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Research Article

Jurisprudential Evolution on Striking the Wife: From Guardianship to Defense

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Introduction

The family system in the epistemological geometry of Islam is founded on affection and mercy, and the governing principle in its relations is the Qurʾānic command "And treat them with kindness" (*ʿāshirūhunna bi-l-maʿrūf*). However, confronting the phenomenon of *nushūz* and disobedience to marital duties is one of the blind knots at the intersection of ethics and law. The focus of this challenge is verse 34 of *Sūrat al-Nisāʾ*, which, in addressing the collapse of the family, after the stages of admonition and avoidance in bed, orders a physical reaction. The fundamental problem of the present study is to examine the apparent gap between the absoluteness of this verse and established jurisprudential principles—a challenge in which the permission of such a reaction must be reconciled with the major principle of the sanctity of harming a believer and the rational rule of the ugliness of punishment without explanation. The main question is: What evolution has the process of inference by Imāmī jurists regarding the permissibility of striking the wife undergone from "disciplinary guardianship" to "emergency defense"? The research hypothesis is that later scholars, moving beyond rigid adherence to outward meanings, imposed strict negative and positive constraints on the absoluteness of the verse; and in the final reading, striking the wife is not an authoritative right but an emergency measure that is practically impossible to occur, which, due to the high risk of prohibition and liability, is effectively removed from the family's upbringing system.

Theoretical Foundations and Background

Previous studies in this field have mainly focused on linguistic and hermeneutic dimensions of the concepts of *nushūz* and *ḍarb*, the interpretation of the qualifier *ghayr mubarriḥ*, comparative jurisprudential studies, and criticism of the chains of transmission of traditions on discipline. Some studies have sought to analyze the process of change in family rulings in the context of transition from primary to secondary rulings, while others have challenged the authenticity of traditions indicating the permissibility of striking. Nevertheless, the lack of a systematic analytical model that could explain this ruling within the framework of the rule of emergency defense and based on the theory of *tazāḥum* (conflict of interests) was still felt. The present study, aiming to fill this gap, moves from the traditional model of disciplinary

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guardianship to the efficient model of bounded emergency defense and presents the striking of the wife not as a right of the husband but as a very limited emergency measure under judicial supervision.

Research Methodology & Framework

The present study employs a descriptive-analytical method with an intra-religious critical approach. Data were collected through library research from Imāmī jurisprudential, exegetical, narrative, and *uṣūlī* texts and analyzed through a comparative re-reading of the views of earlier and later jurists.

Research Findings

The findings indicate that jurisprudential inference regarding the striking of the wife has undergone a substantive evolution:

1. **Qawāmiyyah and the Origin of Discipline:** *Qawāmiyyah* is based on two criteria: innate (disparities in the faculty of management and endurance) and acquired (maintenance). However, this station is of the nature of an authoritative ruling, not an abdicable right; hence its delegation to the wife is invalid, and the husband acts as an executor of the law, not a private claimant with unlimited authority.
2. **Asymmetry in the Sanctioning of Nushūz:** The wife's *nushūz* means abandoning obligatory *tamkīn* and warrants graduated reactions; but the husband's *nushūz* is mainly interpreted as inner aversion and intent to divorce, which is not forbidden, and its remedy is financial settlement or *khulʿ* divorce. Thus, not permitting striking for the husband is from the category of "negation for lack of subject," not gender immunity.
3. **Timing of Punishment:** Interpreting *khawf* as knowledge is rejected. *Khawf* in its real sense refers to the existing situation and fear of the consequences of ongoing *nushūz*, not imagined future disobedience. Preventive punishment is invalid, and permissibility is contingent on the actual occurrence of sin.
4. **Longitudinal System of Stages:** Admonition, abandonment, and striking are longitudinal and conditional. Passing to the next stage depends on complete despair of the effect of the previous stage. Striking is the last prescription and an emergency last resort.
5. **Scope of Abandonment:** Abandonment is limited to the bed (*fī al-maḍājiʿ*). Verbal abandonment, silence, scowling, and psychological violence remain under the general prohibitions of harm and the requirement of kind companionship.
6. **Nature of Striking:** Traditions of striking with a *miswāk* are weak and unreliable. The ascending context of the verse requires striking to be tangible and effective, but *ghayr mubarriḥ* is an iron barrier: it must not cause fracture, laceration, bleeding, redness, or bruising. The final meaning is a bounded, controlled action between physical warning and violence.
7. **Reciprocal Discipline:** If the criterion is repelling evil and enjoining good, there is no gender exclusivity. In cases of conflict between the more important and the important, a woman too, in exceptional conditions and with certainty of effect and safety from corruption, may take deterrent action. But in practice, lack of executive power and the danger of a harsher reaction drop this duty for most women.

8. **Sanction and Declaratory Consequences:** With precise distinction between *taklīfī* and *waḍʿī* rulings, permission is bound to the preservation of physical health. Any physical injury establishes strict liability (*ḍamān qahrī*) for *diya*, even with the intention of correction. The theory of *kashf al-fasād* states that permissibility is conditional on achieving a corrective outcome; if it causes injury or increased aversion, it is uncovered that it lacked the basis for permissibility from the outset and is an instance of transgression and forbidden. The legal and otherworldly risk of this action rests entirely on the husband.

Conclusion & Discussion

The Imāmī jurisprudential reading of verse 34 of *Sūrat al-Nisāʾ* has traversed an evolutionary path from "essential authority" to "conditional defense." The institution of *qawāmiyyah* has transformed into a caring responsibility, and the legitimacy of its exercise depends entirely on preserving family integrity and preventing its collapse. With the establishment of the constraints of longitudinality, knowledge of the ineffectiveness of previous stages, strict liability for physical injury, and the theory of uncovering corruption, the ruling of striking in Imāmī jurisprudence, though theoretically possible, has practically approached an impossibility. As if the Lawgiver, by suspending this ruling on difficult and responsibility-generating conditions, has placed it as the last speed bump or bitter medicine of the resuscitation room, conceivable only in absolute emergency and with acceptance of all legal and otherworldly consequences, to prevent the certain death of the family (divorce). What is outwardly called "permissibility of striking" is inwardly, in jurisprudence, the maximal restriction of violence by legal means.

Keywords: Nushūz, striking the wife, verse 34 of *Sūrat al-Nisāʾ*, liability for disciplinary chastisement (*ḍamān al-taʾdīb*), family jurisprudence, evolution of *ijtihad*, emergency defense