



## Investigation of Beating a Disobedient Woman and Its Levels and Its Punitive Effects According to the Verses of the Qur'an and the Rule of Forbidding the Evil

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### **Abstract**

Some thinkers take a superficial look at the original sources of the Islamic religion and causes much criticism toward the Islamic view on women's rights. According to them, there are verses and narratives that show the wrong and inhumane treatment of Islam toward women. One of the issues of criticism was toward some verses of the Holy Qur'an, such as verse 34 of Surah an-Nisā', which authorized the punishment of a woman by a man. Collecting the materials in this article is library-based and their processing is descriptive and analytical. In this article, by referring to the existing verses and hadiths, we found that according to the rational and narrative reasons, the permission to beat women without relying on the above verse and relying on the reasons for the necessity of enjoining the good and forbidding the evil can be proved. Of course, beating is the last level of fulfilling the rule of enjoining the good and forbidding the evil, which includes giving the permission to a man for beating a woman. And if the reasons of the permission to beat violates enjoining the good and forbidding the evil, considering the explicitness of the verse of Nushūz in the permission to beat woman by man, it can be considered as one of the exceptions and outside the scope of the ruling that says it is necessary to obtain permission of the religious ruler.

**Keywords:** *Punishment; Nushūz; Beating; Enjoining the Good; Forbidding the Evil*

### **1. Expressing the Problem**

Islam presents the most complete way of life to man (Muṭahharī, 1378 HS, 2/250) and its proposed method includes the most appropriate way of life with human nature (Abbasnejad, 1384 HS, 371); for a long time, women have been deprived of full access to all or most of their human rights in all societies (Khan Mohammadi, 1377 HS, 13/7). With the growth of human societies, the realization of women's rights has grown significantly with the advent of Islam. (See: Tabataba'i, 1390 AH, 2 / 260-280) Before and after Islam, there have been movements around the world to return their lost rights, all of which seek to destroy customs and traditions and the rules that are applied in conflict with the women's

real rights in societies. (Martine Segalen, 1370 HS, 323-329) In this regard, women's movement activists have tried to study and reform the obstacles to realize the real rights of this section of society.

Given that Islam and Islamic law, as the most perfect religion, is acceptable to many societies. Therefore, many thinkers have turned their attention to the view of Islam toward women, but some of them, with a superficial look at the original sources of this sacred religion, have criticized the Islamic view on women's rights. Because, according to them, there are verses and narratives that show the wrong and inhumane behavior of Islam towards women. (Nisā'/ 34; Nahj al-Balāghah, Sermon 80; Ibn Mājah, nd, 2/1326, Hadith 4003) Some of the verses of the Holy Qur'an, such as verse 34 of Surah an-Nisā', have been criticized by fans of women's rights and social status, and they say that this verse has given permission for men to punish women.

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 to 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 ) (An-Nisā' / 34).

This noble verse raises many questions and doubts about the Qur'an's permission for men's violence against women in the family. In this verse, the word "and beat the women" according to many experts in the field of women's studies, indicates the permission of violence against women in Islam. While such an interpretation of the verse contradicts Islamic principles such as honoring human, reviving the status of women according to the rules of Mahriyeh<sup>1</sup> and Nafaqa<sup>2</sup>, etc., and the historical struggle of Islam against violating the sanctity of women and burying girls alive. Therefore, the aim of this study is to find out whether the permission to punish women by men is due to the low position of women in relation to men in Islam or it has nothing to do with their gender and human status and it is as a punishment of a fully responsible human by another fully responsible human? And whether the verse and the ruling on the permission to punish women have been used as an example to forbid the evil? If the answer is yes, the permission of beating is not special for a woman and it includes the permission of beating a woman by a woman and even the permission of beating the man by another woman or man.

## 2. Introduction

The phenomenon of violence against women has a long history. This phenomenon was not limited to ancient civilizations, including ancient Greece and Rome, in which women were treated as "objects" not "persons", and the man had legally the right to beat his wife for false reasons. (Tabataba'i, 1387 HS, 31-36; Nouri, 1343 HS, 6-9) and it was not dedicated to degenerated cultures such as the ignorant culture of the Arabian Peninsula, in which women were completely subjugated to the will and desires of men, and in some tribes, the girls were buried alive (Nouri, 1343 HS, 18-28), but also it extended to contemporary societies. Aside from the quantitative aspects - more than 1.8 million husbands in the United States beat their wives - violence in Western societies, attention to its qualitative aspects is also noteworthy. (French, 1373 HS, 308) Anthony Giddens writes in this regard: "Violence against women at home is sometimes considered very minor, but the evidence from the shelters of beaten women shows the opposite. One review reported: Some women have been tragically injured and suffered bone fractures, stab wounds and severe injuries. Some were beaten with chairs on their head, some were thrown down stairs, and someone was hammered a nail on her feet. (Giddens, 1389 HS, 218) in Islamic

<sup>1</sup> The obligation, in the form of money or possessions paid by the groom, to the bride at the time of Islamic marriage.

<sup>2</sup> Maintenance of a permanent wife is obligatory upon her husband; also, the maintenance of children and parents is obligatory in case of their need.

countries including Iran, in addition to some recent surveys done in recent years, case studies and daily observations of individuals confirm the relative prevalence of violence against women in Iran (I'zazi, 1383 HS, 50).

In the meantime, accusations have been made against jurisprudence and Sharia of *Āl Muhammad* (PBUH) by societies that claim defending human rights (Maliki, 1385 HS, 100) and the most important document used by the opposition is verse 34 of Surah an-Nisā', which is about the strength superiority of husband, the unruly wife and the permission to punish, and God has advised the "unruly" women of the three ways of advising, leaving the bed, and beating.

### 3. Background

Research has been done on the beating of an unruly woman in Islam, which is described below:

1. Islam and the issue of beating women, Galayori, Ali; Magazine: Rawāq Andishah, March 1382 - Issue 27.
2. The verse of Nushūz and beating of a woman from another point of view Journal: Qur'anic Research, Fall and Winter 1380- Nos. 27 and 28.
3. Legal - jurisprudential re-reading of the beating of women in religious texts and the views of Imam Khomeini (RA), Sultan Ahmadi, Jalal; Yazdani, Mehri; Malekshah, Arezoo; Journal: Matin Research Journal, Spring 1397 - No. 78.
4. Reviewing the concept of unruly men and women in the Qur'an, Mustafawī Fard, Hamed; Journal: Ahl al-Bayt jurisprudence, spring 1391- No. 69.
5. A few reflections on verse 34 of Surah An-Nisā', Hussein, Sayyid Shahnaz; Journal: Matin Research Journal, summer and Fall 1383- Nos. 23 and 24.
6. Punishment of the wife from the point of view of Imāmiyyah jurisprudence and subject law of Iran, Mousavi Rokni, Ali Asghar; Dehghan Manshadi, Najmeh; Journal: Shiite Women »Summer 1387- Issue 16.
7. Practical solutions in the face of the Nushūz of spouses, Kabir, Munir; Journal: Society Letter, spring 1395- Issue 117.
8. The issue of physical punishment of women, al-Ṭālibī, Muhammad; Translator: Mehrizi, Mehdi; Magazine: Reflection of Thought, August 1384- Issue 64.
9. Nushūz; Examples and methods of dealing with it in the Holy Qur'an, Ghobadi, and Maryam; Journal: Research in Qur'anic and Hadith Sciences Winter 1393- Issue 24.
10. Critique and study of Aziza Hebari's point of view in the interpretation of "beating" the women in verse 34 of Surah Nisā', Muhammad Ja'fari, Rasūl; Seidi, Mahmoud; Journal: Research in Quranic and Hadith Sciences, summer 1397 - No. 38.
11. A new look at violence against women from the perspective of the Qur'an, Bustān, Hussein; Dehghannejad, Reza; Journal: Qur'anic Education Research Journal, spring 1396- No. 28.

### 4. Semantics

It is necessary to clarify the meaning of some words and phrases, so in the following, some terms related to the article will be introduced:

#### 4.1 The Concept of "Ḍarb"

Although the word "Ḍarb" i.e. beating has several applications<sup>3</sup>; and it has been mentioned with different meanings in the holy Qur'an<sup>4</sup>; but its true meaning is to strike two things to each other or to hit something to something else. (Mustafawī 1402 AH, 7/21) Then it is used metaphorically in various cases. (Ibn Fāris, 1404 AH, 3/397) So it seems that the meaning of "Ḍarb" in "beat that women" is a physical punishment; according to the early jurists, Ḍarb means beating for performing a forbidden act, with taking into account the circumstances (Najafī, 1981 AD, 202)

#### 4.2 The Addressee of the Verb "Ḍarb"

The meaning of "beat them" is beating the wife by the husband; since the addressee of advice is the husband, so regarding the unity of context, the addressee of the verb is the husband himself. (Jabaṭ Amili, 1413 AH, 8/358)

Apart from the unity of context mentioned above, the final sentences of the verse shows that the addressee of the three verbs is the husband. In a sentence, "But if they return to obedience, do not seek against them means of annoyance; Verily, Allah is the Sublime Great" (Nisā' / 34) the addressee of the verb "obey you" is the husbands. Also, the phrase "Verily, Allah is the Sublime Great" is a warning for husbands to know that God is the Great and Exalted Supervisor, and that if they harass their wives or go extremes in their punishment under the pretext of their disobedience, God will support the oppressed. For this reason, the jurists have considered "Ḍarb" as a "punishment" that is done by husband since he is responsible for the education of his own wife. (Ṭūsī, 1387 AH, 4/338, Ṭrābilsī, 1406 AH, 2/264, Ibn Idrīs Ḥillī, 1410 AH, 2/729; Isfahani, 1416 AH, 7/519)

#### 4.3 The Literal and Idiomatic Concept of "Nushūz"

Nushūz is the same as the superiority and rebellion of man over woman, and also the rebellion of woman over man. (Qarashī Banāyī, 1412 AH, 66/7) Nushūz is a plural of the word "Nashz" and literally means height. (Ibn Manzūr, 1414 AH, 5/417) It is said: When the man is sitting, then he gets up. The saying of God Almighty, who says: "Whenever they are told to get up; So they get up." (Mujādilah / 11) (Najafī, 1981 AD, 200)

The late Balāghī writes in *Ālā' al-Rahmān*: "The principle of Nushūz is the search for supremacy, which here is an allusion to the seeking supremacy of the woman with an emphasis on her husband's disobedience and violating his rights and distance from these duties; and this is gradually achieved by disobeying and abandoning the necessary rights of the husband, as in the beginning of the act, with his behavior and actions, the alarm to reach a serious stage of disobedience is sounded and the deviation from the right way and compromise path begins. This is the same stage of fearing of Nushūz in which God has allowed the method of reconstruction in three stages of preaching, quitting and beating ..." (Balāghī, 1420 AH, 2/398)

<sup>3</sup> To strike means to hit with a sword or a cane and a stick (to hit the ground with a cane), to mean traveling and walking on the ground, to describe and explain (God gave an example), to dominate sleep on the eye, to set a deadline (Determine the deadline) and ... (Muqirī Fayyūmī, nd, 2/359).

<sup>4</sup> To hit something to something else like "So We stated: Strike the dead body With a piece of the slaughtered cow" (Al-Baqarah / 73), to hit the ground in verse "They [the believing Women] should not strike their feet in Order to show the ornaments of their Ankles to draw attention to themselves." (Nūr / 31) like beating in the verse "Have you not noticed how Allah has set forth a parable? A good word is as a good tree whose root is fixed and Firmly [in the earth] and its branches reach towards the heaven ". (Ibrahim / 24).

Shahid Muṭahharī also writes: Apparently, the meaning of Nushūz is not a violation of the commandment, because Nushūz has been also said in the case of a man; it is meant to be incompatibility. (Muṭahharī, 1377 HS, 5/135)

#### **4.4 The Literal and Idiomatic Concept of "Tamkīn"**

Tamkīn (i.e. obedience) is an Arabic and transitive infinitive that means: to accept, to lose, to give strength and power. Tamkkun has also been used to mean wealthy and dignified. (Rāghib Isfahani, 1412 AH, 773)

Obedience in the term comes in two general and specific forms. General obedience means that the husband presides over the family and his will is respected in raising the children and the financial and moral management of the family. In general obedience, the criterion for distinguishing the things that a husband can expect from a wife is customary (Imāmī, 1342 HS, 447). Specific obedience refers to the sexual relationship of a couple and the response to his legitimate desires. (Ibid. Katooziyan, 1378 HS, 228) The definition of Tamkīn states: "Privacy between husband and wife in any place and time." (Hillī, 1409 AH, 568) In the definition of special obedience which jurists have interpreted it as complete or perfect obedience; there is almost a consensus among jurists. In jurisprudence, special obedience has been considered as the permission of a wife to allow her husband to enjoy sexual intercourse with her at any time and place that there is no legal obstacle for them (Jabā'ī 'Amilī, 1413 AH, 439). ) Lawyers have expressed the same meaning as follows: Special obedience refers to the sexual relationship of a couple and responding to the legitimate demands of the husband. (Katooziyan, 1378 HS, 227) or some other jurists have considered it as a sexual intimacy with the husband for whom the wife should always be ready, unless she is ill and intercourse causes her harm or has a Shar'ī obstacles. (Imāmī, 1342 HS, 447)

#### **5. The Extent of a Woman's Obedience to a Man (Cases and Instances of Disobedience)**

From the interpretations of the commentators and jurists in this regard, we can conclude three views:

1- The scope of obedience to the husband is the same as the scope of his commands and prohibitions; that is, every order given by the husband to the wife must be obeyed, whether it is related to family life or not, or whether it is about the right to sexual productivity or not; (Muhaqiq Damad, 1372, 297) Some believe that Nushūz is a disobedience that is sometimes obtained from behavior or speech; for example she raises her voice against him, or she does not respond when he calls her, and she does not rush to what he commands, and she does not give up when he speaks to her. (Jamīlī, 1984, 61)

Most jurists have limited the Shar'ī Nushūz to give permission to certain cases when needed; like refusing a man's wishes in bed, going out of the house unnecessarily and some have considered lack of the make-up of a woman as an example of disobedience. It has also been said that a man has the right to beat a woman for leaving religious duties such as bathing and praying. Apparently, Nushūz has a broader meaning than this, and it includes any rebellion of a woman whose motive is arrogance and selfishness. And the holy verse which says: "So if they obey you, then don't harass them" (Reza, 1414 AH, 5/76 AH).

According to this view, a wife's disobedience is not limited to the scope of marital rights, but any disobedience to her husband's order and will is considered Nushūz, whether or not that order is related to the spouse's rights. (Ṣadr, 1374 HS, 5/28)

2- Obedience to the husband is only within the limits of his rights and no more; therefore, a woman's disobedience is realized when these rights are not respected. As *Ṣāhib Jawāhir* believes: "It is obligatory for the wife to obey his husband and to avoid unpleasant and negative things, and if she disobeys them, her husband will advise her, and ... and other than obedience, It is not obligatory on a woman to pay

attention on her husband's needs, which is not related to her obedience or its preparations." (Najafī, 1981, 201)

3- Obedience to the husband is only in sexual pleasure and no more. According to this theory, Nushūz is anti-Tamkīn; as t *Ṣāhib Jawāhir* says: (It is a matter of the validity of obedience which is against non-obedience.) (Ibid. 303)

### **6. Commentators' View on the Condition of Permission of (Beating)**

Is the punishment mentioned in verse 34 of Surah an-Nisā' with the realization of disobedience, or with the emergence of its signs before its realization or with both? The views of jurists and commentators on the sentence "And those women that you are afraid their disobedience" can be divided into four categories:

Some jurists and commentators believe that the three stages of advice, turning your back in bed and beating, are followed by fearing their disobedience (Tūsī, 1388 AH, 338; Tabataba'i, 1390 AH, 345/4; Najafī, 1981, 31/202), a group has considered fear to mean knowledge and certainty, and the right of punishment has been given to men if they know for sure that their wives will disobey (Qurṭubī, 1416 AH, 112; Jaba'i 'Amili, 1423 AH, 338). Some offer detailed theory (advice) for the case where the signs of disobedience are revealed and there is a fear of disobedience, (turning away) is considered for the case where Nushūz is achieved without insistence and finally (beating) is considered for the state of the woman's insistence on disobedience. Accordingly, beating is assigned to a stage that disobedience has reached an acute stage and beating cannot be used before this stage. (Najafī, 1981, 31/203) and the fourth group, arguing the necessity of prevention before the occurrence of the crime, have interpreted the verse due to the appearance of verse and considered the punishment to be necessary as soon as they are afraid of the disobedience occurrence. (Al-Fandi, 2000 AD, 36) Therefore, according to all the sayings, the principle of beating is assumed and only the method and stage of beating is difference.

### **7. Stages of Wife's Punishment**

Considering verse 34 of Surah an-Nisā', three stages of advising, turning away and a beating have been suggested for the punishment of a wife.

Preaching and advising is the first suggestion that God Almighty offers to solve the problem of wives. After the first advice and in case of a negative reaction of the wife, the Qur'an proposes a second solution with the phrase "turn away the wives in bed", which means "sab" (Qomi, 1363, 1/137), which has been defined reluctance to have sex (Zamakhsharī, nd, 1/506; Qurṭubī, 1416 AH, 5/171), turn his back to the wife in bed; (Tabarsī, nd, 1/254) and not talking to her (Baghawī, nd, 1/613), leaving the bed and separating the bed from his wife. (Kāshifī, nd, 178), abandonment of intercourse (Ālūsī, nd, 3/25), which the famous view is leaving the bed and turning their backs on the bed (bed) to the woman. (Jaba'i 'Āmilī, 1423 AH, 572)

Beating is the third way that the Qur'an presents after the previous two solutions. There are several meanings for "Ḍarb" in dictionaries. But, as mentioned earlier, the best and most appropriate meaning is to "beat" and hitting something by something else. (Farāhīdī, 1409 AH, 7/30; Rāghib Isfahani, 1412 AH, 505)

The early commentators have interpreted physical punishment of a wife by her husband and considered its permission to be specific to the disobedience. Of course, its conditions have also been determined. It has been said that "beating is forbidden if it is for doing an action." (Najafī, 1981, 202) Of course, all jurists have noted that the implementation of these three stages, especially beating, is

permissible only if the return from disobedience is possible and the man assumes beating effects leaving disobedience, otherwise these punishments must be abandoned. They have all issued a fatwa with caution under the word "beat them" and have interpreted it with great restriction; as Ṭabarsī has said: "And if the advising and leaving intercourse and not sleeping with them are not effective, beat them, so that their bodies are not wounded and their bones are not broken." (Ṭabarsī, nd, 396) It should be noted that some jurists believe that the punishment of the wife does not indicate *Wājib* or *Mustahab*, but only implies permission or *Ibādah* (Ḥujjatī, 1363, 245).

Now, according to the levels that have been proposed for beating a woman in case of disobedience, it can be inferred that in order to allow a woman to be punished, it is not necessary to rely on the verse of Nushūz, but it is possible to achieve this verdict by relying on the rule enjoining the good and forbidding the evil, and in addition to the permission to beat a woman, it is even possible to rule on the necessity of beating a man by a woman and on behalf of other responsible humans.

According to verse 104 of Surah *Āl Imrān*, enjoining what is good and forbidding what is evil are obligatory and are considered as signs of salvation for individuals and societies. As enjoining the good and forbidding the evil is also considered as an inseparable attribute of the prophets (A'raf / 157) and also enjoining the good and forbidding the evil is considered as one of the characteristics of separation of believer and hypocrite (Tawbah / 71), and according to the verses, If repentance, worship, bowing, and prostration are considered the attributes of a true believer, then enjoining what is good and forbidding what is evil are also considered some of his social attributes (Tabataba'i, 1390 AH, 9/397) and God Almighty has introduced the philosophy of the happiness of believers and the righteous on earth due to enjoining what is good and forbidding what is evil. (Hajj / 41)

From a jurisprudential point of view, there is no doubt about the necessity of forbidding the evil. (Ḥillī, 1409 AH, 1/310; Najafī, 1981 AD, 21/365), but also, some have considered it to be one of the most important divine duties (Sistani, nd, 1/417) As they have confirmed, there is no difference in the obligation of forbidding both Major Sins and Minor Sins (Khomeini, nd, Tawḍīḥ al-masā'il, 1/465) in the Holy Qur'an, enjoining the good and the forbidding the evil are repeatedly mentioned as a special duty for the Ummah of the Prophet (PBUH), and sometimes it has been mentioned along with beliefs such as faith in the origin and resurrection, or actions such as prayer and zakat. (See: *Āl Imrān* / 104, 110, 114; A'raf / 157; Tawbah / 67, 71, 112; Hajj / 41; Lughmān / 17) Therefore, due to the non-assignment of the rule of forbidding the evil to a certain sex, its necessity can be deduced for the human race.

### **8. The Levels of Forbidding the Evil**

Forbidding or prohibiting the evil has some levels, which are: heart disgust, verbal prohibition and denial by hand (beating). (Ḥillī, 1409 AH, 1/311) Some scholars have considered a fourth level for forbidding the evil, and that is the prohibition of evil to the point of murder. (Jawādī Āmulī, 1368 HS, 47; Sobhani, 1432 AH, 371) Each of these levels includes different behaviors. The denial by the heart means doing things that reveal the discomfort of that evil act; Such as: blinking an eye, turning abusive, leaving the relationship and the like. (Khomeini, nd, Tahrīr al-Wasīlah, 1/476) Therefore, the purpose of denying by heart is not just "inner disgust"; because it does not apply to the prohibition. Linguistic denial includes preaching, guidance, soft speech, command and prohibition, and, if necessary, linguistic threat. (Ibid. 478) The denial by hand means practical prohibition and the applying the power, which includes a set of behaviors from pulling the ear, imprisoning, hitting and in the higher stages, including wounding and killing. (Ibid. 480); there is a longitudinal and sequential relationship between the three levels of forbidding the evil, in which one must start from the lowest level, and if the prohibition is effective, the higher level will not be legitimate. (Najafī, 1981, 21/378)

According to the application of the verses on the necessity of enjoining the good and forbidding the evil, when the sinner (considering the levels and degrees of enjoining the good and forbidding the

evil) does not leave sin and he insists on doing the sin; In this case, if the one who enjoins the good and forbids the bad knows that if he beat the sinner, he will leave the sin, or at least there is a rational possibility that the beating is effective and hitting the sinner makes the life, property and the honor of himself or another Muslim safe, so beating the sinner is obligated to the extent that he abandons sin, provided that it does not lead to injury or murder (Khomeini, nd, *Taḥrīr al-Wasīlah*, 2/766).

It should be noted that, given the three levels mentioned in verse 34 of Surah an-Nisā', and considering the opinions of jurists and commentators, it seems very likely that Nushūz should not be an independent title for allowing violence against women, but beating a woman is permitted just for the purpose of forbidding evil; that is, the husband does not have the right to beat his wife, not as a husband, but only as an executor of legal punishment. In fact, the woman has disobeyed God's command by neglecting her husband and abandoning the obligatory marital duties, thus exposing herself to the prohibition of evil by others, and the husband is one of those others, although the special feature of the Nushūz sin, which deprives the husband and not others, has caused, firstly, that since the Holy Qur'an emphasizes the protection of family privacy and the non-disclosure of family secrets, entrusts the husband with the responsibility of enforcing this sentence in order to avoid family disputes to go the court as much as possible to prevent their problems to be generalized. Second: The obligation of forbidding the evil on others in this regard, as well as the obligation of performing the three levels by the husband should be conditional and not absolute; this is because the husband may forgive his right, and in this case, the issue of the obligation to forbidding the evil will be eliminated. Third: The method of enforcing the rule of forbidding the evil in this regard is slightly different from other cases; because turning away from wife in bed is only for the husband, and it is meaningless and useless for other people who want to forbid an unruly woman (Bustān, 1396, 94).

Mentioning this point is well important since there is no doubt that men have an educational responsibility towards their wives and children and should prevent them from being deviated. In addition to the general arguments for enjoining what is good and forbidding what is evil, the clearest expression in this regard is verse 6 of surah al-Taḥrīm.

(O ye who believe! Save yourselves and your families from a Fire whose fuel is Men and Stones, over which are (appointed) angels stern (and) severe, who flinch not (from executing) the Commands they receive from Allah, but do (precisely) what they are commanded.) (Taḥrīm / 6)

The Holy Prophet of Islam (PBUH), in line with the holy verse, considers it obligatory to enjoin what is good and forbid what is evil from one's family<sup>5</sup>. (Majlisī, 1403 AH, 24/72; Sha'īrī, nd, 119) Man has priority over others in forbidding his wife and children from evil, and in fact its obligation is emphasized on the head of the family. Therefore, if the wife fails to perform her religious duties or ignores the divine prohibitions, the husband is necessary to enjoin what is good and forbid what is evil (Khoei, 1410 AH, 1/353).

Needless to say, according to the following verse:

(If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is 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.) (Nisā' /128)

Nushūz is not specific for wife and if her husband doesn't perform his sexual, emotional and economical duties against his wife, or to harass her physically and mentally, he is considered Nāshiz. (Jaba'i Āmilī, 1413 AH, 8/362; Marāghī, nd, 5/171) However, the fact that Islam has prescribed

<sup>5</sup> You are all a shepherd, and all of you are responsible for the flock.



relatively different rules for the Nushūz of a husband, that is, his turning away from performing marital duties, the rules that are different from the rules for the Nushūz of wife; for example, the wife does not have the right to beat her husband, which is apparently related to the husband's right to divorce. Therefore, in some cases, the husband's Nushūz, such as abandoning alimony or leaving the intercourse, the husband faces two options, one of which is divorce, and thus, there is no way for forcing the husband to do his duty; because he can choose the option of divorce. However, in cases such as social misconduct with the spouse and the refusal of her divorce, it is possible to prove the permission to beat the husband by observing the conditions of forbidding the evil, according to the Shar'ī rules, although apparently considering the physical and mental differences between men and women, the execution of this sentence has not been assigned to the woman. (See: Muṭahharī, 1382, 5/144) Therefore, it can be said that the law of forbidding the evil includes men and women equally, and if there is a difference, it is only in the area that enforces this law.

Now, the question that we have to answer is that isn't the last stage of enjoining the good and forbidding the evil subject to the permission of the religious ruler? So, with what evidence is the permission of the religious ruler in beating a woman ignored?

The answer to this question is possible with three arguments.

First of all, it is not consensual to obtain the permission of the religious ruler, and some believe that it is not necessary to obtain permission. And the reasons for the necessity of enjoining the good and forbidding the evil<sup>6</sup> also confirm it.

Second: Numerous narratives explicitly acknowledge the necessity of enjoining what is good and forbidding what is evil, even when entering the stage of beating. Among them is a hadith from Imam Ali (AS) who has explicitly authorized the ruling. (Nahj al-Balāghah, Hikmat 37)

Third: If the evidence of the permission to beat violates the rule of enjoining the good and forbidding the evil and it is said that the claimed narratives have the weakness of document and reason and verse 104 of Surah *Āl Imrān* is in the position of the principle of legislating enjoining what is good and forbidding what is evil not its rulings that can be considered as one of the exceptions, considering the explicitness of the verse Nushūz in the permission to beat a wife by her husband, and it can be considered and outside the scope of the sentence and necessary to obtain the permission of the religious ruler.

## Conclusion

According to the clear text of the Qur'an (Nisā' / 34), a man has the right to punish his wife if she is not in charge of her marital duties. The jurists, as stated in the above verse, believe that after performing the two stages of advice and turning away in bed, the husband has the right to punish (beat) the wife. Of course, these punishments are permissible, not obligatory, and they are gradually applied from low to severe.

The Nushūz of wife means that she does not to respect her husband's rights, not to disobey her husband's orders and demands. Because everyone believes that a husband's Nushūz about a wife is realized by not respecting her rights. According to the jurists, it is not possible to carry the verse on the

<sup>6</sup> Verse 104 of Surah *Āl Imrān*. Narrative of Jābir.

يَكُونُ فِي آخِرِ الرَّمَانِ قَوْمٌ يَبْتَغِ فِيهِمْ قَوْمٌ مُرَاوُونَ؛... فَأَتَكَرُّوا بِطُلُوبِكُمْ وَ الْفُطُورَا بِاللَّسِنَتِكُمْ وَ صُحُّوا بِهَا جِبَاهَهُمْ ... فَجَاهَدُوهُمْ بِأَيْدَانِكُمْ وَ أَبْغَضُوهُمْ بِطُلُوبِكُمْ. (كافي ج ٥/ص ٥٤/ حديث ١ و تهذيب ج ٦/ص ١٨١/ حديث ٢١)  
روایت تفسیر منسوب به امام حسن عسکری (ع): الإمام الحسن بن علي العسكري ع في تفسيره عن أبيه عن النبي ص في حديث قال: لقد أوحى الله إلي جبرئيل و أمره أن يخسف ببلد يشتمل على الكفار و الفجار فقال جبرئيل يا رب أخسف بهم إلا بفلان الزاهد ليعرف ما ذا يأمره الله فيه فقال اخسف بفلان قبلهم فقال يا رب عرّفني لم ذلك و هو زاهد عابد قال مكنت له و أقدرتُه فهو لا يأمر بالمعروف و لا ينهي عن المنكر و كان يتوفر علي حبه في غضبي فقالوا يا رسول الله فكيف بنا و نحن لا نعدر على إنكار ما نشاهده من منكر فقال رسول الله ص- لتأمرن بالمعروف و لتنهين عن المنكر أو ليؤمننكم عذاب الله ثم قال....(وسائل، جلد ١٦، ص ١٣٤، حديث ٢١١٧٣)

appearance and use punishment as soon as one is afraid of the Nushūz occurs, and there is no doubt that it is necessary to observe caution in this regard.

According to the verses and narratives in this regard, first: According to verse 34 of Surah an-Nisā', in performing the steps of training a wife, all three stages (preaching, turning away, beating) must be in accordance with the levels, just as the performance of the duty of enjoining the good and forbidding the evil must be by observing the hierarchy (heart disgust, verbal forbidding, denial with the hand means beating). Second: There are some restrictions in the narratives for beating that indicate all levels must be applied so that there is no opportunity for beating at all. Third: The fatwas of the jurists regarding the beating of a woman has been bound to non-obvious, informal and non-chronic; therefore, it should be said that beating does not mean violence; rather, according to verse 6 of Surah Taḥrīm, a man has a responsibility to educate his wife and children and should keep them from deviating, so if the woman refuses to perform her duties or ignores the divine prohibitions, she must be commanded to do good and forbid evil. Granting the permission of beating the wife by her husband, which is determined by more careful consideration in the circumstances and aspects; it should be said that sexual violence is not the exact meaning, but it is a legal punishment that the husband applies not as a husband, but as a law enforcer, and it is not a separate title, but one of the examples of forbidding the evil. The non-necessity of the permission of the religious ruler regarding the permission of beating the wife by husband is due to the explicitness mentioned in the Qur'an in this matter.

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