qunut* in the whole of the Qur'an is Allah alone, and as such "obedient to husbands": is a false interpretation of *qanitat*, is also a misrepresentation of the fact and Qur'anic reality. Qur'an 33:31 wherein the recipients of the *qunut* are Allah and His Messenger suffices to refute her *false* generalization. She also falsely holds *da'ah* to indicate "mere obedience between created beings" (Wadud 74) to support her theory, whereas the phrases *wa man yudi' Allaha wa Rasulahu* (whoever obeys Allah and His messenger) and *wa adi'u' Allaha wa rasulahu* (obey Allah and His Messenger) are replete in the Qur'an (Qur'an 4:13, 69, 80, 24:52, 33:71, 48:17, 3: 32, 4:59, 8:20, 24:54, 47:33). As to Shaikh's allegation of idolatry, what can she say about the intermediacy of the Prophets between Allah and his creatures? Is that also idolatrous? Whatever is her answer is the answer to the allegation at hand. Furthermore, the Prophet has authentically been reported to have said: "By Him in whose hand is my soul! a woman shall never fulfil the right of her Lord until she fulfils the right of her husband upon her" (Ibn Majah 1853). It is, however, noteworthy that these feminists and the reformists have little or no regard to the *ahadith* of the Prophet (SAW)! This should be pronounced to further disclose the source of their flaws in interpreting the Qur'an.

The second quality of the righteous women is *hafizat*. *Hifz* is literally used, according to Al-Isfahani (244) to denote, among other things, *kulla tafaqqudin wa ta'ahudin wa ri'ayah* meaning: every kind of custodianship, guardianship and care. In this context, it is the guardianship of the *ghaib* which Allah has ordained on them to guard. *Ghaib* denotes anything beyond your senses, especially sight, or comprehension (Al- Isfahani 616). What Allah has invested on the women to guard is their chastity as in Qur'an 24:31. The context here suggests other things to be guarded. These are the matrimonial house, the authority and the wealth of their husbands being the topic of discussion in the preceding portion of the text.

Moreover, the Sunnah had categorically included all the three as the objects of woman's guardianship in a number of authentic *Ahadith*. This is why exegetical traditions interpreted it as such (MDWQ 6: 338). The *ghaib* is contextually interpreted to mean the absence of their husbands, i.e., they guard their chastity, their homes and their husbands' wealth, in the absence of the husbands. This is to say that they discharge their responsibility of *hifz* in presence as well as in absence of their husbands. Absence of the leader does not affect their efficiency because they are obedient to Allah who is Omnipresent.

These women are qualified to be righteous only when they always possess the two broad attributes of obedience to Allah and care of their chastity. And as such they should be treated with love, kindness, and mercy. This is the necessary conclusion of this portion which is obscured/implicit for its obviousness (Tabari 8: 297). The passage also implies a command to all wives to be righteous so that Allah is pleased with them (Ibn Ashur 5:40). It follows that if women abide by this command, matrimonial homes shall be free from disobedience and disloyalty which is what *nushuz* indicates, in the context.

### **In-House Curative Measures**

#### **6.4 Nushuz in the Qur'an**

وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ ... وَإِنَّ امْرَأَةً حَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا

The usage of *nushuz* in the Qur'an has been highlighted above. What is intended here is to present the attitudes the Qur'an considers 'nushu-zious' and the related words used in the context. After highlighting the preventive measures of the *nushuz*, the Qur'an now directs to the curative measures. These should be resorted

to in case of a disorder in the matrimony. This disorder may be caused by the man or the woman and may be caused concurrently and persistently by both. In all the three cases, the disorder is called *nushuz*. It should be observed that the Qur'an did allude to women *nushuz* being manifested in disloyalty to husbands as could be understood from the end of Qur'an 4:34 and that of man as being manifested in desertion of women to be though hanged as in Qur'an 4:129. It also called the duo's dissension of one another, according to Ibn Kathir (2:296), as *shiqaq* in Qur'an 4:35.

Pondering into the two sets of verses of *nushuz* and similar passages in the Qur'an reveals that the words employed to convey marital discord are: 1. *Nushuz* (4:34, 128), 2. *i'rad* (4:128), 3. *Shiqaq* (4:35), 4. *idrar* (2:231, 233, 65:6), 5. *fahishatan mubayynah* (4:19, 65:1), 6. *Ramy*, 7. *i'la'*, 8. *Zihar* (33:4, 58:2, 3) 9. *'adhl* (2:233, 4:19) and 10. *Ikraj min al-buyut* (65:1). The last nine (9) are the variants of *nushuz*. Nos. 2, 4, 6, 7, 8, 9 and 10 are faces of men's *nushuz*. No.5 is the only categorical kind of women's *nushuz* in the Qur'an. Nos. 1 and 3 are the common forms of discord among husbands and wives.

Man's *nushuz*-ious acts are more emphasized and condemned in the Qur'an because of the universal reality of man's molestation against them being the weaker partner in matrimony. This is indicative and connotative of the Qur'an's protection of women against DV and IPV.

These categories of *nushuz* also reveal its various levels in terms of its injury to marital relations. The measures put in resolving them are also variegated. Couple should select the appropriate where the text is silent or ambivalent and stick to its provision where it has fixed a solution.

The words *takhafuna* and *in khiptum* are from *khauf* which means fear. It is interpreted in the context to mean when you fear the occurrence of disloyalty or desertion or when you fear its continuation, after observing its signs (Tabari 8:298-299, Ibn Atiyyah 2: 48), then take the measures provided. The most plausible interpretation which goes with the original meaning of the word and is consistent with the purposive exegesis we have adopted is Ibn Ashur's exposition, thus:

وَمَعْنَى تَخَافُونَ نُشُوزَهُنَّ تَخَافُونَ عَوَاقِبَهُ السَّيِّئَةِ. فَالْمَعْنَى أَنَّهُ قَدْ حَصَلَ النُّشُوزُ مَعَ مَخَائِلِ قَصْدِ  
الْعَصِيَانِ وَالتَّصْمِيمِ عَلَيْهِ لَا مُطْلَقَ الْمُعَاصِبَةِ أَوْ عَدَمَ الإِمْتِثَالِ، فَإِنَّ ذَلِكَ قَلَّمَا يَخْلُو عَنْهُ  
حَالُ الرِّجَالِ، لِأَنَّ الْمُعَاصِبَةَ وَالتَّعَاصِيَّ يَعْضُرَانِ لِلنِّسَاءِ وَالرِّجَالِ، وَيُرْوَلَانِ.

The meaning of your fear of their disloyalty is: you fear of its bad repercussions. This means that the disloyalty has already occurred in addition to signs of deliberate insubordination and insistence on it, not any normal triggering to anger or disobedience, because this is rarely absent among the couples and because normal angering and disobedience are intermittent phenomena that never seize in the matrimony.

This buttresses our position that what follows in the verse (s) of disciplining are curative and not preventive measures. The in-house curative measures are highlighted hereunder.

### **6.5 Mutual Admonition**

فَعِظُوهُنَّ ...

The first in-house curative measure of resolution is preaching (*wa'z*). This is to remind the erring partner of the virtue of marital harmony, its joyful impact on the success of the marriage, safe upbringing of the offspring and the rewards Allah has prepared for whoever instils happiness in the heart of a fellow human being; let alone a believer and a lovely life partner. It as well connotes cautioning the partner against Allah's wrath and the bad consequences of the discord to their responsibilities as home makers and their ties of kinship. This should be done with wisdom; choosing suitable words and considering conducive time, place and circumstance so that it may aid the partner to heed to the admonition.

The Qur'an uses the imperative verb do connote that this stage is unrestricted to place or time and could be repeated as much as the victim longs for resolution through it. I have named this measure mutual admonition to bring to home that this could be used also by the wife in case of her husband's desertion as a means of the mutual settlement she is allowed to initiate in Qur'an 4:128.

This measure helps in softening the heart towards virtue and kindness, but it does not always work with all men and all women. If one fills that he has done enough of it, but the situation continues to deteriorate, then a resort should be made to the second curative measure of resolution.

## 6.6 Separation/Abandoning of Bed

وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ

The second in-house curative measure for the husbands is abandonment of the refractory wives in the bedchamber. *Hajr* means leaving or departing another person with one's body, talk or mind (Al-Isfahani 833). This means that the husbands should keep off sexual intimacy with them. This is the most plausible of the four meanings given to this passage by the exegetes (MDWQ 6: 347-52). Sayyid Qutb (3: 115) has succinctly captured the wisdom behind this measure when he writes, inter alia:

It is in the bed that a woman's temptation is most effective. A rebellious, self-conscious woman exercises her true power. When a man is able to overcome this temptation, he deprives a woman of her most effective weapon. In the majority of cases, a woman becomes more ready to give way when the man demonstrates a good measure of will-power in the most difficult of situations.

This measure was practically implemented by the Prophet as reported by Bukhari (5201). This helps in clarifying how this measure could be applied. The Prophet (SAW) departed his wife's apartment and retorted another place in the house for twenty-nine days. He didn't stop speaking with them. He did not show any cruelty in talks or looks at them. He did not withdraw any of their rights. He did not leave the house completely. In fact, he has instructed that nobody should apply this measure outside the harem. These are the ethics of *al-hajr fi al-madaji'*. Some women could however defy this measure. Here comes the next in-house step for the husband, which is beating.

## 6.7 Beating

وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْعُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Beating (*darb*) is the last and most severe in-house measure which husbands are commanded to resort to, where necessary for the resolution of wives' *nushuz*. *Darb* in Arabic simply means to hit or match a body with another (Al-Isfahani 505). It is used in other figurative senses, all of which has this element of matching in it. The absoluteness in the verb was restricted by the Prophet (SAW)

in a number of Ahadith to be non-injurious beating (Muslim 1218) and not on the face (Abu Dawud 2142).

This measure serves to reveal the extent of the husband's displeasure about the wife's refractoriness. It is only resorted to as the last option. Lovers do not physically hit one another except in extremely strange cases. The explanation given above, of how the *darb* should be, when it becomes necessary, removes any illusion of condoning domestic violence or irresponsible wife battering. "It is not a form of torture motivated by seeking revenge or humiliating an opponent... It is rather a disciplinary measure akin to the punishment a father or a teacher may impose on wayward children (Qutb 3:115)".

It is true that most women and many societies are averse to this measure, but this legislation is always made for the generality of mankind and all places. According to Qutb:

Practical and psychological indications suggest that in certain situations, this measure may be the appropriate one to remedy the certain perversion and to bring about satisfaction. Even when such pathological perversion exists, a woman may not sufficiently feel the man's strength for her to accept his authority within the family, at least not unless he overcomes her physically.

There are traditions indicating a cause of revelation for this verse, in which a woman complained to the Prophet (SAW) of her husband's slap on her face. The Prophet (SAW) commanded that she retaliate as a result of which the verse was revealed. This cause and similar ones are not authentic (MDWQ 6: 331, Ibn Ashur 5:40). These traditions could not be used as basis for interpreting this verse. It is noteworthy that the Reformists and Feminists despite their zero or near-by consideration for Hadith have quoted and depended on this weak Hadith to support their arguments (Shaikh 5).

It is however true that the Prophet (SAW) had shown his aversion to the swift resort to this measure when about seventy women came to complain of their husbands' abuse of the measure and reprimanded the perpetrators as not being among the best of the Muslims (Ibn Majah: 3:134, No: 1984). It is obvious that the perpetrators resorted to beating without following the due process explained above.

This abuse is condemnable all the time but is never a ground for re-interpretation of the Qur'an word *wadhribuhunn* to mean 'leaving the home completely' as attempted by the so-called reformists. Theirs is a distortion of the Arabic language, negation of the Prophet's understanding in thought and practice and a negation to the consensus of Muslim scholars through the ages, without a reasonable cause. Desertion of the husband from his wife or wives is a *nushuzious* act for which the Qur'an suggests a way of resolution.

It is a distortion of the Arabic Language in the sense that it contradicts the exposition of the authoritative Arabic lexicographers and linguists and Qur'an linguist commentators.

It is a negation of the Prophetic understanding in thought because the Prophet instructed husbands to hit their wives when they behave recalcitrant (Muslim 2: Hadith No. 1218).

It is an interpretative violence against the practical implementation of the Qur'an because when the Prophet permitted the beating of the wives many Muslims took to it and even abused it (Ibn Majah 1:638 Hadith No.1985). The Prophet only condemned the abuse but did not change the meaning of the verse in his quest to protect women from domestic violence.

It is an unjustifiable aberration from the consensus of the Muslim Ummah because all the scholars in Qur'an Exegesis, Hadith, Islamic Law and Jurisprudence in the past had never contemplated the flawed new meaning nor their counterparts in the contemporary world approved it because of its in antiquities.

## **6.8 Mutual Reconciliation**

وَإِنِ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا (128) وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمِيلِ فَتَدْرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ عَفُورًا رَحِيمًا (129)

Mutual reconciliation is the in-house measure which a woman is allowed to follow to settle her rebellious act emanating from her husband. This could be done through rescinding some of her rights or offering some privileges to him to keep the marriage bond. The Qur'an encourages this measure and regards it in whatever

way better than separation of marriage. If the discord persists and all the in-house measures fail, the family of both spouses should intervene to return the relation to normalcy. This is a sort for family court.

### **Inter-House or Societal Curative Measure**

#### **6.9 Family Arbitration**

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقَ اللَّهُ  
بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَبِيرًا

The stage in which the family may come to rescue a marriage is when the discord has deteriorated to the level of *shiqaq*. Two wise men one from the family of each party, with experience and expertise and are trustworthy and willing to reconcile the household should be appointed to do the job. Allah promises that if they come with good intention, their task shall be easy.

#### **6.10 Dissolution of Marriage**

وَإِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلاًّ مِنْ سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا (130)

If all the measures could not yield positive result the final measure is to dissolve the marriage through any of the approved ways mentioned in the Qur'an. This could be initiated by the husband or the wife or the family or the court of law.

Divorce is resorted to as the last remedy in Islam and as such the ubiquitous abuse of divorce procedures in the Muslim community is never sanctioned by Islam.

### **7.0 Conclusion and Recommendations**

The forgoing had highlighted the Qur'anic measures for resolving matrimonial discord through a purposive disposition of the verses that address the issue. The purpose of marriage was delineated as enshrined in the Qur'an to appreciate the ways of resolving discord. The measures were identified in states ranging from in-house to inter-house and preventive to curative. They measures are capable of sustaining marriage union among Muslims. The paper, following the purposive approach, refuted some erroneous interpretations of the verses by some modern writers who ignored the approach.

This paper recommends that Muslim couples should acquaint themselves with these measures and uphold them to maintain peace and stability in Muslim matrimony. This may help in curtailing cases of *nushuz* in the Muslim family.

The undertaking of Tafsir should also be a profession for which students are trained carefully on it before they are allowed or allow themselves to partake in it. This may help reduce the rate of distortion of Qur'anic concepts in the modern world.

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