



# QAWAMAH IN ISLAMIC LEGAL DISCOURSE: AN ANALYSIS OF TRADITIONALIST AND MODERNIST APPROACHES

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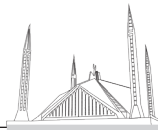
## **Abstract**

*The status and role of women in Islamic societies has become one of the major topics of discussion ever since the women's rights movement gained momentum globally under the auspices of the United Nations. While discussing the status and rights of women under Islam, it is important to differentiate between the Islamic teachings and the present status of women in the Muslim world with the vast diversity varying from culture to culture and often within the same culture. It is realized that the Islamic perspective concerning many aspects of women related issues of contemporary times is unclear rather misunderstood in the minds of non-Muslims as well as less informed Muslims. The position of women in Islam has been the subject of repeated controversy due to perceived misconception of the religion enforcing gender inequality and oppression for women particularly regarding the family relations. Criticism is raised either on account of doubts created by the Western mind set or on account of some misleading interpretations of basic provisions of the Quran and the hadith; or due to several malpractices or injustices induced by traditions or cultural influences. The present paper is aimed to highlight few deeply engraved misconceptions about the notion of Qawwamah (the family leadership) and in its light the husband wife relationship and family working in Muslim societies focusing Pakistan. It will be discussed in the light of the verse 34 of*

*Sura Al Nisa which describes the dynamics of family relationships when two equal human beings join together to found an institution of family, the basic and vital unit of the society. The paper further endeavored to highlight some of the inherent tensions existing in traditionalist and modernist interpretive approaches to this concept on two extremes and tried to find out a middle path from these approaches.*

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## Introduction

The concept of *qawwamah* is one of the most significant issues pertaining to the status and rights of woman in Islam and hence has a far reaching effect on family and society. Foundation of *qawwamah* is the presence of this term in verse 34 of *sura Al Nisa*, but how far this term can be stretched and restricted is a matter of interpretation which is primarily human. The verse elaborates on the position of both spouses in the family structure and describes the required spousal behavior in peace and in conflict. However, of all the Qur'anic passages about men and women perhaps it is the one most often misunderstood by non-Muslims as well as by less informed Muslims. The verse is misunderstood as establishing absolute supremacy of men over women in familial as well as public life on the greater scales and also on the other hand as establishing the patriarchal system endorsing gender inequality and discrimination against women. This paper endeavored to highlight some of the inherent tensions existing in traditionalist and modernist interpretive approaches to this concept on two extremes and tried to find out a middle path from these approaches.

There is no agreed way of classifying interpreters into traditionalists and modernists. For the sake of this paper, the term traditionalists is referred to those who consider men to have complete and absolute authority over women affairs and tend to restrict women's all activities and actions in complete obedience to their husbands or sometime to other male family members. They also tend to enlarge this familial working relationship to the wider sphere of public and political life. Rest of the interpreters and scholars will be classified as modernists despite the diversity of opinion amongst them. The verse 34 of *sura al Nisa* is studied and discussed by surveying many of the classical and newer Quranic interpretations (*Tafaseer*) as well as some of the literature dealing with this concept.

Since interpretations are human endeavors, it is likely that different persons overemphasize or under state the implication of the Quranic text. Similarly, it is possible that interpretations are influenced by the contextual understanding of the related facts as well as by personal perception of the interpreter. This very fact provides us with the opportunity to read the text differently and derive meaning suited to the contemporary understanding of the related facts and realities.

Following questions were raised in an attempt to analyze opinions of interpreters and scholars from both groups:

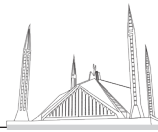
- Are men and women equal as humans before Allah?
- What is implied by the term *qawwamah*?
- Does this verse declare or provide for superiority or authority of men over women?
- Are the provisions of this verse limited to familial sphere or apply to public life also?
- What is the limit of obedience as a required behavior for a wife? Does it imply functional complying with the administrative authority or means servitude on part of wife?
- Does *nushuz* imply for simple disobedience or it entails rather serious state of rebelliousness?
- What are the implications of three level strategy for dealing with marital discord?
- Do men have a general right of beating their wives or it is an exceptional measure for dealing with marital discord?
- Whether Islam allows domestic violence? Or leaves open the way of misconduct on the part of husband towards his wife?
- What are the effects of traditionalists' point of view on family relationship in our society?

In the light of the questions framed, following conclusions were drawn from both traditionalists' and modernists' regarding equality of husband and wife and the basis of their relationships.

The Quran explicitly rejects any sort of inherent supremacy of one gender over the other and enforces gender equality by aptly describing both men and women as equal human beings in their origin, created from "the same soul", (*the nafs e wahida*)<sup>1</sup> both making up the human race together, as equal partners. They

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1 Al Nisa,4: 1; Al Airaf 7: 189; and Az Zumur 39: 6, *Nafs wahida* is translated by Abdul Majid Daryabadi as "single soul" referring to Adam, Maulana Abdul Majid Daryabadi, *Tafseer-e-Majdi*, trans. By himself, (Islamabad: Islamic Book Foundation, 1941), vol. 1, 299. Abdullah Yousuf Ali elaborates *nafs* as meaning "soul, self or person" and then suggests that the mate of



have both been endowed with a heart, brain and adequate reasoning powers, and together they stand in need of physical and intellectual education and training. Their religion allows them access to enjoy the basic fundamental rights on equal grounds. They are both commanded by God to follow the prescribed path for which they will be equally accountable before God and will be rewarded or punished on similar grounds. In effect, the superiority of one over the other is not based on their inherent physical or psychological capabilities rather on performance in the field of knowledge and actions based on the conception of ethical vs unethical and good vs bad.<sup>2</sup>

Thus describing the most intimate relationship between man and woman, it has been pronounced in the Quran that your mate (applies to both) has been created from your own kind. The basis of the marriage relationship is declared as love, affection, harmony, mutual tolerance, respect and trust. And in all these qualities, the husband and wife are interdependent, complementary, reciprocal and mutual. They are expected to find peace and tranquility in each other's company and be bound together not only by the "sexual relationship" but by "love and mercy", depicted by the following verse of the Quran:

*"And of His signs is, that He has created for you wives from your own species that you may find peace with them, and created love and mercy between you. Surely in this there are many signs for those who reflect."*<sup>3</sup>

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the first soul was created from the like nature and then quotes Razi who used the construction, *min* suggesting "a species, a nature, a similarity", and the pronoun that refers of course to *nafs*, Abdullah Yousuf Ali, *The Holy Quran Translation and Commentary*, (Islamabad: Dawah Academy International Islamic University, 2004), 204.; Abul Ala Maududi, *The Meaning of The Quran*, trans. Ch. Muhammad Akbar, ed. A. A. Kamal, (Lahore: Islamic Publications, 2000), vol.1, 306; Mufti Mohammad Shafi Usmani, *Maarif ul Quran*, trans. Muhammad Hasan Askari & Prof. Muhammad Shamim, Rev. Mufti Muhammad Taqi Usmani, 417, 418, available at: <http://www.islamibayanaat.com/EMQ.htm>, last accessed on 12.01.2011) by elaborating on the first verse declare it a beautiful introduction for the subsequent laws and regulations about human rights, particularly about the smooth running of the family life. Both refer to creation of Adam from the "single soul" from whom the whole of mankind sprang up and spread over the earth.

2 Al Hujr at 49: 13, Al Ahzab 33: 35, Ale Imran 3: 195, Al Nahal 16: 97, Al Momin 40: 40, An Nisa 4: 124, Al Taubah 9: 71 & 72.

3 Sura Ar Rum 30: 21

Based on the same pedestal of social, legal and moral equality as human beings, Islam differentiates between roles and responsibilities of men and women in the family system, based on equity and justice. With prescribed duties of both, for smooth functioning of the family, whereby one of the two members is being designated as *qarwam* (head of the family) as an administrative measure, in *Surah An-Nisa*, verse 34. The verse reads:

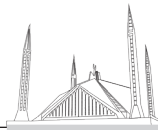
الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۗ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۗ وَاللَّاتِي تَخَافُونَ نُشُورَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلاً ۗ إِنَّ اللَّهَ كَانَ عَلِيماً كَبِيرًا

Men are the managers of the affairs of women because Allah has made the one superior to the others and because men spend of their wealth on women. Virtuous women are, therefore, obedient; they guard their rights carefully in their absences under the care and watch of Allah. As for those women whose defiance you have cause to fear, admonish them and keep them apart from your beds and beat them. Then, if they submit to you, do not look for excuses to punish them: note it well that there is Allah above you, Who is Supreme and Great.<sup>4</sup>

In the simplest manner, the verse 4:34 describes the family set up with husband taking the position of guardian of the family further endorsed by many sahih ahadith which pronounce both as guardian of their families with wife taking role of co-equal of her husband in family affairs.<sup>5</sup> Only in greater matters affecting the welfare of the family, the husband is given a degree of supremacy, duly supported

4 Al Nisa 4: 34, Translation from Sayyid Abul Ala Maududi - *Tafhim al-Qur'an - The Meaning of the Qur'an*, englishtafsir.com, Last accessed on 31.12.2013

5 "All of you are guardians and responsible for your wards and the things under your care; a man is guardian of his family and is responsible for them, a woman is guardian of her husband's home and the children and is responsible for them, all of you are guardians and all of you are responsible for your wards" Mohammad Ismail al-Bukhari, *Sahih*, Chapter: 566, trans. Allama Waheed-uz-Zaman, (Lahore: Maktaba Rahmania, 1985). Other traditions of the same meaning with variation in words and scope of guardianship are cited in *Bukhari*, implying responsibility of women for the family, house and the household for which she will be accountable. Book of Nikah, Chapter 111, hadith 172, and Chapter 137, hadith 207.



by the Quranic reference, since two co-ordinate authorities with equal power are likely to lead to clashes and conflicts such as may destroy the balance and poise of the family life. On the basis of his being the head of the family, man has been designated with functional supremacy over his family.

The same verse describing men as *qawwam*, goes on to answer the questions regarding woman's response to husband's authority, describing two attitudes of women, one showing obedience towards husband being mindful of her familial duties and the other one depicting rebelliousness or ill conduct resulting in disruption of smooth family functioning. For the other type of women -who consider themselves above their husbands, or don't want to obey them, or who are of ill conduct, or are rebellious and this constant behavior of them results in disruption of family harmony- the verse gives multilateral strategy to deal. But at the same time, it raises many concerns with reference to permission of striking or beating woman, to the husband. The verse ends with the warning to the husband to be mindful of Allah All Knower's authority over all.

### ***Qawwamah* in Islamic Legal Discourse**

The verse 34 begins with the statement that "*Arrijal-u- qawwamun alan-nisa*", and then provides reason for this using the word *fazeelat* of one over the other. Considering the other part of the verse two more terms *nushuz* (extreme rebelliousness) of women and *wadribohunna/daraba* are used. Interpretation of the term *qawwamun* and *fazeelat* is pivotal in understanding and describing husband-wife relationship, as well as it is imperative to understand *nushuz* and *daraba* for grasping the depth of male/husband's authority in the family. These terms will be discussed in detail in the light of traditionalist approach focusing *muffasireen* at first step and then the modernists' translations, interpretations and approaches.

Amongst traditionalists, Abi Bakar Mohammad Bin Adullah Al Maroof Bi Ibnul Arabi '*Abkam Al Quran*', Allama Abu Bakar Ahmed bin Ali Al Razi Jasas Al Hanafi '*Abkam-al-Quran*', Muhammad bin Ahmad Al Ansari Al Qurtabi '*Al Jama'i Al Abkam Al Quran*', Abi Al Hassan Ali Bin Ahmed Alwahidi An Nesha Puri '*Al Wseet Fi Tafseer Al Quran Al Majeed*', Abdur Rahman bin Al Kamal Jalal-

ud-din Sayuti '*Ad Dur ul Mansoor Fi Tafseer Al Ma'soor*', Al Undalasi '*Al Moharrar Alwajeez Fi Tafseer Al Kitab Al Aziz*', Ibn-e-Kathir "*Tafseer Ibn e Kathir*", as well as translations of Ashraf Ali Thanawi, and Dr. Israr Ahmed, were consulted for this discussion.

From amongst modernists' *tafaseers* of Abul Ala Maududi '*The Meaning of the Quran*', Abdul Majid Daryabadi '*Tafseer-e-Majdi*', Syed Qutub '*Fe Zilal-Al Quran*' (In the shade of Quran), Mufti Mohammad Shafi Usmani '*Maarif ul Quran*', Pir Mohammad Karam Shah Al Azhari '*Zia ul Quran*', Abdullah Yousuf Ali '*The Holy Quran Translation and Commentary*' as well as Edip Yuksel & Layth Saleh al-Shaiban '*Quran: A Reformist Translation*', were consulted. For analysis of modernists' approach scholarly works of Abdul Haleem Abu Shoqah '*Tabreer Al-Mara'h Fi Asr Al Resalah*', Javaid Ahmad Ghamidi '*Meezan*', Dr. Mohamed Rida Beshir '*Family Leadership Qawwamah: An Obligation to fulfill, Not an Excuse to Abuse*', Dr. Ahmad Shafat '*Tafseer of Surah an-Nisa, Ayah 34*', Amna Wadud '*Quran and Woman, Rereading Sacred Text from a Woman's Perspective*', Dr. Saalih ibn Ghaanim Al-Salaan '*Marital Discord (al-Nushuz)*', Dr. Riffat Hassan "*Are Women and Men Equal Before Allah?*" Dr. Abdulhamid Abusulayman, '*Marital Discord, Recapturing the Islamic Spirit of Human Dignity*', Jerald F. Dirks, '*The Abrahamic Faiths, Judaism, Christianity, and Islam, Similarities and Contrasts*' Yvonne Ridley are referenced.

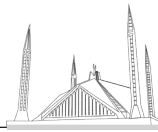
### **Traditionalist's Interpretations of *Qawwamah***

From amongst the traditionalist *muffasireen* many have narrated the background of the revelation of this verse given by Qurtabi<sup>6</sup> also narrated by Ibn-ul Arabi,<sup>7</sup>

6 Qurtabi explained its background citing the narration from Asadul Ghaba, that the verse was revealed in the context of Saad Bin Ar-Rabee and his wife Habiba Bint-e-Zaidb. Saad was a tribal chief and both were from Ansar. Saad once slapped his wife due to her rebelliousness. Her father took her to Prophet (P.B.U.H) complaining that her daughter shared bed with Saad and he gave her a slap Prophet (P.B.U.H) asked her to take *Qisas* allowing her to slap her husband. Then immediately after Prophet (P.B.U.H) called them back and said that Gibreil had come to me, we intended something and Allah intended some other thing and that which Allah has intended is better, and then he lifted the retaliation. So it was the time and situation when this verse was revealed. Muhammad bin Ahmad Al Ansari Al Qurtabi, *Al Jama' Al Ahkam Al Quran*, (Arabic version), (Dar-ul Fikar, 1952), vol. 5, 168.

7 Abi Bakar Mohammad Bin Adullah Al Maroof Bi Ibnul Arabi, *Ahkam Al Quran*, (Arabic





Nisha Puri,<sup>8</sup> and Al Undalasi who reported that this revealed verse permitted men for *tadeeb* of their wives.<sup>9</sup>

Ibn-ul Arabi explained the term *qawwam* as for one who is *Ameen* (honest custodian) over wife and will maintain her matters, will provide her with a good and satisfactory life. At the same time it implies for imposing on husband the responsibility for making her wife act on good deeds according to Islamic teachings, i.e observance of regular prayers, fasting etc., which is obligatory for all Muslims.<sup>10</sup> Ibn-ul-Arabi describes that the priority in one degree above for men<sup>11</sup> is basically due to his responsibility as *qawwam* and it has two dimensions as given by the Quran: (i) perfection in intellect and manner and perfection in religion, *Jihad, Amar Bil Maroof wa Nahi Anil Munkar*; and (ii) due to his catering for all her expenses of *mebar*, and maintenance.<sup>12</sup> Concerning *qanitat* meaning obedience, Ibn-ul-Arabi says that out of many types of obedience this one is towards husband and that it is obligatory, but in *maruf* (good and allowed in Islam) only.<sup>13</sup> Elaborating on the duties of wife to guard husband's rights in his presence as well as absence, he says it is obligatory upon her to protect his *mal* (property), and house, dealing well with his family members and what he does not like in his presence, she will observe it in his absence also.<sup>14</sup>

Allama Jasas describes *qawwamun* as the men being responsible for protection, supervision, provision of their (women's) necessities and *tadeeb* and maintaining

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version), (Al Qahira: Dar-ul-Fikar), Vol. 1, 414

8 Abi Al Hassan Ali Bin Ahmed Alwahidi An Nesha Puri, *Al Wseet Fi Tafseer Al Quran Al Majeed*, (Arabic version), (Berut, Lebanon: Dar Al kutub Al Ilmia), vol.2, 45.

9 Al Abi Mohammad Abdul Haq Bin Attiya Al Undalasi, *Al Moharrar Alwajeez Fi Tafseer Al Kitab Al Aziz*, (Arabic version), vol. 4. (Qatar, 1982), 41.

10 Abi Bakar Mohammad Bin Adullah Al Maroof Bi Ibnul Arabi, *Abkam Al Quran*, (Al Qahira: Dar-ul-Fikar), Vol. 1, pp, 415-416.

11 Al Baqara 2;228

12 Ibnul Arabi, *Abkam Al Quran*, Vol. 1, 416.

13 Ibid.

14 Ibnul Arabi, *Abkam Al Quran*, Vol. 1, pp, 416-417.

them in right position.<sup>15</sup> Allama Jasas describes that men are superior due to their intellect and wisdom and on account of their expenditures for women in dower and maintenance.<sup>16</sup>

Sheikh Tantawi says, “Thus they (men) are like a *wali* and the women are like *rayiat* (meaning the one for which *wali* is accountable).<sup>17</sup> According to Tantawi the reasons for this responsibility are known for *mehar* and *nafaqa*.<sup>18</sup> Tantawi says she protects and secures in the absence of her husband which has been made obligatory for her and that is the protection of her own *nafs* (self) and property.<sup>19</sup> He elaborates that for this task, by emphasizing the protection and supervision of Allah, women have been motivated as well as warned to be careful in fulfilling their duties.

Al Qartabi explains, “*qawwam* is in the superlative degree of *qiyam*, thus men are responsible for supervision and provision regarding all matters and issues of women”.<sup>20</sup> According to Qartabi, men’s superiority is due to spending, and in intellect, physical power for *jihad* (war), inheritance share, and in *amar bil maroof wa nahi anil munkir*.<sup>21</sup> Qurtabi shares the same opinion as Tantawi as to the protection of her *nafs* and property of her husband.<sup>22</sup> Both of them have quoted the Prophet’s (P.B.U.H) tradition describing the qualities of best wife, recorded by Bukhari, Nasai and Baihiqi.<sup>23</sup>

15 Allama Abu Bakar Ahmed bin Ali Al Razi Jasas Al Hanafi, *Abkam-al-Quran*, Urdu trans. Abdul Qayyum, (Islamabad: Shariah Academy IIUI, 1999), 496. In Urdu translation the term is defined as responsible for *hifazat-o-nighabani, zarooriyat muhayya karna, tadeeb karna, aur durust halat mei rakhna*.

16 Ibid., 495, 496.

17 Al Hakeem Al Sheikh Tantawi, *Al Jawahir fi Tafseer Al Quran Al Kareem*, (Arabic version), (Dar-ul-Fikr), vol. 3, 39.

18 Ibid., 39

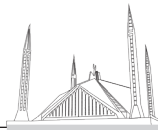
19 Ibid., 39

20 Muhammad bin Ahmad Al Ansari Al Qurtabi, *Al Jamai Al Abkam Al Quran*, (Arabic version), (Dar-ul Fikar, 1952), vol. 5, 169.

21 Ibid., 169.

22 Ibid., 170.

23 “The best wife is the one who pleases you when you see her, obeys your orders (demands), and guards



Nishapuri explains the phrase “men are *qawwamun* over women”, as men are placed above women for their *tadeeb* and for a man to make his wife to live in obedience of Allah. According to him *qawwam* is the superlative of *Al qiyam*, whereby the man is responsible for his wife’s matters and for her safety and security.<sup>24</sup> He describes superiority of men over women in intellect, physical stature, knowledge, *azm*, *al Jihad*, evidence and inheritance.<sup>25</sup> He has quoted two traditions while giving explanation of required obedience of wife in accepting the dower and maintenance as well as in carrying out her duties of protecting her honor in the absence of her husband. One is in which the Prophet (P.B.U.H) is reported to have said: “*If I were to order anyone to prostrate himself before another, I would order a woman to prostrate herself before her husband*”.<sup>26</sup> The other tradition is in which Prophet (P.B.U.H) told a *sahabia*, that “*your husband is your heaven and hell*”.<sup>27</sup>

Jalalud Din Sayuti describes that the term *qawwam* means that men take the hands of women and teach them manners.<sup>28</sup> Describing the wife’s response, he explains that whatever has been given in their custody by their husbands, they will protect and supervise that, even in their absence.<sup>29</sup>

Al Undalasi explains the term for being in superlative degree denoting to establish upon something, implying that the husband will definitely supervise her matters, and protect her with great (strenuous) efforts. He says that this is the scope or

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*you property and her own honor (chastity), when you are not at home.”* Mohammad Ismail al-Bukhari, *Sahib, Kitab-un-nafaqat, bab bifz-ul-Marat zoujiba fi zat-e-yadehi*, also reported by An-Nasai and Baihaqi

24 Abi Al Hassan Ali Bin Ahmed Alwahidi An Nesha Puri, *Al Wseet Fi Tafseer Al Quran Al Majeed*, (Arabic version), (Berut, Lebanon: Dar Al kutub Al Ilmia), vol.2, 45.

25 Nisha Puri, *Al Wseet Fi Tafseer Al Quran Al Majeed*, 45.

26 Abu Eisa Mohammad bin Eisa Tirmidhi, *Jamia Tirmidhi*, trans. Allama Waheed-uz-Zaman, (Lahore: Islami Kutub Khana). Ahmad

27 Nisha Puri, *Al Wseet Fi Tafseer Al Quran Al Majeed*, 46, with reference of Tibri, *Fil Awsat* 1/321 and Musnad Ahmed 4/341 and others.

28 Abdur Rahman bin Al Kamal Jalal-ud-din Sayuti, *Ad Dur ul Mansoor Fi Tafseer Al Ma’soor*, (Berut: Dar-ul-Fikar), vol.3.

29 Ibid.

limit of men being *qawwamun* over women.<sup>30</sup> According to him man spends for *mebar*, *nafaqa* and all other expenses, and describes his *fazeelat* due to perfection of *deen* and intellect, and also for prayers in congregation and Friday prayers, authority of taking in marriage and divorce and revoking the divorce, and in *shabada* (evidence), in inheritance share, and capability of prophethood and *caliphate* (head of state) and leadership and in a lot more issues.<sup>31</sup> Al Undalasi says that “in absence” implies for all those things or matters which cannot come in the knowledge of husband, and for which she is made responsible for.<sup>32</sup>

According to Ibn-e-Kathir, “Men are protectors and maintainers of women”, meaning the man is responsible for woman, and he is her maintainer, caretaker and leader who disciplines her if she deviates.<sup>33</sup> For this leadership role, he describes two reasons which are as under: (i) because men excel over women and are better than them for certain tasks, and that is why prophethood was exclusive for men, as well as other positions of leadership. He also reports here the tradition of Prophet (P.B.U.H) recorded by Bukhari on the authority of Fath Al Bari 7: 732, saying, “People who appoint a woman to be their leader will never achieve success.” He also links this reason for ineligibility of women to be appointed as judges or on other leadership positions. (ii) The other reason provided in the Quran is that they spend their means; he explains its meaning as the dower and various expenses that Allah ordained in His Book and the *sunnah* of His Messenger for men to spend on women.<sup>34</sup>

Ashraf Ali Thanawi has translated *qawwam* as *hakim* (ruler) over women.<sup>35</sup> Due to his greater influence in Indo-Pak, this adopted meaning had wider and deeper effects on the legal discourse in this regard. The same translation of the word is

30 Al Undalasi, *Al Moharrar Alwajeez Fi Tafseer Al Kitab Al Aziz*, vol. 4, 40

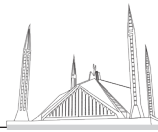
31 Ibid. 41.

32 Ibid. 42-43

33 *Tafsir Abn Kathir*, abridged English version, ed. Shaykh Safiur Rahman Al Mubarakpuri, (Riyad: Dar us Salam, 2000), 442

34 Mubarakpuri, *Tafsir Abn Kathir*, 442-443.

35 Ashragf Ali Thanawi, *Al Quran Al Hakeem Maa' Tarjuma wa Tafseer Biyan Al Quran*, (Lahore, Karachi: Taj Company Ltd), 74, 75.



shared by Dr. Israr Ahmed<sup>36</sup> who explains the word *fazeelat* describing that in few traits men have been given prominent precedence over women; the other reason of course has been described clearly for all the financial responsibility of the family on men.<sup>37</sup>

### **Traditionalist's Explanation of *Nushuz***

Having said that if you fear or if you know and believe, it is in your knowledge and you believe therein that she is restoring to this attitude of *nushuz*, the verse suggests three level strategy to deal with the situation to regain the marital harmony. Ibn-ul-Arabi and others gave the root word of *nushuz* as *nushz* meaning something which becomes or rises above the ground, or above its limits. Therefore, *nushuz* of wife has been described as her disobedience, considering herself above her husband or above the obedience of her husband and therefore she refrains from obedience.<sup>38</sup> Qurtabi explains they (wives) disobey and behave over and above their obligations in respect of their spouse.<sup>39</sup> Sayuti implies *nushuz* for refraining from her conjugal rights.<sup>40</sup> Al Undalasi, Tantawi and Nishapuri described the term as implying that a wife considers herself superior to her husband.<sup>41</sup>

### **Traditionalists' Approach for *Yadribohunna* (Beating them) While Dealing with *Nushuz* for Regaining Family Integrity**

Ibn-Ul-Arabi, Qurtabi, Jasas, Undalasi, Tantawi, Nishapuri, Dr. Israr Ahmed, Ashraf Ali Thanawi all discussed the three levels: first, to advise her in the first place for recognizing husband's rights as established by Allah, and that Allah has made it obligatory for them to spend a solace and loving life together; secondly, to avoid intimate relationships with them either by leaving the beds, the rooms or

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36 Israr Ahmed, *Biyan Al Quran*, comp. Hafiz Khalid Mahmud Khizar and Ashiq Hussain, (Peshawer: Anjuman Khuddam Al Quran, 2013), 5th edition, vol.2, 147.

37 Ibid., 147,148.

38 Ibnul Arabi, *Abkam Al Quran*, Vol. 1, 417.

39 Qurtabi, *Al Jamai Al Abkam Al Quran*, 170-171.

40 Sayuti, *Ad dur ul Mansoor Fi Tafseer Al Masoor*, vol.3.

41 Al Undalasi, *Al Moharrar Alwajeez Fi Tafseer Al Kitab Al Aziz*, 44-45.

just avoiding physical contact, to make them realize the intensity of the problem; thirdly and lastly, to take coercive action against her as by allowing to beat her.

All traditionalists are comfortable with the word *wadribohunna* as allowing for men to beat their wives, though all of these *muffasareen* have very clearly and boldly pointed out that this beating will be with the objective, intention and essence of retributive measure and not really the punishment measure. They have equated it with the measures against children (*ta'deeb*) while teaching them manners of life. That is why all of them detailed the references from Prophet's (P.B.U.H) traditions and the explanation given by companions as to what should be the level and intensity of beating, leaving no sign on the body, making no injuries in which case *dhaman* (reprisal for injuries) would be liable. Other than this, complying with Prophet's (P.B.U.H) instruction, retaliation for this retributive measure will not be liable either in this world or in the hereafter.<sup>42</sup>

### **Modernists' Interpretations of the term *Qawwamah***

Abul Ala Maududi translates the word meaning "managers of the affairs of women"<sup>43</sup> with the explanation that, "The Arabic word *qawwam* or *qayyam* stands for a person who is responsible for the right conduct, safeguard and maintenance of the affairs of an individual, an institution or an organization. Thus man is governor, director, protector and manager of the affairs of women."<sup>44</sup> According to him, men's superiority to women is in the sense that they have been endowed with certain natural qualities and powers given to women in a less degree, and not superior in the sense that they are above them in honor and excellence. He further explains that wife should remember that the obedience to Allah is of far greater importance than obedience to the husband and has precedence over it. Therefore, it is the duty of the wife to refuse to obey her husband if and when he orders her for anything in disobedience to Allah.<sup>45</sup>

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42 Relevant portions of the *tafaseer* of the above quoted *muffasreen* earlier could be seen.

43 Maududi, *The Meaning of the Quran*, vol. 1, 329.

44 .Ibid., 333.

45 Ibid., 333.



Abdul Majid Daryabadi explains the term as “overseers over women” with the explanation that “A *qawwam* is, in the parlance of modern sociology, a protector or guardian of the family, and this is a position to which a man is by his very nature and constitution entitled”.<sup>46</sup> He elaborates that the functions of the husband and father in the family are not merely of the sexual and procreative kind, but involve the duties of supporting and protecting the wife and children<sup>47</sup> and provides two reasons for this role as men excelling by their very nature and constitution and spending for the support and maintenance of their wives.<sup>48</sup>

Syed Qutub explains this term, “Men shall take full care of women”. He emphasizes that this verse deals with the institution of family, its management, delegation of responsibilities and defining duties, giving instructions for the strength, stability and protection of family from internal conflicts.<sup>49</sup> He describes devotion within obedience motivated by love and not the one enforced against one’s will. According to him *Qawwamah* does not by any means lead to the negation of the women’s character and role in the family home and in society at large nor does it mean the cancellation of her civil status.<sup>50</sup>

Mufti Mohammad Shafi Usmani elaborates that verse opens with an important statement of men as *Qawwam* meaning a person holding the responsibility or having the duty and charge to manage a job or run a system or take care of what has to be done about something, controlling all related factors therein. The standard role of a man, with regard to woman, has been mentioned in this verse through the word, *qawwam* which has been translated in various ways, the most common being in the sense of ‘*hakim*’ or one who rules, governs or decides. Other alternates used are guardians, custodians, overseers and protectors. According to

46 Daryabadi, *Tafseer-e-Majdi*, vol. 1, 325, 326. He has given references from bible as to the subjective position of women to their husbands marking the difference in attitude and instructions for dealing with women by Islam. He also provides references from sociological literature for the family structures and systems in dealing with the issue.

47 Ibid.

48 Ibid., 325-327.

49 Sayyid Qutb, *Fe Zilal-Al Quran* (In the shade of Quran), trans.and ed. Adil Salahi Ashur Shamis, (The Islamic Foundation, 2000), vol.4, 129.

50 Ibid.

him, if the meaning is taken in the sense of a carer, a functional head, and not in the political sense of a ruler or dictator; the *qawwam* or *hakim* of the Qur'an offers a base of understanding from common experience to have a head or chief or authority for any group-living or for any organized system to arbitrate in the case of a difference and take decisions to run affairs smoothly. Allah elected men for this responsibility because their natural capabilities are more pronounced than those of women and children, an undeniable fact of human life.<sup>51</sup> According to him, the gist of the matter as seen from this verse and verse of *Al Baqara* 2:228 the message is that the rights of both man and woman are similar to each other and are as incumbent upon men as the rights of men are upon women, with only one exception that men have a certain precedence in functional authority, hemmed too with other balancing factors. The authority specified is not that of a dictator and a tyrant for exercising which he is bound by the supreme law of Islam, the *Shari'ah*. Taking on the probability of women taking this unhappily, Allah has explained two reasons for this authority, one relating to the wisdom of creation beyond the control of any human being, and the other refers to a factor which comes through one's efforts and endeavors i.e. earning.<sup>52</sup> Referring to the required obedience of wife, he says righteous women accept the rule of the precedence of men and obey them, and even in the absence of their husbands stand guard on their own selves, husband's earnings, and everything else in the house under their charge.<sup>53</sup>

Pir Mohammad Karam Shah Al Azhari translates the term *qawwam* as *Mohafiz and Nigran* with the explanation that the Arabic term *qawwam* means someone who provides all life necessities, protects and monitors, and is responsible for maintaining the appropriate conduct.<sup>54</sup> He warns that it should in no way be considered by this arrangement as if the women are being enslaved as they have

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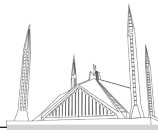
51 Mohammad Shafi Usmani, *Maarif ul Quran*, trans. Muhammad Hasan Askari & Prof. Muhammad Shamim, Revised by Justice Mufti Muhammad Taqi Usmani, 417, 418, available at: <http://www.islamibayanaat.com/EMQ.htm>, last accessed on 12.01.2011. Urdu version of the Tafseer is also consulted, vol.2, p395-397

52 Ibid.

53 Ibid., 421-422.

54 Pir Mohammad Karam Shah Al Azhari, *Zia Al Quran*, (Lahore: Zia Al Quran Publications, 1995), vol.1, 341.





their established rights to those for men according to *Al Baqara*, verse 238. He further says that getting close to Allah is open for both of them according to their efforts denying supremacy of men on women.<sup>55</sup>

Abdullah Yousuf Ali translates the term as, “protectors and maintainers of women” with the explanation as, “one who stands firm in another’s business, protects his interests, and looks after his affairs; or it may be, standing firm in his own business, managing affairs with a steady purpose.”<sup>56</sup>

Abdul Haleem Abu Shoqah, describes spousal relations as based on *Mawaddah* (positive and healthy relations and *Rahmah* (mercy and kindness) describing mutual obligations. According to him, *qawwamah* or family leadership is a responsibility and duty entrusted by Allah to husbands who must strive hard to fulfill this duty in the best possible manner. He relates verse 2:228, describing a *daraja* with the *qawwamah* meaning men have to be more forgiving towards wife and overlooking their minor mistakes in spousal relations. He emphasizes the cooperation between husband and wife for the fulfillment of the *qawwamah* (the family leadership) through husband fulfilling his responsibilities, avoiding misuse of the authority by the husband, voluntary obedience of wife towards husband not contradicting Allah’s orders, mutual consultation in family matters, and wife’s fulfillment of her responsibilities during presence as well as absence of husband. In his opinion, to resolve marital conflicts, Islam proposes many methods starting from preventive measures to ending with a separation or divorce. *Darb*, beating/strike, in his opinion, should only be used when wife has reached the stage of obscenity (*fabisha*).<sup>57</sup>

Javaid Ahmad Ghamidi has used the term *qawwam* without translating it and he is of the opinion that the verse refers to the family organization only. Reading this verse in conjunction with verse 4: 32, he infers that there are certain Godly endowed differences necessary for family organization, which (natural differences) are in no

55 Ibid., p.342

56 Abdullah Yousuf Ali , *The Holy Quran Translation and Commentary*, (Islamabad: Dawah Academy International Islamic University, 2004), 204.

57 Abdul Haleem Abu Shoqah, *Tabreeer Al-Mara’h Fi Asr Al Resalah*, vol.5, *The Place of Women in the Family*, (Kuwait: Dar al Aqalam for Publications and Distribution)

way a source of religious or moral superiority of anyone as a general rule. He is convinced that family organization certainly requires a certain level of hierarchy. Giving reference from Amin Ahsan Islahi, he considers it an obligation for a pious wife to be obedient and cooperative for managing the family life and to keep guard of their secrets and honor. Discussing *nushuz* on behalf of wife, he writes that the word is not used for each and every mistake or defiance rather for the extreme rebelliousness when she refuses to accept the leadership of husband and family system is collapsed. In such a case, the last resort of three level remedial strategy only allows the slight punishment same to that applied by a teacher to their student or a father to his child for teaching them manners, and in doing so one should be mindful of Allah who is over and above of all.<sup>58</sup>

Dr. Mohamed Rida Beshir,<sup>59</sup> a contemporary scholar/dawah worker from USA, has carried on an in-depth research on this topic.<sup>60</sup> He has provided definitions of *qawwamah* from some of the most authentic Arabic dictionaries such as, *Al Misbah Al Muneer*,<sup>61</sup> *Al Saheeh Fi Alloghab Wal Oloom*,<sup>62</sup> *Al Qamoos Al Muheet*,<sup>63</sup> *Lesan*

58 Javaid Ahmad Ghamidi, Meezan, (Lahore: Almarud, 2010), 420-421

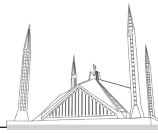
59 Mohamed Rida Beshir with over thirty years of experience in dawah work is: Teaching Islamic courses in the Islamic American University; author and co-author of many books on marriage and parenting in Islam; recipient of several awards in the area of education from the city of Ottawa; held various volunteer elected positions with MSA, ISNA and MAS and is a regular speaker in ISNA, ICNA, MSA and MAS conventions.

60 Mohamed Rida Beshir, *Family Leadership Qawwamah: An Obligation to fulfill, Not an Excuse to Abuse*, (USA: Amana Publications, 2009)

61 Under explanation of word *qawm*, it indicates the root word as *qaam* meaning to take care of. It continues to describe a person who takes care of something with the word *qawwam*. When the word is *qawm*, it means the provision or the food that supports humans. When it is *qawwam* it means just and fair. The word *aqam* means to establish and make something superior and recognized as such, as in *aqam al salat*, which means to establish regular prayers or *aqam al-share'* which means to establish rules and regulations according to the Quran and the teachings of Prophet Mohammad (P.B.U.H). Al Alammah Ahmad Ibn Muhammad Ibn Aly Almqry Al Faiomy, *Ketab Al Mesbah Al Muneer Fi Gharabeeb Al Sharh Al Kabeer*, part 1 and 2, Sixth edition, Al Matabah Al Amereiah, Cairo, 1925, 714

62 *Alqawwam* means a person who is just, cited on the authority of Nademm Marashly and Osama Marashly, *Al Saheeh Fi Alloghab Wa Al Oloom*, Dar Alhadarah Al-Arabiah, Beirut, first edition 1975, p965-967.

63 Similar explanations for the word *qawm* and *qawwamah* are discussed with great emphasis on



*Al Arab*,<sup>64</sup> *Moheet Al Moheet*<sup>65</sup> and *Quranic Keywords: A Reference Guide*<sup>66</sup>. He has further provided analysis of various verses of the Quran where *qawwam* and its derivatives are used. According to him, *qawwam* in its plural form *-qawwamoon-* appears three times in the Quran.<sup>67</sup> Other words that come from the same root appear in the Quran in 663 places, 383 of them are related to the word “*qawm*”<sup>68</sup> such as *al qawm*, *qawmy*, *qawman*, *qawmak* etc. 77 instances are of the word “*Al- qeiamah*” which means “the day of resurrection”. 47 instances are related to the word “*Al mustaqeem*” and other words such as *estaqamo*, *yastaqeen*, *estagan*, *estageema* and *estageemo* which more or less means to be straight and upright. Other words are *qama* and the like *aqamoo*, *maqam*, *Al qaiyoom*.

Based upon the word *qawwamah* and its derivative used in the Quran and its meanings in dictionaries, Dr. Beshir concluded that *qawwamah* means family leadership or guardianship, covering and encompassing wide spectrum of qualities and meanings that can contain the elements of protecting and safeguarding, caring for or taking care of, carrying responsibility and trust, maintaining, supporting,

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the element of protection for *qawm* and on the elements of being just and upright for a person who is given the state of *qawwamah*. Majd Al Deen Al Fayrooz Abady, *Al Qamoos al Moheet*, vol.3, Al-Sa’adah Print house, Egypt, 1913, 1332H, 168.

- 64 Similar explanation for the word *qawm* is given adding as the moderate way *qayema mellah*, carrying the connotation of being excellent, straight and upright. It indicates that the same root of the word *qawm* is used for one of the most beautiful names of Allah, *Al Qayoom* which means The One Who is in full charge of His creation and their provision and has full knowledge of everything and may mean the One Who is in charge of everything. Aby Al Fadl Jamal al Deen Muhammad Ibn Makram Ibn Manzoor Al-Afriqey Al-Masry, *Lesan al Arab*, vol. 12, Sadar House for printing and publishing, Bairut, 1956, 1375H, p.530-506.
- 65 It explains *qawwam* as a person who is one who is just, is fair, and does what it takes to provide his family with the adequate means needed for them to live a dignified life. This person strives hard to be upright and moderate. This person also takes good care of his family from a religious perspective, by teaching them their religious duties and helping them to be closer to Allah and live according to His guidance. Al Mo’alem Bottos al Bostany *Qamoos Motawwal for Arabic Language, Moheet al Moheet*, (Maktaba Lobnan, Reyad al Solh Square, Beirut: 1987).
- 66 Abdur Rasheed Siddiqui, *Quranic Keywords: A Reference Guide*, The Islamic Foundation, United Kingdom, 2008, p111-114
- 67 Al Nisa 4: 34, Al Nisa4: 135, Al Maida 5:8
- 68 The word *qawm* means a group of people including men and women sharing the same habitat and taking care of those who live with them.

helping and assisting, cooperating consulting and counseling, providing security and safety, managing the affairs of, administrating and supervising, and/or bringing good values to the relationship.<sup>69</sup>

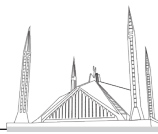
Dr. Ahmad Shafat, one of the contemporary *darwah* worker working in Europe, explains that *Qarwam* is an intensive form of *qa'im* and has a sense of continuity in the action involved. So it means one who is continuously standing over something (as, for example, a guard or caretaker) or one who is continuously making something stand, i.e. is maintaining it. In the Qur'anic usage of *qarwam* and related words, an idea of propriety is almost always present. For example, *aqamah* of *salah* is not only praying but also praying properly. The function of *qarwam* is also understood in the Qur'an to be characterized by fairness. Thus to be a *qarwam* over something or someone is to guard, maintain or take care of that something or someone in a proper and fair manner. According to him, if there is any single word in English that can convey the meaning of the word as used in the present word it is probably the one used by Muhammad Pickthal, namely, guardian.<sup>70</sup> He gives the translation of the word *fazeelat*, as "more favoured" and opines that it is not explicitly stated as to who is favored more than whom and in what way? However, in view of the context, it is probable that men are understood in some way to be favored more than women, and the preference can be taken to mean physical strength and energy in which men generally excel women and which enables men to guard women against some of the dangers to which they may be exposed in society and to take care of some of their needs.<sup>71</sup> He further discusses that there may be other areas where women may be favoured more than men. Still there are other favours of Allah like wealth, health, strength, intelligence education, status which cannot establish the superiority of one over the other except the one of *taqwa* (piety).<sup>72</sup> Concerning the second reason, his opinion is that although the Qur'an permits women to earn and own wealth, it

69 Mohamed Rida Beshir, *Family Leadership Qarwamah: An Obligation to fulfill, Not an Excuse to Abuse*, 8.

70 Ahmad Shaffat, *Tafseer of Surah an-Nisa, Ayah 34*, (Islamic Perspective, 1984), available at: <http://www.islamicperspectives.com/Quran-4-34.htm>, last accessed on 12.01.2011.

71 Ibid.

72 Ibid. with reference to Al Hujrat 49: 13.



expects that men will generally be able to earn more than women because of the natural differences between them; hence he will generally be responsible for the economic needs of woman. He also explains that men's greater rights within the marriage relationship do not mean that men also enjoy greater rights outside that relationship and that within the marriage relationship men's greater rights are completely justified by their greater responsibility.<sup>73</sup> The same verse describing men as *qawwam* goes on to answer the questions regarding woman's response to husband's authority describing two attitudes of women; one showing obedience towards husband being mindful of her familial duties and the other one depicting rebelliousness or ill conduct resulting in disruption of smooth family functioning. For the first attitude, Shafaat discusses that the Quran provides the term *qanitat* for first type of women in family situation. *Qanit* means devoted, and *qanitat* refers to pious women here. All the *mufasssereen* consulted herewith have given two aspects for this: (i) devoted to God and (ii) devoted to God and husband. Outside of the present verse, the word *qanit*, in its various forms, occurs seven times in the Quran and is used for both men and women. In six out of these seven places, the object of devotion and obedience is understood to be God; in one place it is God and His Messenger. According to many of the *mufasssereen*, in view of the context, the idea of devotion and obedience to the husband along with God is evident. Since men are *qawwamun* over their wives, they must have some authority to make decisions and manage the family institution, without which one cannot be an effective guardian or maintainer. Other responsibility of wife as *hafizat lil-ghayb* refers to the guarding of husband's honor and property when he is absent as well as to the wife's secret feelings and thoughts which the husband cannot perceive even if he is present.<sup>74</sup>

Amna Wadud<sup>75</sup> considers the verse describing functional distinction in the family system taking support from Syed Qutb. She rejects the idea of supremacy of all males over all females or of males vs females in all the spheres of life. Discussing

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73 Ibid.

74 Ibid.

75 Amina Wadud is an Islamic Studies professor in the Department of Philosophy and Religious Studies at Virginia Commonwealth University.

the verse she elaborates on all related concepts of *daraja*, *fadala* (*fazeelat*), *qawwam*, *nushuz* and *darab*.<sup>76</sup>

Providing detailed analysis of the Quranic passages which have been interpreted to imply the superiority of males over females, she discusses that the Quran treats woman as an individual in the same manner as it treats a man with declared distinction on the basis of *Taqwa* not determined by gender. According to her, humans are operating in social systems with certain God endowed functional distinctions, which are misused to support the idea of inherent male superiority. She brings forth two role distinctions for women and men respectively to support her argument. For women, child bearing has been a primary distinction (not the primary role for her declared in any text of the Quran or the *hadith*) which is given due respect in 4:1. Similarly, selection of males for the *risalat* has been quoted as depicting male supremacy over female which though was endowed on exceptionally chosen males, yet it did not have a biological association with males representing their primary function and creating a universal norm for all men. Still women have been included as recipients of divine communication, *wahy*<sup>77</sup>. Analyzing the *daraja* (step, degree or level) as quoted from verse 2:228 in combination with verse 4:34 to support and claim the inherent male superiority, she cites examples of the word usage in the Quran irrespective of functional distinctions. The Quran describes *darajat* of *Ilm* (12:76), social and economic distinction (43:32), and also ascribes it to test the human beings (6: 165). The said verse is taken to mean that a higher *daraja* exists for all men over all women in every context though the context of discussion here is with regard to divorce when men have an advantage over women being individually able to perform divorce without arbitration or assistance. Finally, the verse states, '(the rights) due to women are similar to (the rights) against them, (or responsibilities they owe) with regard to the *ma'ruf*' where by *ma'ruf* means 'obvious', 'well known' or 'conventionally accepted'.<sup>78</sup> Describing *fadala* (preference), she cites from the

76 Amina Wadud, *Quran and Woman, Rereading Sacred Text from a Woman's Perspective*, (New York: Oxford University Press, 1999).

77 Hazrat Maryam and Umme Musa

78 Amina Wadud, *Quran and Woman, Rereading Sacred Text from a Woman's Perspective*, 66-69



Quran again different contexts for use of the term, relevant and not in absolute terms. Like *daraja*, *fadala* is also given to test the one to whom it is given, but unlike *daraja*, it cannot be earned by performing certain deeds rather is given by God only. Therefore, the *qawwamah* verse 4:34 describing family relationships (referring to the men of the family or the marital tie<sup>79</sup>) cannot be taken as the single important verse for describing relationship between men and women for all men as *qawwamun ala* all women and or it cannot be absolute in describing preference of men over women by pointing out the *fadala* (two reasons appropriate for this responsibility of *qawwamah*) provided to men.<sup>80</sup>

Wadud's emphasis on *qanit* as referring to obedience of God in consistence with other Quranic usage of the term for both males and females (2:238, 3:17, 33:35, 4:34, 33:34, 66:5, 66:12) is shared by majority of the traditionalists and modernists, along with the contextual meaning of husband's obedience also, which is denied by Wadud.

### Modernists' Approches to *Nushuz*

Pir Karam Shah describes *nushuz* as defiance of husband's authority on account of arrogance and hatred by those types of women who are outrageous and ill-behaved and it should be well clarified and obvious.<sup>81</sup> According to Dr. Shaffat, in the verse under consideration and in verse 128, the reference to *nushuz* is followed by a reference to the break-up of the marriage. Keeping this context in mind, it becomes evident that *nushuz* means the type of behavior on the part of the husband or the wife which is so disturbing for the other that their living together becomes difficult.<sup>82</sup>

Dr. Saalih ibn Ghaanim Al-Salaan, in his work *Marital Discord (al-Nushuz)*, also shares this opinion (for *nushuz*) citing all four schools of thought that it could be from both spouses, regardless of whether it is due to disobedience, hatred,

79 Husbands are *qawwamuna ala* wives or men of the family are *qawwamun ala* family

80 Amina Wadud, *Quran and Woman, Rereading Sacred Text from a Woman's Perspective* 69-72

81 Pir Mohammad Karam Shah Al Azhari, *Zia Al Quran*, vol.1, 342.

82 Shafaat *Tafseer of Surah an-Nisa, Ayah 34*, available at: <http://www.islamicperspectives.com/Quran-4-34.htm>, last accessed on 12.01.2011.

harshness or aggression. In his opinion, third step for dealing with the marital discord can only be applied in case of wife behaving unruly and committing sin or transgression.<sup>83</sup> This view is also shared by Wadud who describes *nushuz* as “general state of marital disorder” and not mere disobedience to husband, point of view shared by some of the traditionalists also very clearly.<sup>84</sup> Similarly, Dr. Riffat Hassan, a contemporary Muslim feminist, answering the same question with reference to beating of wife in the light of verse 34 of *sura Al-Nisa*, elaborates that the Quranic discussion of *nushuz* is not restricted to this verse. Quoting Sayyid Qutb, she says it means a disruption of marital harmony for which the Quran suggests mechanisms i.e. consultation, “time out” and a strike.<sup>85</sup>

### **Modernists’ Contemporary Approach for *Yadribhunna* (Beating them) While Dealing with *Nushuz* for Regaining Family Integrity**

From amongst the Modernists discussed upto now, Abul Ala Maududi, Abdul Majid Daryabadi, Syed Qutb, Mufti Muhammad Shafi, Pir Muhammad Karam Shah, Abdullah Yousuf Ali, Javaid Ahmad Ghamidi, Dr. Rida Beshir, Dr. Ahmad Shafat are all sharing the same point of view with traditionalists for the three level strategy with the last resort to having the permission of beating the wife. The difference is that the reason for this limit as dictated by *nushuz* has stricter criteria found with modernists. To some it is equal to engaging in *farwahish* or adultery. This view is also supported by the saying of the Prophet Mohammad (P.B.U.H) in his last sermon on the occasion of *Hajj*.<sup>86</sup>

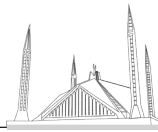
83 Saalih ibn Ghaanim Al-Salaan, *Marital Discord (al-Nushuz)*, trans. Jamal al Din M. Zaraboza, Al-Basheer Publications and Translation, 1996.

84 Translation to be given

85 Woman Myth & Realities, Riffat Hassan, “*Are Women and Men Equal Before Allah*,” com. Kishwar Naheed, (Lahore: Sang-e-Meel Publications, 2008), 197,198.

86 “*You have rights over your wives and they have rights over you. You have the right that they should not defile your bed and that they should not commit acts of indecency. If they do, Allah allows you to put them in separate rooms and to beat them but not with severity. If they refrain from these things, they have the right to their food and clothing with kindness. Give instructions to them kindly, for they are placed under you. You have taken them only as a trust from Allah, and you have the enjoyment of their persons by the word of Allah, so understand my words, o men, for I have told you.*” Muslim, *Kitab-ul-Hajj*.





Riffat Hassan<sup>87</sup> and Ridley<sup>88</sup> conclude that the verse is not permissive rather restrictive of the prevailing practices of abuse and violence against women. Wadud<sup>89</sup>, Edip Yuksel & Layth Saleh al-Shaiban,<sup>90</sup> Jerald F. Dirks<sup>91</sup> and Abu Sulayman<sup>92</sup> further argue that *daraba* does not mean to beat or strike here altogether.

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87 Hassan, "Are Women and Men Equal Before Allah, 197,198.

88 Considering the question of permission in Islam for men to beat their wives, her response would be "sorry, it's not true". She thinks that if and when a man does raise a finger to his wife, he is not allowed to leave a mark on her body. This is another way of the Qur'an and hadith saying; "Don't beat your wife, stupid" Yvonne Ridley, on "The Agenda, Press T.V. "How I came to Love the Veil", available at: <http://yvonneridley.org/yvonne-ridley/articles/how-i-came-to-love-the-veil-4.html>, last accessed on 12.01.2011.

89 Wadud, *Quran and Woman, Rereading Sacred Text from a Woman's Perspective*, p66-69

90 A Coherent Understanding suggested by the translators is that while reading 4:34, we should not understand *idribuhunna* as "beat those women", as this word has multiple meanings. They provide numerous meanings ascribed to it in the Quran as: To travel, to get out: 3:156; 4:101; 38:44; 73:20; 2:273; to strike: 2:60,73; 7:160; 8:12; 20:77; 24:31; 26:63; 37:93; 47:4; to beat: 8:50; 47:27 to set up: 43:58; 57:13; to give (examples): 14:24,45; 16:75,76,112; 18:32,45; 24:35; 30:28,58; 36:78; 39:27,29; 43:17; 59:21; 66:10,11; to take away, to ignore: 43:5; to condemn: 2:61; to seal, to draw over: 18:11; to cover: 24:31; or to explain: 13:17 *Quran: A Reformist Translation*, trans. Edip Yuksel, layth Saleh al-Shaiba and Martha Schelte-Nafel, (USA: Brainbow press, 2007), available at: <http://www.19.org/books/quran-a-reformist-translation>, Last accessed on; 23.03.2014

91 He considers translation of "*Wadribuhunna*" meaning "to beat" as an unfortunate translation conveying the erroneous impression of beating being administered, whereas "strike" covers the whole range of possibilities from a slight tap to a forceful punch. In his opinion, correct understanding of this is only possible by referring to Prophet's (P.B.U.H) sayings in this regard which allows it only in case of flagrant misbehavior and with other cautions of not striking on face or inflicting severe punch/ forcefully. Jerald F. Dirks, *The Abrahamic Faiths, Judaism, Christianity, and Islam, Similarities and Contrasts*, (Beltsville, Maryland, USA: amana publications, 2004)

92 Dr. Abdulhamid Abusulayman, in his valuable work, *Marital Discord, Recapturing the Islamic Spirit of Human Dignity*, discusses the use of *daraba* and its derivatives and the Quran yielding possibly seventeen multiple meanings other than slapping, beating and striking. These are propounds, held up as an example, similes by strike, travel through, covered, take away, draw their veils, strike their feet, strike the sea your staff, use the similitude, go abroad, shall be erected. Abdulhamid Abusulayman, *Marital Discord, Recapturing the Islamic Spirit of Human Dignity*, The (Herndon, VA, USA: International Institute of Islamic Thought, 2003)

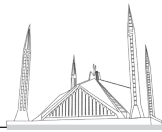
## Conclusion

Traditionalists believe that the concept of *qawwamah* has very far reaching implications for women in almost all matters dealing with family sphere and public life as if it is a general principle for regulation of whole genre of man-woman interaction. This tension is due to the assumption by them that the verse is adhered to the whole community and not limited to husband and wife within family. Traditionalists are more comfortable with extended export of the verse despite the fact that the verse itself militates against such interpretation. Certain physical and mental differences have naturally been between both sexes, but traditionalists think that there are naturally discernible and Godly endowed different spheres of activities for men and women. This opinion does not cater to the realities and requirements of contemporary times, as with the civilizational change and progress of institutions, the role of women in public sphere cannot be denied. What will then be the answer of traditionalists approach for catering to the education of girls, requirement of medical treatment (doctors, para-medical staff, laborites services), security checking's and many other areas required to be accessed by women.

Elaborating the term *qawwamah*, all traditionalists entail a long list of responsibilities for men as must for this responsibility. They very clearly and boldly describe that *qawwamah* means taking care of women and family in multiple and diverse areas yet implying the meaning of monitoring and supervising her conduct regarding obedience to Allah and all other matters of life with the authority or powers of *tadeeb* in achieving all these goals. Discussing the reasons for man being made *qawwam*, *fazelat* of men over women is described by traditionalists endorsing it with the reference of *Al Baqara 2:228*.<sup>93</sup> Traditionalists are convinced of male superiority over women implied by the verse 4:34. They describe men being superior in physical power, intellect, wisdom and *azm*. To them family matters include husband's privilege of spending for *mehar* and *nafaqa*, having four wives, authority of taking into marriage, right of being obeyed, exclusive divorce

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93 "Wives have the same rights as the husbands have on them in accordance with the generally known principles. Of course, men are a degree above them in status, and above all is Allah, the All-Mighty, the All-Wise."



right and revoking of divorce etc. To them, public law issues include differences in law of evidence, different inheritance share, *diyat* amount (blood money), leading prayers, giving *adhan*, capabilities of prophethood and becoming a ruler, physical power for *jihad*, and *amar bil maroof wa nahi unil munkir*. They further include the exceptional matters for women provided to her as an exemption to be her inferiority to men like exemption from *jihad*, congregational and Friday prayers, *shabada* in *hudood* cases, and similarly being *qazi* for *hadood* cases (which is an inference and not a declared issue) etc. In the light of all these interpretations by *muffasireen*, it is a general notion amongst traditionalists that all men are better or superior than all women.

Main tension here appears that the inherent male capabilities suitable for this responsibility and then earned capacity of spending has led them to declare the absolute superiority in homes and outside world, whereas Allah has not declared these differing natural capabilities between males and males or females and females or between males and females to be the source of superiority over each other. This opinion does not find support in the Quran and the *hadith*.<sup>94</sup>

Traditionalists' attitude of annexing privilege to those distinctions and differences which are God endowed poses tension. In this regard, traditionalists' arguments for women to be mentally deficient and yet portrayed to be morally responsible to God on same pedestal also raise many questions. How can a person be declared morally responsible on equal basis when not mentally so capable? Besides, the Quran and the *hadith*, in general, as a principle, nowhere declare women to be mentally deficient.

Similarly, the earning and spending responsibility given to men for wives and families provides them family leadership role but how can it be a source of superiority in the sphere where women are not given the role to compete with them or excel in it anyway?.

Considering the obedience as required behavior on part of women in response

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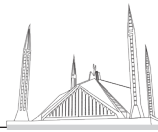
94 Al Hujr at 49: 13, Al Ahzab 33: 35, Ale Imran 3: 195, Al Nahal 16: 97, Al Momin 40: 40, An Nisa 4: 124, Al Taubah 9: 71 & 72.

to *qawwamah*, traditionalists do consider the limits ordained by Allah and the Prophet (P.B.U.H), but after that they suggest a state of servitude for women which is not endorsed by other Quranic references or role model of the Prophet (P.B.U.H). Explanations given by the traditionalists for the term *qawwamah* encompass a broad range of traits and responsibilities to be fulfilled by men as husbands. However, the implied meaning of *tadeeb* or monitoring have affected their opinion for seeing no tension in translation of *darba* as beating wife, though all of them have cited the *ahadith* for being restrictive and careful in this act.

Modernists do not consider this verse to apply to wider public life as it is believed to be applicable to the family life by them. The public life area has been left open depending upon the individual requirements or needs of the time, which is not barred by the Quran or examples found in the time period of the Prophet (P.B.U.H).

Modernists' views on the issue of family leadership can be divided into two groups. One group is convinced of hierarchy in the family as no workable institution can be based on complete equality. They believe that there are certain Godly endowed differences which are necessary for family leadership but these differences are not in any way source of religious or moral superiority of anyone for which all have to compete on equal pedestal. Therefore according to modernists, husband is head of the family, but this leadership does not in any way confer license of dictatorship or misuse. To them, *qawwamah* is a heavy and sensitive responsibility and obligation to be fulfilled and not merely an authority to abuse. They infer the verse 2:228 combined with verse 4:34 as describing the degree of responsibility and not a privilege or preference. Still some of them consider verse 2:228 related to the right of divorce discussed in that verse and not in conjunction with *qawwamah* verse. The feminist group further does not feel comfortable with the idea of permanent leadership role of men in the family considering it to be a contextual matter.

Considering earning and spending of men as one of the reason given for responsibility of *qawwam*, question is raised for this authority in case of not discharging this responsibility. The answer, however, is provided by someone from this group that in such a case the wife cannot be burdened with this responsibility rather it allows wife to resort to other measures for enforcement



of her rights including getting maintenance through court or seeking *khula* or dissolution through court on this basis.

Majority of the Modernists share the same point of view with traditionalists for the three level strategy with the last resort to having the permission of beating the wife. The difference is that the reason for this limit as dictated by *nushuz* has stricter criteria found here. To some, it is equal to engaging in *farwahish* or adultery. This view is also supported by the saying of the Prophet Mohammad (P.B.U.H) in his last sermon on the occasion of *Hajj* implying this definition

Modernists also consider *nushuz* as “general state of marital disorder” and not mere disobedience to husband; this point of view is shared by some of the traditionalists also very clearly. This meaning of *nushuz* sounds more appropriate as it is not restricted to the wife in the Quran as mostly understood and described by the traditionalists rather has been employed for husbands also as in 4:128 for the same state of marital disorder.<sup>95</sup> It is also emphasized by modernists that *nushuz* has to be well clarified and obvious and not verily a suspicion.

Considering the permission to beat, the modernists believe that the verse is not permissive rather restrictive of the prevailing practices of abuse and violence against women. Many *darwah* workers specially working in the West are still of the opinion that with multiple meanings of the word *darab* and its usage in the Quran and otherwise it is not meant to strike or beat here rather to get separated from each other finally or for the stage of inviting arbiters from the family. This view though sounding well harmonized with today’s world with well understood human rights standards raises a question when one goes through those *ahadith* which in spite of disliking refer to wife beating.

Traditionalist’s point of view has resulted in improper understanding of the concept of *qawwamah* or family leadership in our society. It has endorsed and strengthened the patriarchal set up and mode of family and society which was not meant to be established by Islam. Following are the salient features resultant of such thoughts of scholars:

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95 Al Quran Al Nisa 4:128, “And if a woman fears cruelty or desertion on her husband’s part, there is no sin on them both if they make terms of peace between themselves, and making peace is better”.

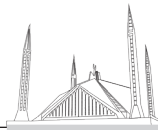
- Consideration of absolute authority of men over women
- Ruler like attitude (patriarchal) resulting in ruler-ruled relationships.
- Constant expected servility/servitude on part of wife or daughter in law resulting in totally controlling their lives as what to do and what not to do.
- Domestic violence taking form of all kinds of psychological, physical or sexual abuse (scolding, using abusive language, swearing demonizing, condemning her abilities or likes and dislikes, taunting, de naming or defaming in laws relatives, pushing, hitting, severe beating, crimes against body, injuring, throwing acid and even killing)
- Considering all household activities and child rearing and upbringing as sole responsibility of women

It is evident that the verse 4:34 describes the family set up with husband taking the position of guardian of the family further endorsed by many *sahih ahadith* which pronounce both as guardian of their families' with wife taking role of co-equal of her husband in family affairs.<sup>96</sup> Only in greater matters affecting the welfare of the family, the husband is given a degree of supremacy, duly supported by the Quranic reference, since two co-ordinate authorities with equal powers are likely to lead to clashes and conflicts which may destroy the balance and poise of the family life. On the basis of his being the head of the family, man has been designated with functional supremacy over his family, which in no way gives a man the absolute supremacy over women. The reasons provided by the Quran for this responsibility are not endorsing man's superiority over women rather describing functional distinctive abilities suited for this responsibility.

The required characteristics of a balanced notion for the *qarwamah* -Family leadership- should be: Taking responsibility of family affairs; having consultative approach to family members; cherish love and equality; ignoring or forgiving the shortcomings of family members; respect the human independence of wife and others; respect the social, legal and cultural rights of wife and others; appreciate

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96 "All of you are guardians and responsible for your wards and the things under your care; a man is guardian of his family and is responsible for them, a woman is guardian of her husband's home and the children and is responsible for them, all of you are guardians and all of you are responsible for your wards" Mohammad Ismail al-Bukhari, *Sahih*, Chapter: 566, trans. Allama Waheed-uz-Zaman, (Lahore: Maktaba Rahmania, 1985).



the natural capabilities and inclinations of wife; respect likes and dislikes; acknowledge her contribution to the family, companionship, child bearing and rearing; providing help in her domestic responsibilities; sharing child education and *tarbiyah* responsibilities and so on and so forth.

Concerning the required obedience from the wife, the balanced approach is that the meaning of obedience is the recognition of the role of husband as the head of the family unit and the submission and loyalty of both husband and wife to a higher law, the *Shariah*. The best role a woman can play in keeping the marital tie intact and strong is to recognize her husband as the one responsible for running of family affairs and not challenge his leadership. She is supposed to obey him even if his judgment is not acceptable to her in any particular matter provided he does not go beyond the limits of Islam. In no way this entails the relationship like a ruler-ruled or a master-servant.

Balanced approach for dealing with marital disruption is the understanding that provisions for dealing with marital discord are situation specific. Therefore, the third stage permission, even if taken to beat or strike, has in no way the general permission leaving aside an order, which even has the stringent criteria of extreme rebelliousness. Therefore, the practice of ill-informed Muslims of beating their wives on tiny issues of house chores or attitude differences has no place in Islam. Linking this verse to domestic violence by the Westerners has no basis as leaving aside domestic violence, Islam condemns all kinds of violence as it commands that the life, property and honor of all human beings is sacred which cannot be transgressed by any individual. It, therefore, ordered capital punishment for certain crimes including crimes against body (killings or injuries).

Ideally, both partners should make utmost efforts for performing their responsibilities respecting each other to fulfill the true purpose of marriage based on love and mercy. Each and every family thus will be contributing towards the peace and tranquility of society which is replica of a family on a macro scale.





# NOTES FOR CONTRIBUTORS

## Manuscript Preparation

- The language of the manuscript must be English (either American or British standard, but not the mixture of both).
- Title of the manuscript should be concise and informative.
- To facilitate an anonymous review process, please add a removable cover page. Place the title, author name(s), affiliation(s), contact information with e-mail, phone/fax number for the corresponding author, and a biographical sketch for each author on the cover page. There would be no page number in the cover page.
- Enclose your updated CV along with your manuscript.
- Each manuscript must include an abstract of approximately 200-250 words. Abstract should be concise and factual and it should have a structured form. It should state briefly the purpose of the research, the principal results and major conclusions. References and abbreviations should be avoided in the abstract.
- No abstract is required for Short Notes, Book Reviews or Commentaries.
- Immediately after the abstract, provide a maximum of 8 keywords, avoiding general and plural terms and multiple concepts (avoid, for example, 'and', 'of'). Try to provide at least 5 keywords. Key words should not repeat the title of the manuscript.
- Divide your article into clearly defined and numbered sections. Subsections should be numbered 1, 2. (then 1.1, 1.1.1, 1.1.2), 1.2, etc. The abstract is not included in section numbering.
- Authors are urged to write as concisely as possible, but not at the expense of clarity. The preferred lengths of submissions (inclusive of footnotes) are as follows:
  - a) Articles – 6000-12000 words
  - b) Short Notes/Case Comments – 3000-5000 words
  - c) Book Reviews- 1000-2000 words
  - d) Essays- 2000-3000 words
- The main text of the paper should be in font size 12, Times New Roman,