



## The State of Quran's Ayahs' Descent Status in Deduction of Juridical Decisions with Emphasis on Ayahs' Related to Family's Rights

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### **Abstract**

Recognizing Ayahs' descent has a considerable role in jurisprudential concept from legal ayahs. In this research we have been surveying that we consider the effect of descent status in jurisprudential perception of legal ayahs in range of ayahs related to family rights from Farīqayn (Sunni and Shi'a) point of views. From all effects of descent status that can be helpful in correct jurisprudential deduction of the Quran's ayahs, we can mention some such as: General decisions' evidence determination in Ayahs, recognizing the criteria of Understanding the coordination among Quran's ayahs, correct determination of abolisher Ayahs from abolished ones. Describing the ambiguous terminologies in ayah and limiting ayah's meaning to a special group or a situation.

**Keywords:** *Descent Status; Descent Sphere; Jurisprudence; Interpretation; Deduction*

### **1- Introduction**

Understanding Quran as any other books requires equipment and accessing its special introductions.

The Quran's gradually descents coincides with events and incidents. It indicates that Quran's Ayahs had been observer on events and circumstances in the Arabian Peninsula. Some parts of Quran's Ayahs were descent observing and coinciding with events which named descent status. Surveying descent status can be helpful for a correct understanding of Quran's teachings.

Negligence to Quran's ayahs' descents status can cause deviation or defect deduction about them. In this essay were going to survey point of views of Farīqayn (Sunni and Shi'a) about the effect of descent status on juridical deductions relating to ayahs of family and partial marriage.

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## 2- Descent Status Concept

Over the concept of (descent status) numerous speeches have been expressed. Most of interpreters believe that there is no difference between descent status and descent cause.<sup>1</sup> So, to prove their ideas, they adduce to some interpretations that use descent status instead of descent cause.<sup>2</sup> But some of researches believe that the descent status has more general concept than descent cause. They believe that the descent status is defined to any person, event or subject in the past, present, or future that the Ayah or Ayahs had been descent because of them. So, from this view the descent status is not limited to the descent age, and includes the former nations' adventures. But the cause is an event which was followed by an Ayah or Ayahs. On this base, the descent cause is considered much more special than the descent status.<sup>3</sup> In this essay, the descent status is also used as its general concept.

## 3- History of Discuss

Writings about descent status could have been divided into two sections since past times:

- 1- Reports of speeches, without analyzing and evaluating and merely through writers' efforts by selecting some narratives.
- 2- Reports analysis, evaluation and criticizing votes and preference of utterances. Some of Quran's science books have discussed on the profits of some jurisprudential Ayahs with the title of Profits of Descent Status.<sup>4</sup>

Reviewing books of descent cause and Quranic interpretations shows that descent causes related to marriage and family have been expressed in them, but there is not any analysis about them. so this essay considers a new one and can be an introduction for a more general discussion with the title "the effect of descent status in correct deduction of decision Ayahs and jurisprudential discussion from *Fariqayn* views."

Some researches that have been done close to this subject formerly, are as below:

- Essay (considering the amount of descent cause utterance effect in interpretations, in which the role of descent cause in divine Ayahs' interpretations and how it is done in recovering Ayahs' concepts and their causes of the God's will have been considered.<sup>5</sup>
- Essay (Marriage researching in divine Ayahs.<sup>6</sup> The writer has considered in it all Ayahs related to marriage through terminologies and contexts.
- Essay (the State of descent cause in '*Masālik Al<sup>3</sup>afhām*' that is written about juridical book of Shahid Sāni with the title '*Masālik Al<sup>3</sup>afhām*').
- Essay (Re- reading of women and men *Nushūz* concept in Quran). In this essay the surveillance of interpreters' views about Ayahs 34 and 128 of Sura Al<sup>3</sup> Nisā' is attended.

The translations of the word (*Nushūz*) in different translations of The Holy Quran are as below:

<sup>1</sup> (Rādmanīsh, 1995, 111)

<sup>2</sup> (Pīrūzfar, 1996, 41).

<sup>3</sup> (Ma'rifat, 2002, 100)

<sup>4</sup> (Zarqānī, 806, 129; Zarkashī, 1990, Vol1, 115; Ma'rifat, 2000, Vol1, 221)

<sup>5</sup> (Pīrūzfar, 2012, 63-187-218)

<sup>6</sup> (Islāmi Panāh, 2005)

- Over women's *Nushūz*: Rebellion (Pictal), Rebellious (Arbery), and Misconduct (Qarāyī) are translated. (Ayah 34 of Sura-a2 Al3 Nisā')
- Over men's *Nushūz*: Ill treatment (Pictal), Rebelliousness (Arbery), and Conduct (Qarāyī) are translated. (Ayah 128 of Sura-a2 Al3 Nisā')

These researches are some written texts that were written formerly, but none are supervisors on the title of the current essay. Moreover, as the science of descent status is an important introduction for divine Ayahs' interpretation, these discussions have been considered in the following books.

- Principles of Commentary as '*Moqaddama-a<sup>2</sup> on fī usūl al<sup>3</sup>tafsīr*' of Ibn Teymiyyah, '*Al<sup>3</sup>Fawzulkabīr*' of Dehlavī, '*Al<sup>3</sup>Tahbīr*' of Soyūtī, '*Qawāid al<sup>3</sup>tafsīr*' of Khalīd Ibn Othmān al<sup>3</sup>Sabt, and etc.
- Commentaries as Tabarī's commentary, Fakhr Rāzī '*Al<sup>3</sup>tafsīr Al<sup>3</sup>kabīr*', qurtabī '*Al<sup>3</sup>jāmi ' li aḥkām Al<sup>3</sup>quran*', ibn Kathīr '*Tafsīr Al<sup>3</sup>quran Al<sup>3</sup>azīm*', Rashīd Rizā '*Al<sup>3</sup>minār*', Allāma-a<sup>2</sup> Tabātabāyī '*Al<sup>3</sup>mīzān*'.
- Quranic Sciences as '*Al<sup>3</sup>burhān fī ulūm Al<sup>3</sup>qurān*' of Zarkashī, and etc.
- Traditions books as: Ibn Hishām Tradition, and etc.
- Narrative books as: '*Sahīh Al<sup>3</sup>bukhārī in Bad' Al<sup>3</sup>vahy*', and etc
- Historical books as Tabarī's History, Yaqūbī's History, and etc.
- The book '*Asbāb Al<sup>3</sup>nuzūl ilman min ulūm Al<sup>3</sup>qurān*' of Bassām Jamal.

#### 4- Types of Descent Status Effect in Ayahs

The effecting of descent status in juridical Ayahs is not same. In jurisprudential surveillance steps related to Quran's Ayahs various use of descent status can be taken. Types of descent status effects related to Ayahs are as:

##### 4-1 Clarifying general decisions' evidences in Ayah

Among decision Ayahs, there are some in which more general words and definitions are used that without referring to its evidence and sample we cannot have a correct understanding of the decision or Ayah or at least finding a correct understanding of the decision in Ayah seems difficult.

Some samples of such Ayahs are as below:

*(Forbidden to you are your mothers, your daughters, your sisters, your paternal aunts and maternal aunts, your brother's daughters, your sister's daughters, your mothers who have given suck to you, your suckling sisters, your wives mothers, and your stepdaughters who are in your care from your wives with whom you have lain, but if you have never lain with them it is no fault in you. (Also forbidden to you) are the wives of your sons who are of your loins, and to take to you two sisters together unless it is a thing of the past. Allah is the Forgiver and the Most Merciful).* (Al<sup>3</sup>Nisā'-WOMEN-23)

##### 4-1-1 The rule of '*Jabb*' (the principle in Islamic jurisprudence according which, the punishments of Muslims' pre-Islam sins would be eliminated) in aforementioned Ayah

In the aforementioned Ayah, after introducing people with whom marriage is forbidden, it is said (this rule or decisions is not compulsory for marriages before its descent), that means, if some people at the age of ignorance and before the descent of this Ayah, had a forbidden marriage, they would have no punishment because the God is the most merciful and compassionate, but now that the divine rule is declared, such as wife and marriage is forbidden for them and they must divorce.

In this Ayah, the clause *إِلَّا مَا قَدْ سَلَفَ* /illā mā qad salaf/ (unless that happened in the past) has general meanings and must be attended regarding to the atmosphere and the time of Ayah's descent, attending the atmosphere and time of descent cause, the samples of this Ayah become clear.

#### 4-1-2 Interpreters point of view in interpreting *إِلَّا مَا قَدْ سَلَفَ* /illā mā qad salaf/ (unless that happened in the past)

About the meaning of “unless what happened in the past” Quran interpreters presented two possibilities:

- Allocating decision: at first, the aforementioned statement refers to the marriage with two sisters that means, the marriage with two sisters simultaneously is not allowed except the marriages happened at the age of ignorance and it was customary.

Jassās, in his 'Aḥkām Al<sup>3</sup> qurān ' quoted an utterance from Abi Wahab Jeyshānī, from the quote of *Dahḥāk*, from his father that: I accepted Islam while I was married with two sisters. Then I went to the prophet's presence, and he said: divorce one of them.<sup>7</sup>

He also said that some men have eight or ten wives at the time of descent, and after descent, the prophet said to them: ‘choose four of your wives’.<sup>8</sup> Decision inclusion: the second possibility that has been given about this Ayah is that, the exception ‘unless what happened before’ is for all decisions and marriages declared in Ayah; that means, if someone had a forbidden marriage before the descent of the Ayah, is not included in this new rule and his children are legitimate.

The descent status of the next Ayah of *Sura-a<sup>2</sup> Al<sup>3</sup>nisa' (WOMEN)* quoted about war of *Awtās* (name of a place wherein one of Islamic wars happened), is another evidence for descent status effects on understanding of marriage Ayah's samples that can cause understanding Ayahs related to marriage become clear.<sup>9</sup> This descent status is related to the Ayah: *وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ... /wa Al<sup>3</sup> moḥsanātu min Al<sup>3</sup> nisa' i illā mā malakat aymānukum... / And (forbidden to you) are married women, except your handmaiden women. Al<sup>3</sup>nisā' (WOMEN)-24.*

In this Ayah marrying with married women is forbidden except one case that has been excepted by the statement */ illā mā malakat aymānukum / 'except your handmaiden women'*. One of possible explanation for this Ayah is that women captured by enemy, if they have husband during war, they marriage is expired as they are captured and after their *Idda-a<sup>2</sup>* (divorced and widow women's forbearance in re-marrying for a certain period of time) Muslims can marry them. The story of women bondage of *Awtās* (one of Islam initial wars) tribe in *Hunayn* war (one of the prophet's wars with enemies of Islam) acknowledges this interpretation.

Regarding the descent status evidence */ illā mā malakat aymānukum / 'except those whom your right hand owns'* in Ayah refers to captured women.

Of course it is crucial to mention that descent status defines words' evidence in Ayahs but it does not limit and at the same time it is a way to a better understanding of Ayah and discovering other evidences that share same dimension with other evidences of descent time.

#### 4-2 Principle (العبرة بعموم اللفظ لا بخصوص المورد (أو: لا بخصوص السبب) / Al<sup>3</sup> 'ibra-a<sup>2</sup> bi umūm Al<sup>3</sup> lafz lā bi khusūs Al<sup>3</sup> mawrid/ ( a principle in Islamic jurisprudence that results in issuing a general decision according to a special case)

According to this principle, the criteria should be the generality of existence in clause of Quran, and descent cause specialty is not a limit of Ayah's meaning in descent time evidences.

<sup>7</sup> (Jassās, 1985, vol 3, 77)

<sup>8</sup> (Jassās, vol3, 78)

<sup>9</sup> (Jassās, vol4, 91)

In general, the reason that make an Ayah or Ayahs to be descended is not that, Quranic concept and cause, but the order and concept are able to be generalized to similar cases.<sup>10</sup>

An example of this is that: a woman from *Ansār* (a group of prophet's companions), from *Khazraj* tribe (one of Arabian well-known tribe) called (*Khūla-a<sup>2</sup>*) was the cause of her husband's anger. He was a bad tempered man decided to divorce her. So he said to *Khūla-a<sup>2</sup>*: 'you are as my mother for me'. This statement was a kind of divorce in ignorance period. Such a divorce was neither reminiscent nor returnable and nor with its occurrence the woman is free to choose another husband for herself. After a while the man regretted and as he said *Zihār*, that means the prior sentence utterance (telling you are as my mother for me), was considered an unreturnable divorce. The woman discussed this matter to the great prophet of Islam and the prophet answered: 'you are forbidden for him and right now I do not have any decision over this matter.

The woman took to The God's presence the pain of discomfort and despair. At the moment prophet received a revelation and by the following Ayahs the *Zihār* problem was solved.

*Allah has heard the words of her that reasons with you (Prophet Muhammad) concerning her husband and made her complaint to Allah. Allah has heard both of you discussing with one another. Indeed, Allah is the Hearer, the Seer. Al<sup>3</sup> –Mujādala-a<sup>2</sup> (DISPUTING) - (1)*

*Those of you who say to their wives, 'Be as my mother's back, ' indeed, they are not their mothers. Their mothers are only those who gave birth to them. Indeed, they speak dishonorably and falsely. But Allah is the Pardoning, the Forgiving. Al<sup>3</sup> –Mujādala-a<sup>2</sup> (DISPUTING) - (2)*

After the descent of this Ayahs the prophet said to that woman: go call your husband, so that I will read this divine order upon him. The man came and after the prophet guidance, and his help, he gave the atonement for *Zihār* and returned to his former wife.<sup>11</sup> The same descent status with different quotations is quoted by Jassās in his '*Aḥkām al<sup>3</sup> qurān*'.<sup>12</sup>

As it is clarified, the descent status of these Ayahs is for special case and were descended owing to a special cause, but are not limited to these cases. Otherwise, the decisions are general and include similar cases. If so, when an Ayah is descended for a group and when the group perish that Ayah would also disappear, so naturally the Quran would also disappear, meanwhile as ayah is present and influential on present and living people, it is the same for the absents. Many narratives have been quoted on the value and immortality of Quran.<sup>13</sup>

Theologians of *usūl* agree that the main attention in the general meaning and the general sense of the word, not specially owing to the cause and the cause of which Ayahs have been revealed to, does not restrict the general law, but it only cause descending revelation and the descended decision, in addition to the aforementioned case, remains on its general concept and can be generalized to all similar events.

This principle is mentioned as (أَوْ: لَا بِخُصُوصِ الْمَوْرِدِ) / *Al<sup>3</sup> 'ibra-a<sup>2</sup> bi umūm Al<sup>3</sup> lafz lā bi khusūs Al<sup>3</sup> mawridl* ( a principle in Islamic jurisprudence that results in issuing a general decision according to a special case) in principle books, Quranic sciences, and interpretations.<sup>14</sup>

#### 4-3 Understanding the portion among listed decisions in Ayahs

The benefit of knowing the descent and the descending space of Quran's Ayahs is understanding the appropriateness of portions contained in Quran's Ayahs. In some Ayahs, there are sections that do not seem to fit within the terms of Ayahs, and the decision expressed in Ayah is not harmonious with its context. An example of this, can be the following Ayah of Sura-a<sup>2</sup> *Al<sup>3</sup> nisā'* (WOMEN).

<sup>10</sup> (Suyūtī, 2001, vol1,124.; Mārifat,1995,vol1,261)

<sup>11</sup> (Tabarsī,1993,vol9,371)

<sup>12</sup> ( Jassās,1986,vol5,303)

<sup>13</sup> (Bahrānī.1996,vol1,32)

<sup>14</sup> (Suyūtī,2002,vol1,123; Hibarī,1990,96)

*'If you fear that you cannot act justly towards the orphans, then marry such women as seem good to you; two, three, four of them. But if you fear that you cannot do justice, then one only, or, those you possess. It is likelier than that you will not be partial.'* Al<sup>3</sup>nisā'(WOMEN)-3

Looking at this Ayah, can raise the question, why the beginning of Ayah is about orphans and its end is about marriage? And these two seem incompatible with each other. About this Ayah descent status. it is said that, it was customary before Islam, many people of *Hijāz* took orphans to their homes and took care of them and then married them and took possession of their properties and because they had the authority, even the marriage portion placed for them was less than usual and as they encountered the least discomfort from those orphans, they easily left them behind and truly did not want to treat them as an ordinary wife.<sup>15</sup> At that time, the aforementioned Ayah was revealed and ordered the guardians of orphans to marry orphans in a case that they entirely attend justice about them, otherwise abandon them and choose their wives from other women. So it becomes clear that, the beginning of Ayah like its following context, is about marriage. At the beginning it speaks of fear of not being justice among orphans during marriage. According to this interpretation, there is no need to other justifications, to, as an example, consider this Ayah or a part of it related to other Ayahs.<sup>16</sup>

#### 4-4 Distinction of abolisher and abolished Ayahs

One effect of reviewing the descent status of decision Ayahs is distinction of *Nāsikh* (abolisher) and *Mansūkh* (abolished) Ayahs. Many of Ayahs which were claimed to be abolished, are related to marriage or *Nikāḥ* (marriage), so accepting or rejecting it has an important impact on jurisprudential perceptions in this field of study. Professor *Marīfat* has rejected the abolishment of many Ayahs.<sup>17</sup> Among one of the Ayahs, he accepted the abolishment and is related to marriage is *Imtā'* Ayah.<sup>18</sup> It is said in Quran:

*'Those who die and leave wives behind should bequeath to them a year's maintenance without causing them to leave their homes; but if they leave, no blame shall be attached to you in what they do with themselves kindly. Allah is Mighty and Wise.'* (Al<sup>3</sup> Baqara-a<sup>2</sup> -THE COW-240)

The method used in this Ayah for the widow is the same tradition of ignorance age which the Quran approved for a while and abolished that by *Mawārīth* Ayah<sup>19</sup>, and reduced the period to 4 months and 10 days. The main reason of abolishing this Ayah is the *Ijmā'* (consensus) of nation theologians. None of them acted the aforementioned Ayah and none even considered it as *Mustahabb* (desirable).

Moreover, some narratives over abolishment this Ayah by Ayah 234 of *Sura-a<sup>2</sup> Al<sup>3</sup> Baqara-a<sup>2</sup> - THE COW*- exist.<sup>20</sup> Allāma-a<sup>2</sup> Tabātabāyī, also accepted the abolishment of this Ayah.<sup>21</sup> Suyūti has also accepted its abolishment.<sup>22</sup>

Another related Ayah is the 10<sup>th</sup> Ayah of *Sura-a<sup>2</sup> Al<sup>3</sup> Momtahana-a<sup>2</sup>-SHE THAT IS TO BE EXAMINED*-, that acceptance in its abolishment and un- abolishment can also influence jurisprudential issues.

Islamic theologians disagree about this Ayah in their books. Some researchers believe that this Ayah was abolished by *Barā'a-a<sup>2</sup>* (transgression) Ayah which states: *'Allah and His prophet despised the covenant you shut down with polytheists.'*

<sup>15</sup> ('ināya-a<sup>2</sup>,1992,156; Muhaqqiq,1982,180; Makārim Shīrāzī,1992,vol3,252; Ibn Āshūr,2001,vol1,48. )

<sup>16</sup> (Ṭayyib,1990,vol4,9)

<sup>17</sup> (Marīfat.1996,vol2,229.)

<sup>18</sup> ( Mārīfat.1996,vol2,303)

<sup>19</sup> (Al<sup>3</sup> Nīsā' -WOMEN-12) and (Al<sup>3</sup> Baqara-a<sup>2</sup> -THE COW-234)

<sup>20</sup> (Fiyz Kāshānī,1996,vol1,204)

<sup>21</sup> ( Tabātabāyī,1971,vol2,247)

<sup>22</sup> ( Suyūti,2002,vol1,654)

Ibn Abbās says: the polytheists agreed with the prophet (PBUH) in *Hudaybiya-a*<sup>2</sup> (name of a place in Mecca) that, everyone from Mecca goes to the prophet presence, the prophet should return him to Mecca; but if anyone of Muslims return to Mecca, the polytheists should not give him back, and they wrote an agreement and sealed it. After writing the agreement, a woman named *Sabā-a*<sup>2</sup> *Aslami bint Al*<sup>3</sup> *ḥarth* took refuge to the prophet in *Hudaybiya-a*<sup>2</sup>. Her husband who was a pagan came after her and said:

*‘O, Mohammad, send my wife back to me, because you agreed that, if every one of us come to you, would be returned and yet the ink of this agreement has not dried up. An Ayah was descended: ‘O, believers, when women who believe have emigrated to you, test them, if you recognize them as believers, do not return them to infidels. Continuing life with their pagan husbands is not Halal (lawful) for them, and pay back their expenses, since then there is no offence for you to marry them if you agree to give them their marriage portion. And try not to return pagan women and demand all you spent and pagan men also demand all they spent, this is the decision of God who judges among you.’*<sup>23</sup> This story is also quoted by Urwa-a<sup>2</sup> ibn Zubayr.<sup>24</sup>

### The obedience decisions that this Ayah refers to:

- A- When faithful women come to Muslims, they must be tested, so if it is demonstrated that they have come for the sake of Islam with their swear, not for the love of someone or owing to any hardship from their husbands, at this moment they should be kept and should not be returned, as it is stated in Quran: (لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ)/*Lā honna ḥellun lahum wa lā hum yaḥillūna lahunna/ (they are not permitted to the unbeliever men, nor are the unbeliever men permitted to them).*
- B- It is obligatory for the Muslims to pay the marriage portion of those women who left their husbands and come toward Muslims.
- C- It is permissible for Muslims to marry those women, although their husbands are at pagan cities, since Islam separates them from their pagan husbands, provided that they place a new marriage portion for them and do not account the marriage portion of their pagan ex-husbands.
- D- When women stay pagan after their husband beliefs in Islam, they should divorce their husbands and owing to Islam’s order, their marriage is false and Muslims should not stay married with them.<sup>25</sup>

It seems that, regarding the subject matter of this Ayah and the descent status of related Ayahs we cannot relate these two Ayahs to consider one of them as an abolisher of the other one. In addition, there are disagreements about the descent status of this Ayah. Shāfiī refers to it, in his *‘Aḥkām Al*<sup>3</sup>*qurān’*. Some of theologians consider that the descent status of the Ayah is related to migration to Mecca, some other see it related to peace of *Hudaybiya-a*<sup>2</sup>.<sup>26</sup> Kiyā Harāsī also considers its revelation after the *Hudaybiya-a*<sup>2</sup>, and points out that, according to the Ayah, "if a woman comes to Muslims to escape her husband, she must be returned to polytheists; but if she wills to enter Islam, Muslims should take care of her and pay her marriage portion to pagans."<sup>27</sup>

Among the commentators of *Āyāt Al*<sup>3</sup>*aḥkām*-decision Ayahs- those like Sāyis even had detailed explain of these Ayahs, but has not pointed to the abolishment of this Ayah.<sup>28</sup>

<sup>23</sup> (Wāhidī,2004,226)

<sup>24</sup> (Wāhidī,2004,227)

<sup>25</sup> (Mīr mohammadī Zarandī,1998,252)

<sup>26</sup> (Shāfiī,1992, vol1,185)

<sup>27</sup> (Kiyā Harāsī,2002, vol2,409)

<sup>28</sup> (Sāyis,2002,765)

#### 4-5 The explanation of divine decisions Philosophy

The philosophy of religious decisions is the benefits and corrupts of divine orders and prohibitions which contain the cause of decisions in themselves. it and is the cause of decision's source.<sup>29</sup>

On the contrary 'wisdom of decisions' is something which is often accompanied by a decision and often it is separated from the decision. Among the items and resources that can be used to discover the philosophy or wisdom of decision, the descent status of Quran is one of them. Another important factor in influencing the understanding of descent status on marriage topics is the issue of bigamy-having several wives. The question 'why a man can have four wives?' can be examined from a few points of view. The first point is: why this right has been given to men but women have not been given this right? Another point of view of this discuss is the reason why men are limited to four wives? It has been stated in an Ayah 3 of Sura (Al<sup>3</sup> Nīsā' (WOMEN): *'from pleasant women, marry two, or three or four of them.'*

In the '*Majmā' Al<sup>3</sup>-Bayān*' commentary, it is stated: 'before the decent of this Ayah, men had married as much as they willed and this Ayah prohibited this manner'<sup>30</sup>. In fact, by referring to the time of descent, and understanding the descent status, we can judge the Ayah better. By the way, we can mention this Ayah: *'no one should marry a fornicator except a fornicatress or a pagan woman, and no one should marry a fornicatress except a fornicator or a pagan man, and such marriage has been (Haram) unlawful for the believers.'* (Sura Nūr- The Light-3)

The descent status of this Ayah is that, a man from the Muslims asked the prophet to allow him to marry Umm Mahzūl who was a fornicatress, this Ayah had been descended. this quotation is from Ibn Abbās and Ibn umar and Mujāhid and Qatāda-a<sup>2</sup> and Zūharī and the purpose is prohibiting such marriage although it is mentioned indicatively.

it is said in '*Al<sup>3</sup>Dūrr Al<sup>3</sup>manthūr*' that, Ahmad and Abd ibn Ḥamīd, and Nisā'ī and Ḥākīm and ibn Jarir and ibn Mundhir and ibn Abī Ḥātam and ibn Mardūya-a<sup>2</sup> and Biyhaqī in his '*Sunan'-the traditions-* and Abū Dāwūd in his '*Nāsikh-the Abolisher*' -have quoted from Abdullāh ibn umar that he said:" There was a woman called Umm Mahzūl and she gave adultery to a man, provided that he would give and spend her expenses, then one of prophet companions wanted to marry her", then the almighty God descended this Ayah: *'no one marry a fornicatress except a fornicator or a polytheist.'*<sup>31</sup>

The verification of this quote is a narrative which stated: during the era of the prophet, there were men and women known for adultery. the God forbade marriage with these men and women. therefore, if a person became known of adultery and he/she took Ḥadd-a specified punishment for some sins in the holy Quran-, do not marry him or her, unless it is cleared that he/she repented.<sup>32</sup>

It seems that, the result of this jurisprudential perception based on the descent status is that, this decision is not only cruel but also it is the mere justice because by this decision one who is known for adultery will be punished by this decision, and anyone who wants to marry such a woman would be subjected to the reproach of believers. Others will also take care of their actions and behaviors. this jurisprudential perception has other results. accordingly, if a person repents and exits such a group marrying him or her has no obstacle.<sup>33</sup>

Another remarkable example that can be mentioned in the holy Quran is Ayah 37 of Sura Al<sup>3</sup>aḥzāb (The parties), which refers to the prophet's marriage with Zeynab- his adopted son's wife, Zayd ibn Hāritha-a<sup>2</sup>.<sup>34</sup> In this Ayah one of the philosophies of this divine decision has been mentioned but there is no mention of this woman's poverty which can be clarified by referring to its descent status.

<sup>29</sup> (Makārīm Shīrāzī,2006,388)

<sup>30</sup> (Tabarsī,1983, vol5,20)

<sup>31</sup> (Suyūtī,1984,vol5,19)

<sup>32</sup> (Tabarsī,1983, vol17,97)

<sup>33</sup> (Kūleynī,1987, vol5,355)

<sup>34</sup> (Center of Quranic Culture and Education,2003, vol6,441)

Sometimes the descent status can refer to the philosophy of the descent of Ayah in the atmosphere of descent era.

One example is the Ayah of *īlā'*-a tradition from ignorance age which is a man swearing not to intercourse with his wife- in Sura Baqara-a<sup>2</sup> which was customary at the age of ignorance. The principle of *īlā'* in Shari'a-a<sup>2</sup> is swearing to the almighty God to leave or stop having intercourse relationship with wife in order to annoy or harm her absolutely and forever or for more than 4 months. God forgave the sin of unbinding oath by his bounty and mercy and placed atonement for it.<sup>35</sup>

#### 4-6 Explanation of vague vocabularies in Ayah.

Among the Ayahs related to marriage there are lexical expressions that had certain meanings and were used for special deeds at the time of Quran's descent. the Quran also uses these words to express the decision Ayahs vividly. in such cases, by referring to the status of descent, a better understanding of Ayah is obtained, such as the word *Zihār* which was customary at ignorance age. the word *Zihār* means back of man<sup>36</sup>, but in its figurative meaning it means a man who says his wife: *أنتِ عَلَيَّ كَظْهَرِ أُمِّي* /Anti 'allayya kazahri ummī/ (your back is same as my mother's to me) that means (intercourse with you is as same with my mother). It means that she is not his wife after expressing this sentence. As it is said earlier, this phrase was a form of divorce at the time of Arabian ignorance. This type of divorce was the cruelest kind of divorce that was neither returnable nor the woman was free to choose another spouse. With the revelation of the 2<sup>nd</sup> Ayah of Sura *Mujādala-a*<sup>2</sup>, and expressing the decision, a way for separated couples in such divorces to return to each other was provided. Another word related to marriage in the Holy Quran is (*Nushūz*). This word in its denotative meaning, means 'accelerate', and originally is used for a high place.<sup>37</sup>

In the Ayah 12 of Sura *Mujādala-a*<sup>2</sup>, *إِذَا قِيلَ انشُزُوا فَانشُزُوا* / 'Izā qīlanshuzū fanshuzū / (it means that, when it is said “Rise”, then accelerate and get up). In Quran it means selfishness of any woman or man from the right of the opponent. In this sense the woman should consider herself higher and does not go under the burden of man's right or man does not go under the burden of woman's right and should consider himself higher.<sup>38</sup> By The use of *Nushūz* in Quran, its descent status and its narratives it can be inferred that , although man's *Nushūz* means man's selfishness but it is not a selfishness in which woman's right is missed, but it means to consider yourself higher than wife and detest her and the woman consider the possibility of being divorced or her husband re-marriage with another woman ignores parts of her rights, so as not to be divorced by her husband or he does marry another woman, and even according to a narrative , one of prophet's wife who was old, ignored parts of her rights, so as not to be divorced by the prophet.<sup>39</sup> In this section, it becomes also clear that, regarding the descent status besides other proofs, there is a certain meaning of *Nushūz* which without attending these evidences such as conception for *Nushūz* is believed to be farfetched.

Additionally, some other samples such as *Zihār* sanction decision with attention to the descent status of Sura *Mujādala-a*<sup>2</sup> first and second Ayahs can be found in Quran.

#### 4-7 Limiting the meaning of Ayah

Some Ayahs related to marriage at the first glance have general meaning but by referring to the descending status quoted for the Ayah, it becomes clear that the Ayah is related to the particular subject and the use of Ayah for a general case requires document and additional reason and is not compatible with rational authenticator and other narratives.

<sup>35</sup> (Shāh Abd Al<sup>3</sup>Azimi,1984, vol1,404)

<sup>36</sup> (Rāqib Isfahānī,1995, vol2,536)

<sup>37</sup> (Jawharī, 1957, vol2,899)

<sup>38</sup> (Shubayrī Zanjānī,1999, vol25,76-89)

<sup>39</sup> (Shubayrī Zanjānī,1999, vol25,76-90)

For example, it is stated in Quran: “men because of the preference that God has given to some people, and as men pay alimony from their belongings, are guardians on women. So, worthy women are those submissive, and are virtuous in their husbands’ absence and obey the God’s decisions. Admonish women who disobey (God’s decisions) and do not sleep with them (do not have intercourse with them) and beat them. If they obey (God’s decisions) do not try to keep oppression and The God is almighty and supreme.” (Al<sup>3</sup> Nisā’- THE WOMEN-34)

**At the first glance, there are three possibilities in the Ayah:**

- All men’s guardianship over all women.
- Men’s guardianship on women in all their common relationship such as; matrimonial life and relationship between men and women in common work, such as relations in governance, and controlling society. In all these relations men have guardianship on women.
- Allocating guardianship to matrimonial life, that is, men have the right to guard women only in a limited part that is marriage, not in all matters related to common life.

Allāma-a<sup>2</sup> Tabātabāyī has given the best justification over the case of this Ayah on men’s guardianship on women. On interpreting this Ayah, he says: “this decision is not for husbands, that means, being guardian is not for husband on his wife, but this decision is from The God for a group of men over a group of women in all aspects of both parties lives. So, in the following cases men have Authority on women.

- General and social aspects that is related to men’s authority as governance, judgement, on which the essence and constancy of society depends and the stance of these two is on wisdom which is naturally more in men’s nature than women’s.
- Defense in battles which requires strength in body and logic in mind. So, the Ayah has a comprehensive decision.<sup>40</sup>

The argument that Allāma-a<sup>2</sup> Tabātabāyī brought about this issue and used Ayah’s inner reasoning for generality is in contradiction with descent status mentioned for the Ayah. In addition, it can be criticized in other ways.

The narrative that commentators have mentioned over this descend status is that, a woman from *Ansār* disobeyed her husband and became *Nāshiza-a<sup>2</sup>* (*disobedient*) and her husband beat her. Then the woman’s father took her to the prophet’s (PBUH) presence and said: “my daughter has been married to this man and he has beaten her.” The prophet said: “the wife can take her husband for retaliation.” The woman and her father rose up to leave the prophet’s presence, suddenly the prophet said: “come back, the Gabriel was sent down to me right now and read this Ayah to me.” The prophet (PBUH) declared: "we have chosen something, but the God has chosen something else, and surely the will of God is better", so he wiped the retaliation.<sup>41</sup>

On the other hand, we should not only attend the reasoning which is the documenting case of Allāma-a<sup>2</sup> and has a generality concept, because, one of the reason mentioned in the Ayah is the clause: *وَإِذَا نَكَحُوا أَبْنَاءَهُمْ فَإِنَّهُمْ يُخَالِفُونَ بِأَنفُسِهِمْ مَا نَكَّهَتْ* *Wa bimā 'anfaqu min amwālihīm/* (because of paying alimony from their belongings).

This is the religious and economical cause of marital life and paying women expenses out of marital life and family is not obligatory for men.

About the second possibility in the Ayah, it can also be stated that, it is also definitely wrong, and no jurisprudent has never expressed any *Fatwā* (expressing religious decision from theologians) over this matter. Because if this possibility is right it means that, in all the relationship between these two sexes,

<sup>40</sup> (Tabātabāyī,1970, vol4,343)

<sup>41</sup> (Tabarsī, vol3, p69)

men are guardians of women. Therefore, in the case of male and female business partnership men have the right of guardianship and also no woman is allowed to serve or hire a man to work.<sup>42</sup>

Regarding the preceding points, it becomes clear that the descent status of marriage in Quran can be a limit for the Quran's Ayahs' meanings or at least along with other reasons, be a strong authenticator for this limiting.

## Conclusions

Considering the state of descent status of Ayahs in juridical issues related to marriage, one can consider the of knowledge about descent status as an important factor in preventing the misunderstandings made up in jurisprudential discussions and a prevention of causing self-interpretation /Tafsīr bi Al<sup>3</sup>rāy/-interpreting Quran without having necessary qualities of interpretation.

In addition, the following results from the present study can be presented in more details:

- The descent status can clarify the general examples and decision in an Ayah. This, removes the setting for misuse of general statements.
- Understand the appropriateness between decisions in Ayahs is obtained by examining the descent status in some Ayahs. In a way, that, regardless to the descents status, proving this issue is impossible or at least seems difficult. This can also be effective in discussing the appropriateness of Ayahs and removing related doubts.
- With descent status, one can gain a correct understanding of real abolisher Ayahs and abolished Ayahs. Sometimes, by neglecting the descent status, understanding abolisher Ayahs and abolished Ayahs goes wrong and an incorrect jurisprudential issue is inferred.
- The discovery of divine decisions' philosophy and wisdom is the results of knowing descent status in juridical issues of Quran. Knowing wisdom or philosophy of Ayahs' descent, sometimes cause the juridical Fatwa inferred from Ayah, become limited to certain persons.
- One of the effect of descent status knowledge is explaining vague terminologies in Ayah. By studying the descent status, the meaning of these words and their advent in the meaning and God's purpose becomes clearer.
- Occasionally, limiting the meaning of Ayah to a certain group or time happens by knowing the descent status. An example is limiting the consistency of men on women in family life affairs, not in all matters, according to the descent status.

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