

MADDE YAYIMLANDIKTAN
SONRA GELEN DOKÜMAN

29 Kasım 2016

- 561 CHAUDHRY, Ayesha S. Marital discord in Qur'anic exegesis: a lexical analysis of husbandly and wifely *nushūz* in Q. 4:34 and Q. 4:128. *The meaning of the word: lexicology and Qur'anic exegesis*. Ed. S.R. Burge. Oxford: Oxford University Press, in association with the Institute of Ismaili Studies, London, 2015, (Qur'anic Studies Series, 13), pp. 325-349.

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SCHULZE, Fritz. Indonesian *tafsir* on polygamy, *qawwām* and *nushūz* - the examples of Hamka and Quraish Shihab. *Indonesian and German views on the Islamic legal discourse on gender and civil rights*. Ed. Noorhaidi Hasan and Fritz Schulze. Wiesbaden: Harrassowitz, 2015, (Studies on Islamic Cultural and Intellectual History, 1), pp. 63-73.

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- 1025 CHAUDHRY, Ayesha S. Marital discord in Qur'anic exegesis: a lexical analysis of husbandly and wifely *nushūz* in Q. 4:34 and Q. 4:128. *The meaning of the word: lexicology and Qur'anic exegesis*. Ed. S.R. Burge. Oxford: Oxford University Press, in association with the Institute of Ismaili Studies, London, 2015, (Qur'anic Studies Series, 13), pp. 325-349. *Nūsu?* 140640

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30 Nisan 2018

MADDE YAYIMLANDIKTAN
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علاج النشوز والشقاق بين الزوجين في آيات سورة النساء

د. علي بن عمر بن محمد السحيباني

- عضو هيئة التدريس بجامعة القصيم .
- حصل على درجة الماجستير من كلية أصول الدين بالرياض
- جامعة الإمام محمد بن سعود الإسلامية بتحقيق (تسهيل السبيل
في فهم معاني التنزيل لمحمد البكري من أول سورة المؤمنون إلى
آخر سورة خافر) .
- حصل على درجة الدكتوراه من كلية أصول الدين بالرياض
- جامعة الإمام محمد بن سعود الإسلامية بتحقيق كتاب (تفسير
البيسط للواحد من أول سورة الزمر إلى آخر سورة الحجرات) .

5.271-326.

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Nisa Surasi

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MADDE YAYIMLANDIKTAN
SONRASI İZLENİMİ DOKÜMAN

Mecelle tûd-Dirasatî'l-Kur'aniyye, sf. 3, 1428/2008 Riyad.

NÜŞÜZ

FKH

Tusi, Nihaye, 528

07 MAYIS 1985

140640 NÜŞÜZ

النشوز وأحكامه في الفقه الاسلامي / موسى بن
عبدالله مهدي مسلمي .- ماجستير .- جامعه الامام محمد بن
سعود الاسلاميه - الشريعة - الفقه ، ١٤٠٧ هـ .

٣٣٧ س السدلان ، صالح غانم عبدا لله (١٣٦٠ هـ -)

ط ٢ النشوز : ضوابطه ، حالاته ، اسبابه ، طرق
الوقاية منه ، وسائل علاجه في ضوء القرآن و السنة/ NÜŞÜZ

بقلم صالح بن غانم السدلان .- ط ٢ .- الرياض : دار

بلنسية ، ١٤١٤ هـ ، ١٩٩٣ م .

٧٩ ص ؛ ٢٠ سم

ردمك 9960-743-06-3

١ . الاحوال الشخصية للمسلمين ٢ . الزواج (فقه

اسلامي) . أ . العنوان

16 EKIM 1998

٣٣٧ س السدلان ، صالح غانم عبدا لله (١٣٦٠ هـ -)

ط ٣ النشوز : ضوابطه ، حالاته ، اسبابه ، طرق
الوقاية منه ، وسائل علاجه في ضوء القرآن و السنة/ NÜŞÜZ

بقلم صالح بن غانم السدلان .- ط ٣ .- الرياض : دار

بلنسية : توزيع مؤسسة الجريسي ، ١٤١٥ هـ ، ١٩٩٥ م .

٧٩ ص ؛ ٢٢ سم

ردمك 9960-741-21-7

١ . الاحوال الشخصية للمسلمين ٢ . الزواج (فقه

اسلامي) . أ . العنوان

16 EKIM 1998

نشوز:

١ - تعريف: النشوز هو التعالي مع التفريط في الحقوق.

٢ - نشوز المرأة:

أ - الخوف من نشوزها: إذا بدأت المرأة بإظهار تعاليها على زوجها دون أن تفرط له في حق، وخاف الزوج أن يؤدي هذا التعالي إلى تفريطها في حقوقه، فعليه أن يبذل جهده في إزالة أسباب هذا التعالي، بفتح حوار معها وعليه أن يعظها، ويذكرها بحقوق الزوج التي فرضها الله تعالى عليها، كما قال تعالى في سورة النساء/ ٣٤ ﴿وَاللَّي تَخَافُونَ نَشْوَزَهُنَّ فَعَظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَأَضْرِبُوهُنَّ فَإِن أَطَعْتِكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا﴾.

ب - وقوع النشوز: فإذا لم يُجدِّ الوعظ في المرأة، ونشزت الزوجة، فأصبحت لا تطيع لزوجها أمراً، أو هجرت بيت الزوجية بغير مبرر مشروع، ترتب على ذلك الآثار التالية.

(١) الهجر: يجوز للزوج الذي نشزت زوجته أن يهجرها - كما ورد في الآية السابقة - والهجر عقوبة نفسية، وإنذار من الزوج للزوجة، بأنه على استعداد للتخلي عنها إن لم تترك النشوز وتعود إلى حياة الدعة والسكينة.

(٢) الزجر بعنف: وهذا العنف يجب أن يكون متناسباً مع حال المرأة على ألا يصل إلى درجة الأذى البدني، فإن نهاها عن لبس ثوبٍ فاضح، فلبسته، جاز له أن يمزق هذا الثوب مثلاً، وجاز له أن يوبخها على لبسه، وجاز له أن يزجرها بزواجٍ أخرى، ومنها الضرب، ولكن يشترط في الضرب ألا يكون مبرحاً، والضرب المبرح هو الذي يترك أثراً في البدن، لأن الضرب المبرح منهى عنه فيما هو أكبر من النشوز، قال عليه الصلاة والسلام (إن لكم عليهن ألا يوطئن فرشكم من تكرهونه، فإن فعلن فاضربوهن ضرباً



The preferred interpretations of *khawf* display some of the ethical concerns that pre-colonial scholars brought to bear on their interpretations of Q. 4:34. Some exegetes restricted husbands from beginning the disciplinary process without clear evidence of wifely *nushūz*, while others allowed husbands to admonish their wives based on mere suspicion. However, the preferred interpretation of *khawf* is insufficient for drawing conclusions about a given exegete's ethical stance on the husbandly privilege to physically discipline wives. To get a full picture, we need to determine the exegete's position on the extent of recommended physical discipline. Exegetes who restricted the meaning of *khawf* to "certain knowledge" might also obligate husbands to discipline their wives, and they might further permit husbands a great deal of violence. Exegetes who expanded the purview of husbands to begin admonishment based on their expectation of wifely *nushūz* might also limit the amount of hitting permissible. Just as interpretations of *khawf* influenced the disciplinary power of husbands, various interpretations of *nushūz* impacted the disciplinary license of husbands over wives.

Nuşuz
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WIFELY NUSHŪZ: WHY MIGHT A WIFE BE DISCIPLINED?

The trilateral root of the verbal noun *nushūz*, *n-sh-z*, appears twice in Chapter 4 of the Qur'an, once in verse 34 and once in verse 128,¹⁹ regarding the behavior of wives (*nushūzahunna*) and husbands (*nushūzan*) respectively.²⁰ In both cases, *nushūz* is a negative quality, something to be "feared" by the other spouse. The fact that the term *nushūz* is used to refer to the negative behavior of both husbands and wives in the marital relationship may at first glance suggest some parity between spouses—that they may transgress against one another in a similar manner and may be held to a similar standard of accountability. However, although pre-colonial exegetes acknowledged that in both cases the root of *n-sh-z* means "to rise"—describing its verbal noun form as a "hillock"—this rising

¹⁹ "If a wife fears antipathy (*nushūz*) or desertion (*i'rād*) 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 you do." Abdullah Yusuf Ali, *The Meaning of the Holy Quran* (Beltsville: Amana Publications, 1997) Q. 4:128.

²⁰ Four conjugations of the verbal root *n-sh-z* appear in the Qur'an: Q. 58:11, Q. 2:259, Q. 4:34, and Q. 4:128. For more on this, see Ayesha S. Chaudhry, "Marital Discord in Qur'anic Exegesis: A Lexical Analysis of Husbandly and Wifely *Nushūz* in Q. 4:34 and Q. 4:128" in S.R. Burge (ed.), *The Meaning of the Word: Lexicology and Tafsiṛ* (forthcoming).

62-68.

was interpreted in completely different ways with regard to its application to and consequences for husbands and wives.²¹

Exegetes interpreted wifely *nushūz* to have four broad meanings: general disobedience, sexual refusal, rising out of one's place, and hatred for one's husband. In all of these cases, wifely *nushūz* necessitated disciplinary action. In contrast, husbandly *nushūz* was interpreted as literally rising out of bed, hatred for one's wife, sexual or monetary withdrawal, and roughness in speech or action (such as injuring a wife through physical violence).²² Husbandly *nushūz* was always assumed to result from a husband's reaction to his wife's deficiencies. Pre-modern exegetes offered a potpourri of legitimate reasons for why a husband might commit *nushūz*, such as his preference for another, younger (*shābba*) and/or more beautiful (*jamīla*) woman (eg *atharatan 'alayhā*), his repulsion or hatred for this particular wife (*bughā*), his dislike for her (*kirāha*) or her company, his not loving her (*lā yuḥibbuhā* or *raghaba 'anhā*), her old age (*'ajazat* or *kibarihā*), her ugliness/disfigurement (*damāmatihā*), her poverty (*faqrihā*), her bad etiquette (*sū' khuluqihā*), her inability to

²¹ For a comparative analysis of husbandly and wifely *nushūz* in exegetical and legal sources, see Kecia Ali, "Obedience and Disobedience in Islamic Discourses" in Suad Joseph (ed.), *Encyclopedia of Women in Islamic Cultures* (Leiden: Brill, 2007) 309-13 and Chaudhry (n 20). In al-Ḥīrī's survey of the various meanings of *nushūz* in the Qur'an, he designates "disobedience" as the meaning of wifely *nushūz* in Q. 4:34 and "sexual withdrawal" as the meaning of husbandly *nushūz* in Q. 4:128. Ismā'īl ibn Aḥmad al-Nisābūrī al-Ḥīrī, *Wujūh al-Qur'an* (Mashhad: Majma' al-Buhūth al-Islāmiyya, 2001) 562.

²² Somewhat paradoxically, when husbandly *nushūz* was defined as sexual refusal it consisted of the very action husbands were authorized to undertake in order to discipline wives when they were guilty of wifely *nushūz*. Husbandly *nushūz* consisted of a husband's sexual antipathy towards her wife, treating her roughly (*khushūna*), injuring her (*yu'dhihā*), and hitting her (*ḍarabaha*). Thus, a husband may hit his wife in order to correct wifely *nushūz*, but his hitting might also be considered a form of husbandly *nushūz*. It can be argued that although they never explicitly stated it as such, exegetes reckoned that husbandly *nushūz* occurred when husbands withheld sexual intimacy and/or hit their wives without just cause—that is, apart from rectifying wifely *nushūz*. If wives were guilty of *nushūz*, then husbands would be warranted in withholding sexual intimacy and/or hitting them. But how is a wife to know that her husband's sexual abandonment or hitting are disciplinary measures for her own *nushūz* or constitutive of his *nushūz*? In both cases, the onus is on the wife to remove her husband's undesirable behavior by either changing her behavior so that she is no longer committing *nushūz* against him or appeasing him by relinquishing her marital rights. As anyone who is married knows, spouses often have different "truths" about what is happening in their relationship, so a wife may have a difficult time determining whether she should change her behavior or give up her marital rights. A wife may well be unaware as to exactly why her husband is abandoning or hitting her—whether it is because she is committing *nushūz* or because he no longer finds her attractive. Eg. see Abū Ḥayyān (n 7) 3:263; 'Abd Allāh ibn Aḥmad al-Nasafī, *Tafsiṛ al-Nasafī, al-musammā bi-Madārik al-tanzīl wa-ḥaqā'iq al-ta'wīl* (Beirut: Dār al-Qalam, 1989) 1:351; al-Rāzī (n 14) 4:235; and Maḥmūd ibn 'Umar al-Zamakhsharī, *al-Kashshāf 'an ḥaqā'iq ghawāmiḍ al-tanzīl wa-'uyūn al-aqāwīl fī wujūh al-ta'wīl* (Beirut: Dār al-Kutub al-'Ilmiyya, 2003) 1:499. For more on this, see Chaudhry (n 20).

26 August 2015

MADDE YAYIMLANDIKTAN SONRA GELEN DOKÜMAN

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NÜŞÛZ

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- 1 EŞREF YAZAR, İslam aile hukukunda eşler arasındaki geçimsizlik ve çözümü (Nüşuz), Atatürk Üniversitesi, Yüksek Lisans, 2007

latter endeavour more to their liking. There is in any case enough material to be assessed and analysed in the manner attempted in this study to fill dozens of MA and PhD dissertations. In the foregoing some of the methods how to go about tackling what is conceivably the oldest material were investigated*.

* An earlier version of this paper was published in Dutch in *Sharqiyyāt* (1991), the journal of the Institute for Languages and Cultures of the Middle East of Nijmegen University.

ARABICA, c. XXXIX/3, 1992,

Leiden, s. 315-327.

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Söğütphane de Mısır

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NUŞUZ

NUŞŪZ BETWEEN MEDIEVAL AND CONTEMPORARY
ISLAMIC LAW:
THE HUMAN RIGHTS ASPECT

BY

VARDIT RISPLER-CHAIM*

Considering the lexical meaning of *nušūz*, the legal term *nušūz* can be understood only as a metaphor. The verb *našaza* in the dictionaries means being elevated or distancing oneself from something in order to gain the advantage of height. The legal term *nušūz* is used to designate the rebellion of a woman against her husband, disobeying him and causing him anger. By these acts she is metaphorically placing herself in a position higher than his.

According to the dictionaries, one can speak also of the husband's *nušūz*, then meaning beating his wife and treating her with cruelty and violence¹.

In the *Qurʿān* there are two conflicting verses which speak of *nušūz* and how to resolve the situation it creates. One verse reads «If a woman feareth ill treatment from her husband or desertion, it is no sin for them twain if they make terms of peace between themselves. Peace is better» (Women, 128). This verse explains that when the husband is responsible for the *nušūz*, it is recommended that the deserted wife agree to reconciliation with him. Contrary to that, «As for those from whom ye fear rebellion, admonish them and banish them to beds apart, and scourge them» (Women, 34)². In the Arabic text the phrase «those from whom ye fear rebellion» refers beyond any doubt to females. For them there awaits a punishment which includes scolding, desertion and even beating. No reconciliation is recommended as a means of solving the problem.

* I am grateful to Prof. A. Layish for his valuable comments.

¹ Ibn Manẓūr, *Lisān al-ʿArab*, Cairo, 1981, v. 6 p. 4425; al-Zabīdī, *Tāǧ al-ʿArūs*, Lybia, 1966, v. 4, p. 86.

² The translation is according to M.M. Pickthall, *The Meaning of the Glorious Koran*, USA, n.d.

GİRİŞ

Nüşûz kavramı¹, şimdiye kadar yapılan belli başlı yorumlar göz önünde bulundurularak Kur'an ve Sünnet çerçevesinde yorumlanması gereken kavramlardandır. Yorumlama ihtiyacımızın en başta gelen nedeni, 4.Nisâ/ 34. ve 128. ayetlerde zikredilen "nüşûz" kelimesinin derli toplu ve net bir şekilde izah edilmemesi ve çoğu kere sathî mânâda anlaşılması ve ayetin bağlamının dikkatten kaçırılmasıdır. İkinci neden ise, bu kavram yerli yerince oturtulmadığı için, ayetin, erkeğin karısını dövme yetkisi şeklinde anlaşılmaya müsait olarak takdim edilmesi² ve bu tür anlayışların birtakım



Dicle Üniversitesi
İlahiyat Fakültesi Dergisi,

cilt: III / sayı: 2, Diyarbakır,

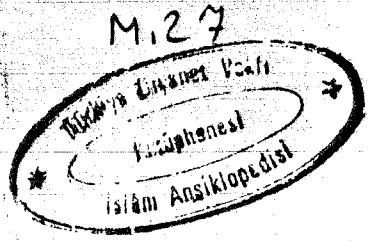
2001, s. 37-51.

D. 2042

* Dicle Üniv. İlahiyat Fak. Öğ. Üyesi.

¹ 4.Nisâ/ 34, 128. Bu fiil ayrıca üç yerde daha geçer. Bkz. 58. Mücâdile/ 11. ayette iki defa, kalkıp gitmek anlamında, 2.Bakara/ 259'da ise bir defa 'üst üste koymak, örtmek' manasında zikredilmektedir. Bkz. İbn Manzûr, *Lisânu'l- 'Arab*, I-XV, 1. Basım, Dâru Sâdir, Beyrut, Ts., N-Ş-Z mad.

² Sözelimi Seyyid Kutub'un yaptığı izahlar bu cümledendir: "Kadının nüşûzu halinde ev reisinin ilk icraatı öğüt vermektir....", "İkinci icraata sıra gelir. Yatak, nâşize olan ve büyülenen kadının güç ve saltanatının zirvesine ulaştığı çekici ve kışkırtıcı bir konuma sahiptir...", Fakat atılan bu adım da bazan başarıya ulaşmaz. Bu durumda aile parçalanmaya mı terkedilmelidir? Her ne kadar sert de olsa yapılacak bir şey daha var. Ama yine de aile kurumunun tamamen parçalanmasından iyidir: "Onları dövün". Daha önceki anlamlar ve bütün bu tedbirlerin ana maksadı, birlikte düşünüldüğü zaman; bu dövmenin, bir intikam, hakaret, alçaltma ve kadını razı olmadığı bir hayatı yaşamaya zorlama amacı taşımadığı anlaşılacaktır. Burada söz konusu olan dövme bir eğitimcinin, terbiye etme hisleriyle sınırlanmıştır. Bir baba çocuğunu veya bir öğretmen öğrencisini nasıl dövüyorsa o şekilde... Şu bilinmelidir ki, bu çok önemli olan müessesede eşlerin uzlaşma ve barış hallerinde dövmenin yeri olamaz. Bu icraat ancak ve ancak aile kurumunda bir fesad veya bir çatlama durumunda gündeme gelebilir. Öğüt verme yararlı olmazsa, yatakta terketmek de müsbet neticeye ulaştırmıyorsa, o zaman bu sapmanın türü ve boyutu farklı olmalıdır. Diğer vesileler sonuç vermiyor, sadece dayak vesilesi fayda sağlıyor!" Bkz. Kutub, Seyyid, *Fî Zılâli'l- Kur'an*, Dâru'l-Fikr, Beyrut, 1988, II/ 653- 655. Öncelikle Seyyid Kutub, ayette nüşûz halindeki kadınlardan değil, nüşûzlarından endişelenilen kadınlardan bahsedildiğini anlamışa benzemiyor. Bu nedenle onun mezkur açıklamaları farklı yorumlara kapı açacak türden bir üslup ve muhtevaya sahip görünmektedir. Ancak Kutub'un, dövmenin "ancak ve ancak aile kurumunda bir



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الكتاب
من مؤلف

الغاي القضي في دار الفتوى

تأليف: قاضي القضاة عبد الله بن عمر البيضاوي

المتوفى (٦٨٥ هـ)

Türkiye Devleti'nin
Islami Ansiklopedisi
Kopya: 8229
Tabii No: 297.51
BEY. G

دراسة وتحقيق وتعليق

على محيي الدين علي القسري داغى

الجزء الثاني



وفيه فصول :

الأول : فيمن يستحقه - وهي الزوجات دون المستولدات ؛ إذ الاستمتاع بهن من قبيل الانتفاع ، وإن كان الأولى أن يسوى (١) بينهن ، فمهما باتت عند زوجة استحققت الأخرى وإن كانت مريضة ، أو حائضا ، أو ارتقاء ؛ إذ المقصود هو الأنس والنصفة ، إلا أن تكون ناشزة . وله أن يعرض عنهن بكره .

فرع :

لو سافرت بغير إذنه سقط حقها ، وكذا إن سافرت بإذنه لغرضها على الجديد ؛ إذ المانع منها ، بخلاف ما لو أرسلها لغرضه .

(١) في - د - (بستوى) .