

# The Bitter Lot of the Rebellious Wife: Hierarchy, Obedience, and Punishment in Q. 4:34

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## Introduction\*

The Prophet's reported reaction to the revelation of Q. 4:34 represents a rare instance of the Islamic tradition presenting his sensibilities as being misaligned with Qur'anic teaching. The verse was universally understood in the premodern exegetical and legal tradition as permitting a husband under certain circumstances to strike his wife in order to discipline her. In an unmistakably sombre note, in a *ḥadīth* on the revelation of this verse the Prophet is reported as saying, 'I wanted one thing, but God wanted another.'<sup>1</sup> Unease with this Qur'anic licence for husbands to physically punish their wives continued to be reflected in the exegetical tradition,<sup>2</sup> and in the modern period has, for obvious reasons, become particularly acute. It is not just that the verse, as traditionally understood, permits the striking of women, but also that, again according to the traditional understanding, it proclaims that men are to have dominion over their wives and demands that the latter be obedient to their husbands. In modern Qur'anic studies both within and without the academy, Q. 4:34 has become one of the most frequently re-examined and reinterpreted verses.<sup>3</sup>

My aim in this paper is to contribute to what has already been written on the verse in three ways. First, I engage in a close reading of the verse within a more complete literary context, including making recourse to the several structural studies that have been made of *Sūrat al-Nisā'*.<sup>7</sup> Second, I attempt to critically re-evaluate the key term *nushūz* in the verse in light of its use elsewhere in the Qur'an, in Jāhili and early Islamic poetry,<sup>4</sup> and other early Islamic literature. This includes the *ḥadīth* corpus. I make no claim here about the veracity of the attribution of these *ḥadīths* to their supposed sources. Rather, I aim to show that alternative understandings of various aspects of Q. 4:34 were in circulation in the first few centuries of Islam, which depart from the legal and exegetical tradition, but are remarkably close to the interpretation of the verse

offered in this study. Indeed, an argument could be made for the antiquity of such *ḥadīths* on this basis (i.e., they are consistent with a close reading of the verse itself, but diverge significantly from the prevalent early legal discourse on Q. 4:34, thus precluding the possibility that they were fabricated to support any of the recorded legal or exegetical positions), though that is a task for another study.<sup>5</sup> Finally, I explore the relationship between Q. 4:34 and its most closely related para-Biblical antecedent, the rabbinic rules for the *sotah*, or wife suspected of adultery. As we shall see, there is a remarkable overlap in the legislation for the wife suspected of *nushūz* and the rabbinic *sotah*, suggesting that the two are addressing the same issue.

The verse itself reads as follows, divided into cola for ease of later reference. The cola highlighted in bold commence new sentences within the verse (not including the final clausula) and provide the section-headings and structure for this study. The three terms that have been left untranslated, viz. *qawwāmūn*, *qānītāt*, and *nushūz*, which are the primary loci of the verse's controversy and difficulty, will be examined as we proceed.

<sup>a</sup> ***Men are qawwāmūn of women***

<sup>b</sup> *through (bi-mā)<sup>6</sup> God having favoured (faḍḍala) one over the other (ba'ḍahum 'alā ba'ḍi)<sup>7</sup>*

<sup>c</sup> *and through (bi-mā) their spending from their wealth.*

<sup>d</sup> ***Therefore, righteous women are qānītāt,***

<sup>e</sup> *guarding (ḥāfiẓāt) in [their husbands'] absence (li'l-ghayb)*

<sup>f</sup> *because (bi-mā) God has guarded (ḥafīẓa) [them].*

<sup>g</sup> ***As for those whose nushūz you fear (takhāfūna),***

<sup>h</sup> *admonish them, and leave them in their beds, and strike them –*

<sup>i</sup> *then if they obey you (aṭa'nakum), seek not a way against them (lā tabghū 'alayhinna sabīlan).*

<sup>j</sup> *Truly God is exalted, great.*

As well as looking at the three untranslated terms, I will need to elucidate several other features of the verse that have been transliterated in the above quotation. Much of what I will argue for is not entirely novel, but may be found scattered in medieval exegesis or other modern reinterpretations. Nonetheless, I am proposing a significant disjuncture between Qur'anic legislation itself and its reception in traditional works of exegesis and law. I will therefore, in my conclusion, briefly comment on how such discrepancies may have arisen.

### *1) Men are qawwāmūn of women*

Many traditional *mufasssirs* understood the first clause of the verse, that *men are qawwāmūn of women*, as both establishing a hierarchy ('men are in charge of women') and, as a natural corollary, placing on men the financial duty of running a household ('men are maintainers of women').<sup>8</sup> Some held the word establishes *only* the hierarchy

of men over women, rather than financial responsibility (which, they maintained, is nonetheless established later in the verse by the phrase *their spending from their wealth*).<sup>9</sup> In contrast, several modern reinterpretations of Q. 4:34 argue that the verse is speaking *only* of men's financial obligation to women.<sup>10</sup> There are, therefore, three possible readings, each of which has its supporters: *qawwāmūn* implies (a) *both* hierarchy and financial duty; or (b) *only* hierarchy; or (c) *only* financial duty. I will argue for the third option. Note that for (c) to be correct, then for the clearest connection between cola *a* and *b* we would expect *faḍḍala* (*favoured*) to refer to superiority of financial means only (as in Q. 16:71, where *faḍḍala* clearly refers to wealth disparity). If *faḍḍala*, on the other hand, refers to a more general sense of 'favoured', not restricted to purely material resources, then this would tend to support interpretations (a) or (b).<sup>11</sup> In what follows, I will therefore first investigate the meaning of *faḍḍala*, to see if (c) can be immediately ruled out or not. I will then address the meaning of *qawwāmūn* directly.

There are two considerations in particular that support the view that *faḍḍala* refers *only* to the greater financial means that men have at their disposal in comparison to women: the immediate literary context of verse 34 and the broader context of the ideas developed in Q. 4. Turning first to the immediate literary context, verse 34 is situated in a subsection of the sura that commences at verse 29.<sup>12</sup> The subsection opens with a vocative, which very frequently indicates the commencement of a new section throughout the Qur'anic corpus, as has been noted by several scholars.<sup>13</sup> Furthermore, there is a clear subject change in verse 29 from the preceding passage, which legislates for which women one may or may not marry, and sets out conditions for marrying one's slave-girl. (Note that this latter subsection, spanning verses 19–28, also commences with a vocative address.)

<sup>29</sup>*O you who believe! Do not consume each other's wealth falsely, but trade by mutual consent, and do not kill each other. Truly God is merciful to you.* <sup>30</sup>*And whosoever does that in enmity and injustice, We shall cause him to burn in a Fire; and that is easy for God.* <sup>31</sup>*If you shun the grave sins that you are forbidden, We shall absolve you of your evil deeds and cause you to enter at a noble gate.* <sup>32</sup>*And do not covet that by which God has favoured (faḍḍala) some of you above others (ba'ḍakum 'alā ba'ḍ) – for men (li'l-rijāl) is a share of what they have earned (iktasabū), and for women (li'l-nisā') a share of what they have earned (iktasabna) – but ask God for His bounty (faḍlihi). Truly God is the knower of all things.* <sup>33</sup>*And of each [men and women] We have made heirs from what parents and kinsfolk leave. Those to whom you have given your oath, give them their share. Truly God is witness over all things.* <sup>34</sup>*Men (al-rijāl) are qawwāmūn of women (al-nisā') through God having favoured (faḍḍala) one over the other (ba'ḍahum 'alā ba'ḍ) and through (bi-mā) their spending from their wealth ...*

The passage thus begins in verse 29 with a warning not to wrongfully consume each other's wealth, and not to kill one another, the suggestion perhaps being that warfare is a frequent consequence of economic injustice.<sup>14</sup> Verses 30–31 threaten punishment for anyone who disobeys the aforementioned decrees and promise reward for whoever keeps away from grave sins (such as, presumably, those listed in verse 29). Verse 32 then prohibits that one covet what others have been given, thus transitioning from the sin of misappropriation of wealth in verse 29 to its corresponding mental offence.<sup>15</sup> Such juxtapositions are evidenced elsewhere in the Qur'an too (for example in Q. 6:120, Q. 7:22, and Q. 22:37; see also Q. 9:55 and 85, Q. 15:88, and Q. 20:131 for similar prohibitions of desiring what has been given to others). There can therefore be little doubt that the 'favour' mentioned at the start of verse 32 refers to material possessions, that being the subject introduced at the start of the subsection, and as evidenced by the use of *iktasaba* ('earn') later in the same verse.

The opening statement in verse 32, that God has favoured (*faḍḍala*) some above others, thus means that He has given some more material wealth than others. This general statement then abruptly transitions to the subject of men and women, and the verse insists that they are both given a portion from what they earn. The clear suggestion is that the unequal distribution mentioned at the start of the verse is particularly noticeable along the lines of gender.<sup>16</sup> However, rather than coveting what one does not have, the verse assures both men and women that they shall get something of the fruits of their labour and encourages them to ask God for more from His bounty.

The following verse (v. 33) maintains the subject of distribution of material wealth: *And of each [men and women] We have made heirs from what parents and kinsfolk leave.* This reinforces the earlier pronouncement that men and women have both been given from God's material bounty (albeit unequally), by reminding them that both have inheritance rights.<sup>17</sup> Men are then singled out and told to ensure that wives receive their share of inheritance from their husbands' wealth.

The diction in verse 34 repeatedly echoes the earlier verse 32;<sup>18</sup> both contrast men (*rijāl*) and women (*nisā'*), and both speak of God's preferential favour (*faḍḍala*) that results in some having more than others (*ba<sup>c</sup>dakum/ba<sup>c</sup>dahum <sup>c</sup>alā ba<sup>c</sup>d*). The two verses are clearly connected. Therefore, *faḍḍala* should be understood in the same way in both verses, namely, as referring to the unequal provision of wealth, which has also been the subject matter of the section up to this point. In verse 34 it must therefore refer to men having been given more wealth than women. Some have tried to connect this more specifically to men receiving a greater share of inheritance.<sup>19</sup> In favour of this reading, we may note that verses 32–33 (which, as we have seen, are vitally important

for understanding verse 34) also have strong echoes of v. 7, which clearly deals with inheritance:

<sup>7</sup>*For men (li'l-rijālī) is a share (naṣībun) from what parents and kinsfolk leave (mimmā taraka'l-wālidāni wa'l-aqrabūna), and for women (li'l-nisā'i) a share (naṣībun) from what parents and kinsfolk leave (mimmā taraka'l-wālidāni wa'l-aqrabūna), be it little or much – a share (naṣībun) ordained.*

<sup>32</sup>... *for men (li'l-rijālī) is a share (naṣībun) of what they have earned, and for women (li'l-nisā'i) a share (naṣībun) of what they have earned*

...

<sup>33</sup>*and of each (men and women) We have made heirs from what parents and kinsfolk leave (mimmā taraka'l-wālidāni wa'l-aqrabūna) ...*

Therefore, there are grounds for understanding that the bounty that God gives in greater quantity to men than women in verse 34 at least in part refers to their unequal inheritance rights. But there is no reason to restrict the meaning of *faḍḍala* in the verse solely to wealth that is inherited. The immediate literary context, as shown, indicates that men generally have more material means at their disposal than women.

Let us now consider the wider context of the verse. Structural analyses of Q. 4 by Iṣlāḥī, Zahniser, and Lowry all take verses 1–43 as constituting the first major section of the sura. Farrin diverges only slightly, concluding the first section at verse 42. The difference is not significant for our purposes, and in any case Iṣlāḥī, Zahniser, and Lowry all note that verse 43, which provides laws for ablution, sits somewhat removed from the rest of the section.<sup>20</sup> This first section is variously characterised by these four scholars.<sup>21</sup> Clearly, it is legislatively dense, and, as they all note, a significant proportion of its legislation pertains to women. Nonetheless, there are also laws for taking care of orphans and their property (vv. 2–6), inheritance (vv. 7–14), and (as we have seen) fair commerce. Much of this legislation too is gendered, such as, for example, marrying the mothers of orphans if one fears one will not otherwise be able to care for the latter (v. 3),<sup>22</sup> and the inheritance rights of women (vv. 7, 11–12, 33).

Lowry notes that the opening verse in the sura 'offers a general statement that describes the creation of the world as gendered ... Since almost all of the following legislation in this section is gendered or even emphasises gender differences through rules of positive law, the opening verse seems connected to the following legislative verses by the theme of gender'.<sup>23</sup> In fact, Q. 4:1 comprises two main themes that the opening section will expand on, each introduced by the repeated verb *ittaqu* ('fear'):<sup>24</sup>

*O mankind! Fear (ittaqu) your Lord, who created you from a single soul (nafsin wāḥida), and of like nature created its mate, and from the two has spread abroad a multitude of men (rijāl) and women (nisā').*

*Fear (wa'ttaqū) God, through whom you demand your rights of one another, and [the severing of] family relations. Truly God is a watcher over you.*

It is tempting to read the opening pronouncement, introduced by the first occurrence of *ittaqū*, as referring to the Biblical story of Eve's creation from Adam's rib. However, the phrase *khalaqa ... min nafs/anfus* is used several times in the Qur'an to unambiguously mean 'of like nature', particularly in relation to men and women (e.g. Q. 16:72, Q. 30:21, and Q. 42:11), and there is no good reason to posit a different meaning here.<sup>25</sup>

The first half of the verse therefore stresses the basic equality of men and women, both being of like nature.<sup>26</sup> The second half, introduced by the second instance of the verb *ittaqū*, now recognises that men and women have legitimate mutual demands of each other, for which they invoke God's law. These two opening statements function as a prologue for the legislative content of the entire first section of the sura, which covers gender relations and financial obligations, particularly those owed by men and women to one another.<sup>27</sup> These two core themes of the opening verse, viz. the idea of the basic sameness of men and women and that of their reciprocal responsibilities, supports the position that *qawwāmūn* refers only to the man's financial responsibility towards his wife rather than his authority over her (as the latter may imply superiority, and thus could undermine the opening verse's message of basic equality).<sup>28</sup> Additionally, and more compellingly, the passage comprising verses 127–135, the second block of verses in the sura that legislate regarding women<sup>29</sup> (and which act as a clarifying appendix to the first section of the sura) is again suffused with guidance on men's financial obligations (see especially vv. 127, 128, and 130), but has nothing to say regarding women's obedience to their husbands.

There is one last piece of Qur'anic evidence for *qawwāmūn* referring only to financial obligation. The root *q-w-m* with the sense of financial responsibility occurs elsewhere in this opening section of the sura, in verse 5. In the context of this subsection of the sura (vv. 2–6), verse 5 refers to orphans' (presumably inherited) wealth that has been entrusted to their guardians, and cautions the latter not to return this money to the orphans if they are still 'feeble-minded', i.e. too young:

<sup>2</sup>*Give orphans their property, and exchange not the bad for the good, nor consume their property with your own. Truly that would be a great sin ...* <sup>5</sup>*And do not give the feeble-minded (al-sufahā') your property, which God has made as a means of support (qiyām) for you, but provide for them and clothe them from it, and speak unto them in an honourable way.* <sup>6</sup>*And test the orphans until they reach the age of maturity; then if you perceive in them sound judgement, deliver unto them their property,*

*and do not consume it wastefully and in haste before they come of age. Whosoever is rich should abstain, but whosoever is poor should partake thereof in an honourable way. And when you deliver unto them their property, bring witnesses on their behalf, and God suffices as a reckoner.*

Two features of verse 5 are of particular importance. First, the orphans' money, which is in the care of their guardians, is referred to as *your property*, rather than *their property* (I shall return to this issue below). Second, property is generically referred to as a *qiyām*, 'a means of support' provided by God. The use of the same root later in the same section is no coincidence: men are *qawwāmūn* because they are to provide a *qiyām* for women.

This reading of *qawwāmūna* 'ala is also in keeping with the use of the root *q-w-m* with the preposition 'alā elsewhere in the Qur'an, where it is clear that the intended meaning is akin to 'watching over' or 'taking care of', rather than 'being in authority over'; see, for example, Q. 13:33, *Is He who watches over (qā'imun 'alā) every soul along with what it has earned [in need of any partner]?*, and Q. 3:75, *And among them is one who, were you to entrust to him a dinar, would not render it back to you unless you kept standing over him ('alayhi qā'iman)*. Furthermore, the lexicographic tradition, which so frequently incorporates definitions from the exegetical tradition over time (see, for example, the discussion on *nushūz* below), has remained consistent in defining *qawwāmūna* 'alā'l-nisā' as 'providing (*mā'in*) for his wife, taking upon himself (*mutakaffil*) her affairs'.<sup>30</sup>

We may now follow the logical connections from colon *a* to *c*: *a* refers to men having the financial responsibility to maintain women, and *b* and *c* detail how they are to perform this duty: respectively, through God giving more financial resources to men than women, for example in inheritance, and through men spending of their own wealth even prior to inheriting anything.

## 2. Righteous Women are *qānitāt*

Muqātil was an early proponent of the classical trend to interpret *qānitāt* as 'obedient (*muṭī'āt*) to [God] and to their husbands'.<sup>31</sup> To support this interpretation, it was necessary for Muqātil (and other early scholars who similarly understood *qānitāt* as 'obedient to their husbands'<sup>32</sup>) to gloss *qānitāt* as *muṭī'āt* ('obedient'); as several modern scholars have noted, *qānit* is used elsewhere in the Qur'an exclusively for devotion to God, whereas the verb *aṭā'a* may be for obedience to God or anyone else (e.g. Q. 3:32, 100, and 149).<sup>33</sup> A minority of the *mufasssirs*, on the basis of the aforementioned consistent use of *qānit* in the Qur'an, propose that in Q. 4:34 we should understand *qānitāt* as 'obedient to God' rather than 'obedient to their husbands'.<sup>34</sup> I will argue for this minority opinion.

We should note first of all that the question of a wife's obedience to her husband is not mentioned anywhere else in the sura, nor indeed anywhere else in the Qur'an,<sup>35</sup> including in passages in which one might have expected it to have been addressed had it been a Qur'anic ideal for wives. Most tellingly, the desirability of a wife's being obedient to her husband is absent from Q. 66:5, which threatens two unnamed wives of the Prophet who had disobeyed him (Q. 66:3) that:

*... it may be that if he divorces you, his Lord would give him wives in your stead who are better than you, submitting (muslimāt), believing (mu'mināt), obedient (qānitāt), penitent (tā'ibāt), worshipping (ābidāt), and fasting (sā'iḥāt) – previously married, and virgins.*

Here the context leaves little doubt that *qānitāt*, listed alongside several adjectives all describing believing women's relationship with God, means 'devoted to' or 'obedient to' Him. The absence of any mention of obedience to the husband in this verse is all the more significant given the general encouragement throughout the Qur'an, particularly in Medinan suras (of which Q. 66 is one), to obey the Prophet: if the Qur'an required obedience from wives, would we not have expected to find that here, in a list of pious qualities women should possess, addressed to the Prophet's wives after they had disobeyed him?<sup>36</sup>

Two specific points still need to be considered. First, Q. 4:34 is clearly dealing with the appropriate relationship between husband and wife, and so understanding *qānitāt* in its usual Qur'anic sense of 'obedient to God' seems disruptive. Second, the verse goes on to contrast the *qānitāt* with *those whose nushūz you fear*, and legislates that the way out of punishment for the latter women is to *obey you (aṭa'nakum)*, suggesting that this is a return to the state of obedience to the husband that they had temporarily rebelled against.<sup>37</sup> To address these issues, we must first engage in a close analysis of *cola e* and *f*.

<sup>e</sup> *guarding (ḥāfiẓāt) in [their husbands'] absence (li'l-ghaybi)*

<sup>f</sup> *because (bi-mā) God has guarded (ḥāfiẓa) [them].*

The exegetical tradition has almost universally understood *ḥāfiẓāt* here as meaning 'guarding their chastity'.<sup>38</sup> I think this is a highly plausible reading. The verb *ḥafiẓa* is frequently used in the Qur'an for guarding one's chastity (Q. 23:5, Q. 24:30–31, Q. 33:35, and Q. 70:29). The near-synonymous verb *aḥṣana*, which like *ḥafiẓa* literally means 'to protect', and is also used in the corpus with the meaning of 'guarding one's chastity' (Q. 21:91 and Q. 66:12), occurs earlier in the sura, in verses 24–25: men are required to be *muḥṣinīn* (v. 24, literally 'protectors') as they enter into marriage, and both chaste and married women are described as *muḥṣanāt* (vv. 24 and 25, literally 'protected').<sup>39</sup> Sexual chastity is thus an established theme in the sura that is reprised in verse 34.



When it comes to the phrase, *in [their husbands'] absence (li'l-ghaybi)*, although *ghayb* usually refers to the realm of the unseen, to which God alone has access (e.g. Q. 2:33, and Q. 3:44 and 179), in at least one other place in the Qur'an it is used in relation to the absence of an individual from witnessing an event: *this is so that he may know that I did not betray him in his absence (bi'l-ghaybi)* (Q. 12:52).<sup>40</sup> Whether the speaker is Joseph or Potiphar's wife (both opinions are found in traditional exegesis, and both seem possible),<sup>41</sup> the salient point is that *ghayb* here refers to the absence of a particular person. Also interesting is Q. 12:81, *We only bear witness to what we know, and we are not keepers of the unseen (li'l-ghaybi ḥāfiẓīn)*, where Joseph's brothers try to convince their father that they had to leave Benjamin behind in Egypt as he had committed theft. As with Q. 4:34, this verse combines the roots *ḥ-f-ẓ* and the phrase *li'l-ghayb*. While the brothers clearly intend to convey that they do not have access to the unseen (thus using *ghayb* here with its usual Qur'anic meaning), there seems to be a wordplay at work: the brothers are unwittingly acknowledging that whenever they have been absent from their father, they have not guarded their younger brothers well. So, as argued in n. 6 above, the colon may be paraphrased: 'women should guard their chastity in their husbands' absence because God has guarded their chastity by enabling them to marry.'

Before we return to the meaning of *qānitāt*, we should consider the connection between the idea of women remaining chaste in their husbands' absence and the role of men as *qawwāmūn*, i.e. the relationship between the first two parts of the verse, which present a contrast between men and women:

<sup>a-c</sup> **Men** are *qawwāmūn* of women through (*bi-mā*) ...

<sup>d-f</sup> Therefore, **righteous women** are *qānitāt*, guarding in [their husbands'] absence because (*bi-mā*) God has guarded [them].

The parallelism between cola *a-c* and *d-f* suggests that the two situations are related: men, in fulfilling their duty to provide, may need to be absent from the home, and women are exhorted to remain faithful to their husbands in the latter's absence. Indeed, distant travel for the purpose of trade is mentioned in several places throughout the Qur'an in a manner that shows unambiguously that a significant proportion of the believing community undertook long mercantile journeys (e.g. Q. 2:273,<sup>42</sup> Q. 62:10, and Q. 73:20).<sup>43</sup> Men would also be absent when engaged in a campaign of war, of course, as enjoined in the Medinan phase of the revelation.<sup>44</sup> Moreover, there are several narrations in early works of Arab history that recount that women in pre-Islamic Arabia would take lovers when their husbands were absent for extended periods of time.<sup>45</sup>

Let us finally return to *qānitāt*. Note that it is not separated from *ḥāfiẓāt* with a *wa-* conjunction, and further that there is only one reason given in the verse for why women should be *qānitāt ḥāfiẓāt* (rather than separate reasons for being *qānitāt* and

being *ḥāfiẓāt*), namely that God has protected their chastity in marriage. Therefore, *ḥāfiẓāt* is best understood as an exegetical clarification to the more general *qānitāt*. The verse may be paraphrased, ‘Men are financially responsible for maintaining women ... and while they are away (on trade), righteous women are devout to God by guarding their chastity, because God has guarded them through marriage’. On the basis of this analysis, we may conclude that it is not at all disruptive to the flow of the verse up to colon *f* to understand *qānitāt* as obedient to God (rather than to men).

How then is one to understand the subsequent statement in the verse, that *if they obey you (aṭa‘nakum), seek not a way against them* (colon *i*)? This seems to predicate the avoidance of punishment on obedience to the husband (but see below for a discussion of whether it is indeed the husbands who are addressed here). There are two points to note. First, the use of the verb *aṭa‘a* in this section of the verse somewhat bolsters the argument that the earlier use of *qānit* does *not* refer to obedience to the husband – we might have expected *muṭī‘āt* in colon *d* instead of *qānitāt* if obedience to the husband were intended, corresponding to the *aṭa‘a* in colon *i*, and consistent with the uses of *qānit* and *aṭa‘a* elsewhere in the Qur’an as discussed earlier. Indeed, as mentioned above, the *mufasssirs* had to gloss *qānitāt* as *muṭī‘āt* before they could claim that it refers to obedience to one’s husband. Second, the obedience mentioned in colon *i* is clearly linked to the admonishment that the wife should leave off her *nushūz*, rather than being a general call to a return to absolute obedience to her husband, i.e. to paraphrase, ‘If they obey you in desisting from *nushūz*, then seek not a way against them.’ It is to the meaning of this term, *nushūz*, that we now turn.

### 3. Those Whose *nushūz* You Fear

The legal and exegetical works are almost united in understanding *nushūz* in Q. 4:34 as wifely disobedience, and in particular referring to wives not making themselves sexually available to their husbands.<sup>46</sup> This is an unsurprising interpretation of *nushūz* given the *mufasssirs*’ reading of the earlier parts of the verse, which, for them, placed the man at the head of the household, and demanded that the wife be obedient to him. Understanding *nushūz* as wifely disobedience of some sort thus rendered the verse coherent for them, as this final part of the verse was, in their reading, prescribing the consequences of the wife not abiding by the idealised relationship in the earlier part of the verse.

By the same token, now that we have carefully considered the meanings of *qawwāmūn* and *qānitāt*, and seen that they do not seem to prescribe that the husband have control over his wife, contextually it is no longer so clear that *nushūz* refers to the wife’s disobedience. Instead, the contrast that the verse presents between righteous women who are *ḥāfiẓāt* (argued above to mean ‘chaste’) and *those whose nushūz you fear* now implies that *nushūz* means sexual infidelity.<sup>47</sup> Indeed, this is how several modern Muslim scholars have interpreted the term.<sup>48</sup>

This understanding of *nushūz* is, I believe, correct. Apart from the contrast with *ḥāfiẓāt* already mentioned, it fits the themes of this first section of the sura, with verses 15–18 and 25 also discussing sexual transgressions. Furthermore, the verse speaks of *fearing* (*takhāfūna*) *nushūz*, a locution that greatly exercised the *mufasssirs*. If *nushūz* is wifely disobedience, or sexual refusal, then surely it is manifest, rather than something one anticipates. For this reason, many tried to interpret ‘fear’ here as ‘know’.<sup>49</sup> Although there is some support for this in the early lexicographic tradition, it is not the obvious meaning of the verb *khāfa*.<sup>50</sup> On the other hand, if we take the verse as providing guidance for dealing with a wife one *suspects* of unfaithfulness, the use of *takhāfūna* is perfectly apt.

There are several other compelling reasons to accept this reading. In this section, I first consider the other use of *nushūz* in Q. 4, where it is attributed to the husband. On the basis that *nushūz* *does* refer to unfaithfulness in marriage, I reconsider Q. 4:34 in light of other Qur’anic verses that legislate for adultery, particularly in Q. 24. This leads to a discussion on who is the addressee in Q. 4:34. Next, I examine the use of the term *nushūz* in Jāhili poetry and early Islamic literature outside the legal and exegetical works. Finally, I turn to the parallel case in Jewish law of the suspected adulteress, or *sotah*, and show the significant overlap with the wifely *nushūz* laws, reaffirming that the latter are indeed dealing with marital infidelity. The section concludes with an attempt to give a more precise meaning to *nushūz*.

#### a) Husbandly *nushūz* in the Qur’an

The word *nushūz* occurs twice in the Qur’an, both in Q. 4, first in verse 34, the subject of the present study, and again in verse 128, which reads as follows:

*If a wife fears (khāfat) nushūz or desertion from her husband, there is no blame upon them should they come to an accord, for an accord is better. Souls are prone to avarice, but if you are virtuous and fearful [of God], surely God is aware of whatsoever you do.*

The *mufasssirs* almost consistently defined *nushūz* as used in this verse as distinct from the *nushūz* of verse 34, and rarely considered the verses together.<sup>51</sup> While wifely *nushūz* was understood as disobedience, husbandly *nushūz* was often glossed as aversion or maltreatment of one’s wife.<sup>52</sup> Now, while it is perfectly possible for the same word to have different significations in different locations within a given text, the fact that *nushūz* is only used twice in the Qur’an, both times in Q. 4, and the fact that there is such patent symmetry in its use (a husbands ‘fears’ his wife’s *nushūz* [v. 34], and a wife ‘fears’ her husband’s *nushūz* [v. 128]) makes such radically different definitions of the word highly unsatisfactory.

Additionally, note from verses 34 and 128 that *nushūz* can definitively be attributed to one spouse or the other. This indicates that it is something that either party might be

guilty of (thus ruling out defining it as ‘disobedience’), and that it cannot refer to something vague that could not easily be attributed to a specific spouse (thus ruling out anything like ‘argumentativeness’, which is frequently a matter of dispute as to who the guilty party is).<sup>53</sup> If *nushūz* is understood as sexual infidelity, then these difficulties regarding its correct interpretation vanish: in each case it refers to a spouse fearing that his or her partner is being unfaithful.

Nonetheless, the two *nushūz* passages provide very different procedures for dealing with wifely and husbandly *nushūz*. This is particularly surprising as elsewhere the Qur’an explicitly insists on equal punishment for men and women, including for illicit sexual activity, for example in Q. 4:16 (in cases of *fāḥisha* [i.e. indecency or sexual transgression, see below] *punish them both*), Q. 24:2 (*Strike the fornicatress and the fornicator one hundred times ...*), Q. 5:38 (*Cut off the hands of the male thief and the female thief*). We should note that if marital infidelity is definitively established through four witnesses, men and women again face identical punishments: a hundred lashes (Q. 24:2; see the next section for a justification of the idea that Q. 4:34 and Q. 24:2 are both addressing the same issue). It seems therefore that the husbandly *nushūz* verse is talking about a degree of suspicion of *nushūz* that falls short of it being established through the four-witness rule, i.e. equivalent to the earlier stages of the wifely *nushūz* punishment. As argued below, the final stage of ‘striking’ the wife in Q. 4:34 is for the judicial authority to implement on the basis of the testimony of four witnesses, or the wife’s refusing to repudiate the four oaths of her husband. Therefore, the Qur’an does not differentiate between the husband and the wife *once their adultery has been proven*. So why is there a discrepancy during the suspicion phase, such that if a husband suspects his wife of unfaithfulness, he should admonish her and leave the marital bed, and in the reverse case *they come to an accord* (v. 128)?

Two non-mutually exclusive solutions are possible. The difference may be a consequence of the asymmetry in the polygamy rules, whereby polygyny is sanctioned by the Qur’an (Q. 4:3), but not polyandry.<sup>54</sup> So, unlike the wife’s *nushūz*, there is a straightforward way to take the husband’s actions out of the realm of the illicit: through the man marrying an additional wife. The ‘accord’ in verse 128 would then mean that the couple agree that the husband should take another spouse. This would explain why the very next verse cautions him not to let his desire for some of his wives completely overwhelm his responsibilities to the others (v. 129).

The second possibility is that the different legislation for the wife’s *nushūz* is to mitigate against an illegitimate child being falsely attributed to a man. The Qur’an most clearly expresses the undesirability of this in Q. 33:4–5: *Nor has He made those whom you claim [as sons] your sons. Those are mere words from your mouths. But God speaks the Truth and guides upon the way. Call them after their fathers. That is more equitable before God...* In Q. 4:1, the phrase *wa’ttaqū’llāha’lladhī tasā’alūna bihi wa’l-arḥama*

(*fear God, through whom you demand your rights of one another, and [the severing of] family relations*) may be referring to the same concern, namely that family relations be established and maintained in a legitimate way. In Q. 4:34, the requirement that the husband leave the marital bed of his wife if he suspects that she is *nāshiz* (i.e. guilty of *nushūz*) reduces the possibility that a child will be falsely attributed to him, indeed it may even bring pressure on the woman to end her illicit relationship for fear of exposure should she become pregnant while the husband has foresworn relations with her. On the other hand, in the reverse situation, the wife leaving the *nāshiz* husband's bed would not reduce the likelihood of an illegitimate child being born or falsely attributed. Rather, if the husband has established a relationship with another woman, to ensure that if a child results from that relationship he or she is attributed to the correct father requires that the husband marry the woman. This rationale finds some support in the *sotah* rules, to be discussed below. As part of the curse that the temple priest places on the accused woman, he says to her: '[If you are guilty,] the Lord make you an execration and an oath among your people, when the Lord makes your uterus drop, your womb discharge; now may this water that brings the curse enter your bowels and make your womb discharge, your uterus drop' (Numbers 5:21–2). The emphasis on miscarriage ensures that the illegitimate child not be falsely attributed to the husband.<sup>55</sup>

One final point is worth considering. In Arabic, adjectives that can only be used for women often lack a feminine ending like the *tāʾ marbūʿa* (as the feminine ending is redundant), such as *ḥāʾiḍ* ('menstruating'), *ḥāmil* ('pregnant'), and *kāʿib* ('having breasts').<sup>56</sup> Included in this category is *nāshiz*,<sup>57</sup> which suggests that in pre-Islamic Arab culture this was only considered a crime for women. Indeed, all of the extra-Qur'anic examples we will shortly encounter in this study refer only to a woman's *nushūz*. It seems the Qur'an was unprecedented in introducing the possibility of male *nushūz* along with female *nushūz*. A concern with, and move towards, greater gender balance in the Qur'an has also been noted by Holger Zellentin,<sup>58</sup> and is an issue to which we shall have cause to return below, when we consider how the Qur'an reformulates the rabbinic *sotah* laws.

#### b) Q. 4 and Q. 24

To understand the wifely *nushūz* verse fully, we must read it in light of other passages that discuss adultery. The Qur'an legislates punishments for sexual offences in Q. 4 and 24. Taking these together, we will see that the final punitive step in Q. 4:34<sup>h</sup>, namely the instruction to strike the wife, is only to be carried out on the basis of four witnesses to her adultery.

The two suras Q. 4 and Q. 24 are clearly in dialogue, particularly with regards to sexual ethics. For instance, Q. 24:13 chides those who *brought forth the lie (ifk)* in verse 11 (i.e. a false accusation of unchastity levelled at an unnamed woman in the pericope) for

not producing four witnesses.<sup>59</sup> The verse therefore assumes that the production of four witnesses for such charges is already an established law. There are two other places where this requirement to produce four witnesses in cases of sexual transgression is articulated: Q. 24:4 and Q. 4:15. It is possible that Q. 24:4 was proclaimed some time before Q. 24:13, but this is unlikely. The opening section of the sura, verses 1–10, which provides legislation in cases of *zinā* ('fornication', see below) and false accusations of unchastity against women, seems to anticipate and lay the groundwork for the *ifk* incident taken up from verse 11. Furthermore, verse 4 already seems to assume that the four-witness rule has been enacted: *And as for those who accuse chaste women, but then do not bring four witnesses ...* This is most naturally read as providing supplementary legislation in cases where the (existing) four-witness requirement is not met by an accuser. Both Q. 24:4 and Q. 24:13 must therefore be referring to legal provisions enacted chronologically earlier in Q. 4.

Coming now to Q. 4:34, as this verse, per my arguments above, is legislating for the possibly adulterous wife, we see that in fact it essentially addresses the same issue as Q. 4:15–16 and Q. 24:2–10:

#### Q. 4

<sup>15</sup>*As for those of your women [plural]<sup>60</sup> who commit an indecency (fāḥisha), call four witnesses among you to bear witness against them. And if they bear witness, then confine them to their houses until death takes them, or until God appoints for them another way.* <sup>16</sup>*And if two of those among you are guilty thereof, hurt them both (ādhūhumā), but if they repent and make amends, then let them be. Truly God is relenting, merciful.*

#### Q. 24

<sup>2</sup>*As for the fornicatress (zāniya) and the fornicator (zānī), flog them each one hundred lashes, and let not pity for them overcome you concerning God's Judgement, if you believe in God and the Last Day. And let a group of the believers witness their punishment.* <sup>3</sup>*The fornicator shall marry none but a fornicatress or woman associator, and the fornicatress shall marry none but a fornicator or male associator. And that is forbidden to the believers.* <sup>4</sup>*And as for those who accuse chaste women, but then do not bring four witnesses, flog them eighty lashes, and never accept any testimony from them. And it is they who are the iniquitous,* <sup>5</sup>*save those who repent thereafter and make amends, for truly God is forgiving, merciful.* <sup>6</sup>*And as for those who accuse their wives and have no witnesses but themselves, then the testimony of one of them shall be four testimonies, swearing by God that he is among the truthful,* <sup>7</sup>*and the fifth that the curse of God be upon him*

*if he is among the liars. <sup>8</sup>And the punishment shall be averted from her should she give four testimonies, swearing by God that he is among the liars, <sup>9</sup>and the fifth that God's wrath shall come upon her if he is among the truthful. <sup>10</sup>And were it not for God's bounty upon you, and His mercy, and that God is relenting, wise!*

Whereas Q. 4:16 legislates for sexual crimes that have been proven to have been committed, Q. 4:34 starts from the point at which there was mere suspicion of sexual transgression. Nonetheless, both verses prescribe that such offences face some sort of physical punishment, and both leave the punishment vague: verse 16 simply says, *hurt them both*, and verse 34 has *strike them*. I suggest that both verses are then qualified by Q. 24:2, which clarifies that the 'striking' or 'hurting' is by means of a hundred lashes.

An immediate objection to the hypothesis that the verses that address illicit sexual relationships in Q. 4 and Q. 24 should be read in light of each other, with Q. 24 clarifying legislation enacted in Q. 4, is the difference in vocabulary for the illicit act. While Q. 24:2 speaks of the *zānī* and *zāniya* ('fornicator' and 'fornicatress'), Q. 4:15–16 speak of *fāḥisha* ('indecentcy'). Is it correct to say that the *fāḥisha* in Q. 4:15–16 is referring to the same crime as that of the *zānī* and *zāniya* in Q. 24:2? For if not, the connection between Q. 4 and Q. 24 is weakened, and supplementing the Q. 4 *nushūz* laws using Q. 24 becomes potentially more problematic.

Given the four-witness rule proclaimed in Q. 4:15 is assumed in Q. 24 (as argued above), a connection between *fāḥisha* and *zinā* seems *prima facie* quite likely, and the case for this has been convincingly made by Holger Zellentín.<sup>61</sup> This is not the place for a detailed engagement with his arguments, but a brief summary of some salient points is in order:

1. *Fāḥisha* and its cognate *fāḥshā'* are used in both Meccan and Medinan suras to unequivocally refer to illicit sexual relationships, including same-sex relationships (e.g. Q. 7:80, Q. 12:24, Q. 27:54, and Q. 29:28; see also Q. 7:28, where *fāḥisha* is linked to Satan exposing the nakedness of Adam and Eve to each other).
2. *Fāḥshā'* is incited by Satan (Q. 2:169 and 268, and Q. 24:21), which evokes a common Late Antique Christian motif that links the Devil to illicit sexual intercourse.
3. Zellentín notes that *zinā* is called *fāḥisha* in Q. 17:32, and the two are used interchangeably in Q. 6:151 (which prohibits associating anyone with God, murder, and *fawāḥish*, the plural of *fāḥisha*) and Q. 25:68 (which prohibits calling on anything other than God, murder, and *zinā*).
4. Q. 60:12 instructs the Prophet to make a covenant with believing women who have fled their pagan husbands that they will not commit *zinā*. As these women would have newly entered the Muslim polity, and presumably therefore had not yet found believing

husbands, this suggests that the term refers to ‘any extramarital sexual intercourse of unmarried people.’

Zellentin concludes that *fāḥishah/fahshā*<sup>62</sup> refers to *any* illicit sexual relationship, a generalisation akin to the Biblical ‘uncovering of nakedness’, a phrase that was also common in both Late Antique Christian and rabbinic writings, and which subsumed all illicit sexual relationships under a single term. Furthermore, he concludes from Q. 60:12 that the term *zinā* refers at least to illicit *unmarried* sexual intercourse.<sup>62</sup> He cautiously suggests that it may also include adultery, i.e. illicit sexual intercourse for someone who is *married* (which would then make it almost synonymous with *fāḥisha*, though it is possible that only the latter includes same-sex relationships). In fact, I think there are good grounds for this expansive understanding of *zinā*, as suggested by the structure of the opening section of Q. 24. Verses 2–3 prescribe the punishment for *zinā*, which sets the subject matter for the rest of the opening section. Verses 4–10 then deal with the issue of anyone accusing chaste women of infidelity (*muḥṣanāt*, see n. 39), and particularly husbands accusing their wives, but in both cases without producing the requisite number of witnesses. The most natural reading would seem to be that verses 2–3 deal with *zinā* where there are a sufficient number of witnesses, and verses 4–10 deal with the same issue where there are an insufficient number. This is further suggested by the definite article in front of ‘punishment’ in verse 8, *And the punishment (al-‘adhāb) shall be averted from her* (i.e. the accused wife) *should she give four testimonies, swearing by God that he is among the liars*; this can only refer to the hundred-lashes ‘*adhāb*’ mentioned in verse 2 earlier for the *zānī* and *zāniya*, which concluded: *and let a group of the believers witness their punishment (adhābahumā)*.

To recap, I have so far tried to show that the *fāḥisha* of Q. 4:16, *nushūz* of Q. 4:34, and *zinā* in Q. 24:2–10 are all addressing the same issue.<sup>63</sup> Further, I have tried to show that both of the aforementioned verses in Q. 4 leave the corporal punishment for the crime undefined, and this is clarified in Q. 24 as being one hundred lashes (if there are four witnesses). If this argument is correct, it has a significant consequence for the ‘striking’ mentioned in Q. 4:34. If a husband is permitted to hit his wife on mere suspicion of adultery in Q. 4, then why would he need to provide four witnesses before she faces corporal punishment in Q. 24:2–6? The solution to which I am inclined is that just as the measures the husband may take against his wife in case of his suspecting her of being unfaithful increase in severity in Q. 4:34 (which indicates that these measures are to be adopted in the order listed in the verse, as the circumstances deteriorate – see below), so too should we understand that the level of suspicion or evidence has to be greater as he progresses to the next step. (Certainly, this is so in the case of the *sotah*, who is admonished if seen speaking to another man, but has sexual relations cut with her only when she has been alone with the man for a period of time long enough for a sexual act to have occurred



[m. Soṭah 1:2].) So, in the case of suspected *nushūz*, we must ask: What is the level of evidence required before the wife faces physical punishment? Q. 24 clarifies that four witnesses are required, which further suggests that this is a judicially executed punishment.<sup>64</sup>

If, however, the husband is the sole witness to his wife's unfaithfulness, then the only option available to him are the *li'ān* ('mutual cursing') laws in Q. 24:6–9. These govern how a man who claims to have witnessed his wife's adultery, but lacks the four witnesses mandated in Q. 4:15 and 24:4, should proceed:

*And as for those who accuse their wives and have no witnesses but themselves, then let the testimony of one of them be four testimonies, swearing by God that he is among the truthful,<sup>7</sup> and the fifth that the curse of God be upon him if he is among the liars.<sup>8</sup> And the punishment shall be averted from her should she give four testimonies, swearing by God that he is among the liars,<sup>9</sup> and the fifth that God's wrath shall come upon her if he is among the truthful.*

We will return to this ritual when we examine the case of the *sotah* below.

The full procedure is as shown below:

1. Husband suspects wife of *nushūz* → he warns her (Q. 4:34<sup>h</sup>);
2. The husband's evidence for his wife's *nushūz* increases, perhaps on account of her being alone with another man → he abandons her bed (Q. 4:34<sup>h</sup>);
3. The husband's evidence for his wife's *nushūz* increases further, in this case:
  - a. If there are four witnesses to her adultery (Q. 24:2) → she is beaten (Q. 4:34<sup>h</sup>) / hurt (Q. 4:16), i.e. lashed [by judicial authority] (Q. 24:2), following which she may not marry a believer (Q. 24:3);
  - b. If the husband is the only witness (Q. 24:6) → the *li'an* laws are applied (Q. 24:6–9).

### Figure 1: The Punishment for the Wife's *nushūz* in the Qur'an

Admittedly, this is not the only possible harmonisation between Q. 4:34 and Q. 24:2. Another possibility is that the permission given to the husband to strike his *nāshiz* wife should be understood to fall short of the punishment that the judge can authorise. Thus, Q. 4:34 provides non-legislative advice to a husband, whereas Q. 24:6–9 provide legislation where the case has been brought to trial. There are three considerations that might be cited in support of this. First, it coheres with the frequently encountered exegetical glosses that the striking permitted in Q. 4:34 is to be light, 'not severe' (*ghayr mubarrih*).<sup>65</sup> Second, Q. 4:34 uses the verb *ḍaraba*, 'to strike', to describe the

punishment (colon *h*: *wa'dribūhunna*, 'strike them'), whereas Q. 24 uses *jalada*, 'to lash' (v. 2), and '*adhāb*, 'torment' (vv. 2 and 8). Third, the verse following Q. 4:34 suggests that there is still a possibility of reconciliation between the couple after the striking: *and if you fear a breach between the two, then appoint an arbiter from his people and an arbiter from her people. If they desire reconciliation, God will bring about agreement between them* (v. 35). This is incompatible with step 3 as I have interpreted it in Figure 1 above, which marks a clear end to the relationship between the couple after the striking/lashing.

Overall, however, this harmonisation seems unsatisfactory. The condition that the beating be *ghayr mubarrih*, 'not severe', is in fact mentioned in exegetical and legal works in the context of lashings in Q. 24 as well as the striking in Q. 4,<sup>66</sup> albeit less frequently for the former. In any case, even if the exegetes and legal scholars generally qualified the 'striking' in Q. 4 but not the 'lashing' in Q. 24, this would only be further confirmation that in *their* reading these two were addressing different situations, and the present study is simply challenging that reading. As for the change in verb between Q. 4 and Q. 24 from *daraba*, 'to strike', to *jalada*, 'to lash', we should note that the Qur'an often uses several terms for the same legal issue, creating numerous synonyms across the text (such as the several terms for 'bridewealth').<sup>67</sup> In fact, the earliest lexicons define *jald* ('lashing') as a type of *darb* ('strike').<sup>68</sup> Finally, although Q. 4:35 is indeed incompatible with step 3 in Figure 1, it is not clear that verse 35 is intended as the next step for a struggling couple after the advice in verse 34. Rather, the passage in verses 34–35 is dealing with marital disharmony generally, first by addressing the issue of infidelity (v. 34), and then any other issues that might cause a separation between the husband and wife (v. 35).

### c) The Addressees in Q. 4:34

If we accept the first solution then, as represented in Figure 1, this also implies that the physical punishment in Q. 4:34 was never intended to be carried out by the husband, but rather by the judicial authorities on the basis of the evidence of four witnesses, or else four testimonies by the husband without the wife's rebuttal.<sup>69</sup> The obvious objection to such a reading is that we would have to infer different addressees in colon *h*: (*husbands!*) *admonish them, and (husbands!) leave them in their beds, and (ruler!) strike them*. This can be avoided by taking the entire colon to be addressed to the community as a whole, such that each member is to adopt whatever part of the procedure is suited to him or her. Thus, the admonishment could be performed by anyone, the sexual separation is for the husband (though see below), and the corporal punishment is for the ruler.<sup>70</sup> Indeed, there is good reason to believe that the address in cola *g–i* is *not* to the husband. The preceding cola *a–f* refer to both husbands and wives in the third person, before the shift to the second person in colon *g*: *as for those whose nushūz you fear (takhāfūna)*. The address continues in verse 35, and is clearly to the

community at large, with the husband and wife still referred to in the third person: *and if you fear (khiftum) a breach between the two, then appoint an arbiter from his people and an arbiter from her people ...*<sup>71</sup> Note the repetition of the phrase *you* (plural) *fear* (from *khāfa*) in verses 34<sup>s</sup> and 35, which serves to link the two addresses. This would be somewhat similar to Q. 2:229, which also switches from talking about spouses in the third person to a communal address, again with the verb *khāfa*: ... *except if they* (dual i.e. husband and wife) *fear that they would not uphold the limits set by God. So if you* (plural) *fear (khiftum) that they* (dual) *will not uphold the limits set by God ...* It seems that the involvement of the community in matters of marital disharmony is a recurring Qur'anic theme.

Indeed, it is worth noting here that communal addresses are a feature of Q. 4. Most clearly, this is seen in verse 5. The puzzling feature of this verse is that it refers to the orphans' wealth that is in their guardians' safekeeping until the former reach maturity as *your property (amwālakum)*. One way to understand this is that wealth in one sense belongs to the whole community, as wealth and its preservation has been made *a means of support (qiyām) for you* (v. 5) as a whole.<sup>72</sup> By individuals squandering wealth, the entire community is adversely affected, and therefore the entire community is addressed here.

Interestingly, there is a *ḥadīth* cluster that lends support to the argument that husbands are not the addressees in Q. 4:34. The wording here is of the version in °Abd al-Razzāq's *Muṣannaf*.<sup>73</sup>

°Umar b. Khaṭṭāb took a *nāshiz* woman and admonished (*wa°aḏa*) her, but she did not accept what was good, so he imprisoned her in a building which had a lot of dung for three days, then took her out, and said, 'What do you think [i.e. are you willing to abide by your husband]?' She said, 'O Commander of the Believers, no, by God! I have not found repose except these three days.' So °Umar said, 'Divorce her, curse you, even by her treasure (of dowry)!'

Two points stand out in this narration. First, the entire process of dealing with the *nāshiz* wife is here entrusted to the official leader of the community. It is the caliph °Umar, rather than the woman's husband, who both admonishes the woman and temporarily separates her from her husband. Second, the final step in the procedure, her being struck, is absent. This can easily be understood within the framework of the *nushūz* laws outlined in Figure 1; if neither four witnesses nor the husband had witnessed any infidelity on her part, moving beyond step 2 becomes unjustifiable. This is one of several examples we will presently consider of early Islamic literature preserving an understanding of *nushūz* consistent with the reading of the Qur'an I have proposed.

### *Nushūz* in Pre-Islamic and Early Islamic Literature

In what follows, I examine the signification of *nushūz* in Jāhili and early Islamic poetry, and other early Islamic literature outside the Qur'an. I do not include in this survey works of Islamic law and *tafsīr*, which have been amply studied elsewhere. Indeed, it is their interpretation of *nushūz* that the present study is challenging. As I hope to show, the use of *nushūz* outside the legal and exegetical works remains remarkably consistent in pre-Islamic and early Islamic literature. Invariably, it refers to a wife's desire to leave her husband and, significantly, it is repeatedly connected with her desiring another man.

Lexically, the core signification of the word *nushūz* is 'rising', and this is the meaning of its cognates elsewhere in the Qur'an (Q. 2:259 and Q. 58:11). The earliest Arabic lexicographer, Khalīl b. Aḥmad (d. 175/791, or 170/786, or 160/776), records the meaning 'she rebelled against her husband' (*ista'ṣat 'alā zawjihā*) in his *Kitāb al-'Ayn*,<sup>74</sup> though he does not specify what this rebellion consists of. This definition eventually gave way to *'aṣathu* (a cognate of Khalīl's *ista'ṣat*), which in addition to the earlier definition of 'rebellion' can also mean 'disobedience'. The earliest occurrence of this change is perhaps Ibn Sīdah's (d. 458/1066) *al-Muḥkam wa'l-muḥīṭ al-a'ẓam*. It was not until Ibn al-Athīr's (d. 606/1232–1233) *al-Nihāya fī gharīb al-ḥadīth wa'l-athar*, however, that this was glossed unambiguously as 'she stopped obeying him' (*kharajat 'an ṭā'atihi*). It is telling that this move happened in a work dedicated to the unusual vocabulary found in the *ḥadīth* corpus – it suggests that Ibn al-Athīr may have been trying to align the term's lexicographic definition with how it was understood in religious scholarly circles. After Ibn al-Athīr, his extended definition was taken up verbatim by subsequent lexicographers, including in Ibn Manẓūr's (d. 711/1311) celebrated *Lisān al-'Arab*.

To understand however what the earliest lexicographers may have intended by 'rebellion', as opposed to the later 'disobedience', let us turn our attention first to the poetry tradition. Our first example is from the opening verses of a *qaṣīda* attributed to al-A'ṣhā (d. after 3/625),<sup>75</sup> in which he describes his lover 'Ufayra (note that in several of these examples, the alternative *n-sh-ṣ* is used in place of *n-sh-z*<sup>76</sup>):

A shaykh bound her in marriage one night so she became /  
 A lady of Quḍā'a, visiting soothsayers, being *nāshish*.  
 So my arrow headed for her, and it has before her /  
 Pinched the likes of her from the women of the region.

The first thing to note here is that the *nushūz* described in the opening couplet clearly has nothing to do with obedience. Rather, it describes a woman trying to escape a

marriage with the aid of soothsayers.<sup>77</sup> Second, although she is *nāshiṣ* before her involvement with al-A<sup>c</sup>shā, an issue to which I shall return below, nonetheless it is significant that her state of *nushūz* is immediately associated with the hero of the poem finding his opportunity to seduce the unhappy wife.

Our second example is from Adham b. Abī al-Za<sup>c</sup>rā<sup>o</sup> (d. c. 133/750 CE), an Umayyad era poet whose verses are recorded in the *Ḥamāsa* of Abū Tammām (d. 231/845 or 232/846).<sup>78</sup>

Banī Khaybarī, desist from this foul speech /  
That has come from you, and see what its outcome is.  
For how many are the *nāshiṣ* we have, which you know /  
Once they leave, they are slow to stop.

Adham here compares the lampooning verses he and his tribe are capable of firing back at Banī Khaybarī to a *nāshiṣ*. As the second couplet depicts how unstoppable the mocking poetry will be, this requires us to understand *nāshiṣ* as a woman determined to leave her husband (rather than a woman who is disobedient). If, in addition, the poet associated the term *nāshiṣ* with a wife abandoning her husband for another man, this would certainly make the metaphor more vivid, evoking as it would the eager acceptance with which the poet's audience would receive the lampoon.

Our final example from poetry is an anonymous verse recorded in Quṭrub's (d. 206/821) *al-Azmina wa-talbiyat al-Jāhiliyya*.<sup>79</sup> This is of course much later than the previous two, and cannot be used to illuminate the meaning of *nushūz* in the Qur'an. It is included here merely to reinforce the degree of continuity in the term's use at least in the poetry tradition.

My wife became in the darkness of the night /  
The basest of my household, and there is no doubt she is *nāshiz*.

Quṭrub does not attribute the couplet to anyone. In addition to its composer being anonymous, the fact that it is not part of a poetry collection, but rather cited in a lexicographic work to provide supposedly philological evidence, significantly raises the possibility of forgery. Nonetheless, we should note that Quṭrub uses the verse not to adduce evidence for the meaning of *nāshiz*, but rather to give an example of how to say 'darkness of the night' (here, *aqṭā<sup>c</sup>in mina'l-layl*); the reference to *nushūz* is casual and assumes familiarity with the term. While it is possible that the poet, whoever he was, had the meaning of 'disobedience' or 'sexual refusal' in mind when describing his wife as *nāshiz*, it seems highly unlikely. There would be no need in this case to insist that there is 'no doubt' in her being *nāshiz* (cf. the fear or suspicion of *nushūz* in Q. 4:34), rather the phrase suggests that the poet has reasoned his way to this conclusion. The fact that in the 'darkness of the night' she is committing *nushūz* is something the poet has

had to deduce, and that it makes his wife 'the basest of my household' seems fairly conclusively to indicate her unfaithfulness.

We come now to the *ḥadīth* canon. I have tried to include every *ḥadīth* from which one can derive the meaning of *nushūz*.<sup>80</sup> To reiterate, I make no claim here that these traditions are historically attributable to the figures to whom their compilers trace them. Instead, as with the citation from Quṭrub, the primary aim here is to show the remarkable unity in the use of *nushūz* in the first two centuries of Islam. Nonetheless, as mentioned in the Introduction, the retention across these narrations of an understanding of *nushūz* that is so contrary to the legal and exegetical traditions but on the whole coheres with a close reading of the relevant Qur'anic verses indicates that there are grounds for dating them to a relatively early period in Islamic history.

There are in fact relatively few *ḥadīths* from which we can infer a definition of *nushūz*.<sup>81</sup> The first involves °Abd al-Raḥmān b. al-Zubayr al-Qurazī and his wife, who had been divorced by Rifā'a al-Qurazī before she married °Abd al-Raḥmān. She goes to the Prophet to seek an annulment of her marriage with °Abd al-Raḥmān, on the grounds that he is impotent. Hearing of this, °Abd al-Raḥmān relates his version of the situation to the Prophet (in the wording of al-Bukhārī): 'By God, O Messenger of God, she has told a lie! I can satisfy her, but she is *nāshiz*: she wants to go back to Rifā'a!'<sup>82</sup> I have tried to reflect in the translation that the phrase 'she wants to go back to Rifā'a' is clearly meant in the Arabic text as a gloss of *nāshiz*, there being no conjunction between *nāshiz* and the proceeding phrase: *lākin nahā nāshiz turīdu al-Rifā'a*. Thus, *nushūz* here is clearly connected to the wife desiring another man.<sup>83</sup>

The second *ḥadīth* records what happened when a certain °Abd Allāh b. al-A'war left for Hajar to earn a livelihood for his family. In his absence, his wife (Mu'ādha) fled his home, and sought refuge with a man called Muṭarrif b. Buḥsal.<sup>84</sup> On the basis of these acts, the narrator describes her as being *nāshiz* against her husband. Once again, *nushūz* means desiring to leave one's husband. Although the relationship between Muṭarrif and Mu'ādha in the story is not entirely clear, its nature is strongly hinted at the end of the narration, when °Abd Allāh expresses to the Prophet his willingness to take back and forgive his wife:

By your life, my love for Mu'ādha is not such /  
That a mischief-maker or time could change it;  
Nor the evil she committed when deviant men /  
Made her slip, when they were alone with her in my absence.

We once more observe the association between *nushūz* and the inappropriate involvement of the wife with another man. We also see here an instance of *nushūz* while the husband is away from home earning a livelihood, in line with the suggested meaning of the phrase *li'l-ghayb* in Q. 4:34 as argued above.

The final cluster of *ḥadīths* provides instructions for when it would be legitimate for the wife to be struck.<sup>85</sup> Most situate the *ḥadīths* during the Prophet's farewell sermon, during which he is reported to say (wording here taken from al-Tirmidhī's *Sunan*):<sup>86</sup>

Take my advice regarding being good to women, for they are captives<sup>87</sup> to you. You own nothing of them except that [advice] unless they commit a clear sexual transgression (*fāḥisha mubayyina*). So if they do, leave their beds (*fa'hjurūhunna fī'l-maḍāji'*), and strike them (*wa'dribūhunna*), not severely (*ghayra mubarrihin*), then if they obey you (*aṭa'nakum*), seek not a way against them (*lā tabghū 'alayhinna sabīlan*). Surely you have rights over your wives, and your wives have rights over you. As for your rights over your wives, [they are that] they should not allow anyone whom you dislike to tread your spreads (*yūṭi'na furushakum*), and not allow anyone whom you dislike to enter your houses ...

Although the *ḥadīth* does not mention *nushūz* per se, the punishments prescribed for the *fāḥisha mubayyina* ('clear sexual transgression') are identical to those prescribed for *nushūz* in the Qur'an,<sup>88</sup> and much of the diction is taken directly from Q. 4:34. This strongly suggests that the *ḥadīth* is equating the two, and therefore interpreting Qur'anic *nushūz* not as disobedience, but as marital infidelity.<sup>89</sup> Also noteworthy are the phrases 'they should not allow anyone whom you dislike to tread your spreads', which seems an odd inclusion in such a pithy *ḥadīth* about the rights spouses have over each other. In fact, it is strongly reminiscent of the prerequisite in Jewish law before the punishment of the *sotah*, or suspected adulteress, can progress beyond the admonishment stage, namely that 'if she went aside with him in secret and remained with him time enough to suffer defilement she may not consort with her husband' (m. *Soṭah* 1:2).<sup>90</sup> Indeed, there is a play on words that strongly indicates that the reason for the prohibition is the possibility of an illicit sexual encounter. *Furush*, here translated as 'spreads', is the plural of *firāsh*, which can mean 'a thing that is spread ... to sit or lie upon; bed; house; spouse'.<sup>91</sup> It is used in other *ḥadīths* explicitly to refer to the marriage bed, as in the *ḥadīth* 'The child is [attributed] to the marriage bed (*al-walad li'l-firāsh*)'.<sup>92</sup> In addition, the verb *waṭi'a* can mean 'to tread', or 'to have sexual intercourse (*jāma'a*)'.<sup>93</sup> Hence, the phrase *yūṭi'na furushakum* could be rendered 'allow (someone) to tread your spreads (i.e. enter your house)', or 'allow (someone) to have sexual intercourse in your bed (i.e. commit adultery)'.<sup>94</sup> The medieval *ḥadīth* commentaries overwhelmingly support the former meaning, mainly because of the qualifier 'anyone whom you dislike', which would be an odd qualification if the *ḥadīth* were speaking of adultery.<sup>95</sup> The wordplay on *furush* however suggests that the intended prohibition has been phrased euphemistically, and it is in light of that euphemism that the phrase 'anyone whom you dislike' should be understood.

### The Suspected Adulteress in Jewish Law

In the Pentateuch, the case of a woman suspected by her husband of having committed adultery is taken up in Numbers 5:11–31, which describes a ritual to be performed when the potentially cuckolded husband presents his wife before the priest. The Talmud describes such a woman as a *sotah*, literally ‘one going astray’, from the verb *śāṭāh*, used in Numbers 5:12, 19–20, and 29 to refer to the woman under suspicion. In the Biblical passage, the priest is to take some holy water and sprinkle dust from the tabernacle floor into it (v. 17), thus making it bitter. The trial continues as follows:

*19. Then the priest shall make her take an oath, saying, ‘If no man has lain with you, if you have not turned aside to uncleanness while under your husband’s authority, be immune to this water of bitterness that brings the curse. 20. But if you have gone astray while under your husband’s authority, if you have defiled yourself and some man other than your husband has had intercourse with you,’ 21. —let the priest make the woman take the oath of the curse and say to the woman—‘the Lord make you an execration and an oath among your people, when the Lord makes your uterus drop, your womb discharge; 22. now may this water that brings the curse enter your bowels and make your womb discharge, your uterus drop!’ And the woman shall say, ‘Amen. Amen.’ 23. Then the priest shall put these curses in writing, and wash them off into the water of bitterness. 24. He shall make the woman drink the water of bitterness that brings the curse, and the water that brings the curse shall enter her and cause bitter pain.*

These laws were expanded in the Mishnah. The husband must first warn his wife not to associate with the man whom he suspects her of having an illicit relationship with (m. Soṭah 1:1–2).<sup>96</sup> If she continues to associate with him, then her husband must abandon sexual relations with her (m. Soṭah 1:2).<sup>97</sup> If the husband desires to take matters further, he can then take her to the court to face the so-called ‘ordeal of the bitter waters’, as described above in Numbers 5 (m. Soṭah 1:3–4). The Mishnah records that in fact the *sotah* ritual is no longer carried out (m. Soṭah 9:9),<sup>98</sup> and indeed the practice may never actually have taken place.<sup>99</sup> Nonetheless, the sheer volume of the discussion that the *sotah* rules generated in the rabbinic corpus shows that the issue remained alive intellectually, if not in practice, and thus awareness of it could very easily have been part of the Qur’anic milieu.<sup>100</sup>

The parallels with Q. 4:34, *As for those whose nushūz you fear (takhāfūna), admonish them, and leave them in their beds, and strike them*, are patent. The first two steps that the suspicious husband is to take perfectly align with the Mishnah’s procedure for the



*sotah*. If we further compare the *sotah* ritual with the expanded Qur'anic legislation for suspected adultery, i.e. Q. 4:34 and Q. 24 together, as shown in Figure 1 above, the two sets of legislation overlap even more closely. In both Q. 24 and the Biblical and Mishnaic *sotah* trial, the matter is brought to a judicial authority (as suggested in Q. 24 by the testimonial language), and in both the matter is laid to rest upon the wife's acceptance of a curse that shall come into effect in case of her guilt. The common features of the two sets of laws are shown in Figure 2 below.

	Laws for the <i>sotah</i> , based on Numbers 5:11–31 and m. Soṭah.	Laws for the <i>nāshiz</i> wife, based on Q. 4:34 and Q. 24:2–10
1.	Husband suspects wife is <i>sotah</i> → he warns her	Husband suspects his wife is <i>nāshiz</i> → he warns her
2.	The husband's evidence for his wife's being <i>sotah</i> increases on account of her being alone with another man → he abandons sexual relations with her	The husband's evidence for his wife's being <i>nāshiz</i> increases → he abandons her bed
3a.	–	The husband's evidence for his wife's <i>nushūz</i> increases further, in this case: If there are four witnesses to her adultery → she is beaten, i.e. lashed; If the husband is the only witness → the couple engage in a ritual of mutual cursing, accepting God's curse/wrath upon themselves if they are lying.
3b.	The temple priest places a curse on the woman, which she accepts, and which will come into effect if she has been adulterous.	

**Figure 2: A Comparison of the Qur'an's Wifely *nushūz* Laws with the Biblical and Mishnaic *sotah* Laws**

There is no entry in step 3a for the *sotah* laws as they only cover the situation where the wife's adultery has not been proven, whereas the Qur'an, in both Q. 4 and 24, does cover this scenario.<sup>101</sup> Leaving that step aside, the commonality between the two law codes is truly remarkable, and strongly suggests that the *nushūz* laws are ultimately grounded in the *sotah* laws, however indirectly. This provides further corroboration that the *nāshiz* wife is indeed, like the *sotah*, a woman suspected of adultery.

Admittedly, there are differences that this synoptic presentation overlooks. The Mishnah requires the admonishment to be performed in front of two witnesses (m. Soṭah 1:1). It spells out precisely what the admonishment should consist in, namely his saying to his wife, 'Speak not with such-a-one' (m. Soṭah 1:2). It defines exactly when the matter should be escalated to the next stage of cutting of sexual relations with

the wife, namely, 'If she went aside with him [the man her husband has forbidden her to speak to] in secret and remained with him time enough to suffer defilement' (m. Soṭah 1:2). These details correspond with similar simplifications to Jewish law that other scholars have argued for elsewhere in the Qur'an.<sup>102</sup>

Mishnaic law is explicit regarding the order in which the husband is to proceed: he is to first admonish, then withhold sexual relations, and then take his wife to the temple to drink the bitter water. The Qur'an, on the other hand, uses the conjunction *wa-* in listing the three steps (*admonish them, and [wa-] leave them in their beds, and [wa-] strike them*), thus leaving open the possibility that all three might be effected concurrently. Nonetheless, most commentators and jurists understood that the measures are to be carried out in the order listed, affording the wife an opportunity to repent from her *nushūz* at each step.<sup>103</sup> This is surely a correct reading of the verse, which orders the three steps in a clear crescendo, concluding with, *Then if they obey you, seek not a way against them*. Clearly, if the wife's desistance from *nushūz* is effected through the admonishment, or by abandoning her bed, there is no cause to proceed to strike her.

A significant point of variance is that the Biblical and Mishnaic laws are ultimately intended to determine whether or not the wife actually has been unfaithful to her husband, culminating as they do in her drinking the cursed bitter water that will settle the affair. The Qur'anic wifely *nushūz* laws in Q. 4, on the other hand, aim not at determining her guilt, but simply preventing her continued *nushūz*. How are we to explain this functional difference? In fact, although the Biblical basis (Numbers 5) of the Mishnaic law is indeed intended to determine the wife's guilt, in the expanded version of the laws in the Mishnah the first step of warning the wife clearly aims to discourage her from infidelity before the need to have recourse to the bitter water ritual.<sup>104</sup>

In conclusion, it is possible to make a convincing case for reading the Qur'an as building on Jewish Law in Q. 4:34 and Q. 24:2–10, in a way that encompasses greater gender equity (cf. the Qur'an's introduction of the possibility of husbandly *nushūz* above), in that both the husband and the wife accept God's curse on themselves if they are being dishonest in their accusations of unfaithfulness or denials of those accusations.

### The Meaning of *nushūz*

Defining *nushūz* as marital infidelity fits the Qur'anic passages and the rabbinic intertexts I have discussed very well. The situation is slightly more complicated in the poetry tradition and *ḥadīth* literature. The verses attributed to al-A'ashā and the *ḥadīth* report attributed to 'Abd al-Rahmān b. al-Zubayr al-Quraẓī both suggest, or certainly can be read to mean, that the woman in question was already *nāshiz* before she

commenced any sort of illicit relationship. Indeed, in the *ḥadīth* of °Abd al-Raḥmān, there is no indication that an illicit relationship took place at all, just that his wife desired to leave him for another man. On the other hand, the correlation in the extra-Qur'anic citations between a woman being *nāshiz* and the involvement, existing or prospective, of another man is very high: it is clear from al-A°shā, the *ḥadīth* of °Abd al-Raḥmān, the *ḥadīth* of °Abd Allāh b. al-A°war, and the *ḥadīth* of the farewell sermon; it is strongly suggested by the verse recorded by Quṭrub, and at least discernible from the verses of Adham b. Abī al-Za°rā°. Taking all this data into consideration, as well as the lexicographic tradition, the earliest works of which define *nushūz* as 'rebellion', it seems that *nushūz* was approximately akin to the phrase 'running away' as might be said of a spouse in modern English: the phrase 'his wife ran away' can simply mean she abandoned him, but suggests quite strongly that she became involved with another man.<sup>105</sup> Indeed, rendering *nushūz* as 'wanting to run away' fits the data remarkably well. For example, the verses of al-A°shā can now be rendered:

A shaykh bound her in marriage one night so she became /  
 A lady of Quḍā°a, visiting soothsayers, *wanting to run away*.  
 So my arrow headed for her, and it has before her /  
 Pinched the likes of her from the women of the region.

Similarly, the *ḥadīth* of °Abd al-Raḥmān now becomes: 'By God, O Messenger of God, she has told a lie! I can satisfy her, but she *wants to run away*: she wants to go back to Rifā°a.'

It seems then that the core idea expressed by the term was simply a woman wanting to leave her husband,<sup>106</sup> and it came to be used as a figure of speech for her leaving her husband for another man, and therefore as a euphemism for her committing adultery. It is this latter euphemistic use that the Qur'an is employing (without *necessarily* implying that the wife is actually planning on physically abandoning the husband, or vice versa). Indeed, the Qur'an frequently uses euphemistic language for sexual acts, e.g. *you touched women* (*lāmastumu'l-nisā°*, Q. 4:43 and Q. 5:56), *don't approach them* (feminine plural) (*lā taqrabūhunna*, Q. 2:187), *the slander* (*al-ifk*, i.e. the accusation of adultery against one of the Prophet's wives, Q. 24:11). It seems that this is the case with *nushūz*, too.

## Conclusion

I have tried to show in this article that the correct reading of Q. 4:34 is that men are financially responsible (*qawwāmūn*) for women rather than in charge of them, that there is no requirement in the verse for women to be obedient to their husbands, and that *nushūz* refers to spousal infidelity rather than to a disobedient wife. This is clear from a close reading of the two *nushūz* passages in the Qur'an, and from the use of *nushūz* in

pre-Islamic and early Islamic literature, including the lexicographic tradition, the poetry tradition, and the *ḥadīth* corpus.


I have argued that the consequence of this reading is that Q. 4:34 needs to be understood alongside other verses in the Qur'an that prescribe punishment for adulterers, especially Q. 24:2–10. Therefore, the complete conditions and procedure for the final stage in the punishment of the *nāshiz* wife in Q. 4:34, that she be 'struck', should be taken from Q. 24, where it is made clear that such matters be dealt with judicially rather than privately, that four witnesses are required, and that in their absence the only recourse the husband has is to a ritual of mutual cursing, *li'ān*. There is thus no provision for the husband taking matters into his own hand. Indeed, a close reading of the verse suggests that, in fact, it is not husbands per se who are addressed in Q. 4:34, but the community as a whole. As mentioned, this is not the only possible harmonisation of the various verses: it is possible that Q. 4:34 permits a husband who has strong evidence of his wife's *nushūz* to strike her in a way that falls short of the judicially authorised hundred-lash punishment for adultery in Q. 24. Essentially, we have a choice between interpreting Q. 4:34 in light of Q. 24 – made all the more plausible by the fact that the two suras, as shown, are legislatively linked in numerous ways – or differentiating between the 'striking' in Q. 4:34 and the 'lashing' in Q. 24:2. Most intriguingly, the legislation that results from Q. 4:34 being read alongside Q. 24:1–10 is remarkably close to the Mishnaic laws for the *sotah*, a woman suspected of adultery, suggesting that the Qur'an is legislating for the same issue.

We should also briefly consider why, if the interpretation of Q. 4:34 presented in this paper is accurate, the verse was understood so differently in the legal and exegetical tradition. In fact, this study is one of several now that have argued for a disjunction between Qur'anic and early Islamic law.<sup>107</sup> This gap has been cited by several sceptical scholars as evidence that the traditional narrative of Islam's beginnings can no longer be sustained, for why would the early legal tradition depart so decisively from Qur'anic legislation if the latter (as the traditional narrative would have it) was already textually fixed and accepted as binding scripture?<sup>108</sup>

I believe it remains perfectly possible to account for this gap within a traditional narrative on the origins of Islam and the codification of the Qur'an, and explain discrepancies between Qur'anic and early Islamic Law on a case-by-case basis. Let me make two observations specific to Q. 4:34. First, as argued above, at its core the term seems to signify a woman not wishing to remain with her husband, and only by euphemistic extension does it refer to sexual infidelity, akin to the English phrase 'running away'. The early lexicographers seem to have attempted to capture this ambiguity by defining *nushūz* broadly as 'rebellion', which aptly illustrates how misunderstanding of these passages may have arisen. One can thus envision a situation, as argued for by Nicolai Sinai, in which adherents to the new and rapidly spreading

faith have access to the faith's scripture, but some of the nuance, in this case the euphemistic use of *nushūz*, has been lost.<sup>109</sup> Second, the legal scholars and exegetes were products of their time, who brought assumptions to the scripture they regarded as authoritative, and whose outlook was shaped by their cultural milieu. Ultimately, it should not surprise us that at least occasionally their interpretation of scripture owed more to the androcentric world they inhabited than to a close reading of the text itself.<sup>110</sup>

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## NOTES

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1 al-Ṭabarī, *Jāmi' al-bayān*, vol. 6, p. 688. The *ḥadīth* is only found in *tafsīr* works. Some versions add, 'and that which God wanted is better', e.g. Muqātil, *Tafsīr Muqātil*, vol. 1, p. 370. For a discussion on the tension between the traditional understanding of the Qur'anic verse and the various *ḥadīths*, see Chaudhry, "I Wanted One Thing".

2 Bauer, *Gender Hierarchy*, p. 212.

3 It is not my aim here to provide a comprehensive survey of the various ways this verse has been interpreted in the modern (or indeed premodern) era. For an overview of reformist interpretations and modern apologetics, see Ali, *Sexual Ethics*, pp. 123–125, and Devos, 'The Feminist Challenge', p. 18.

4 I take for granted here the general authenticity of Jāhili and early Islamic poetry, particularly the well-known Abbasid-era collections (as opposed to isolated lines of poetry in works of grammar and *tafsīr*, adduced to make a specific point) (see Bauer, 'The Relevance of Early Arabic Poetry', pp. 701–702). On the trickier issue of later interpolations into the corpus, see Sinai, *Rain-Giver*, pp. 2–3. A key concern is whether in the course of the transmission and collection of a broadly authentic corpus existing verses might have been reshaped, or new verses inserted. Their usefulness as philological witnesses to pre-Islamic Arabia would thereby be compromised. Sinai argues that such changes were not pervasive, and suggests controls for determining which lines of poetry should be considered suspect later interpolations. In the present article, I flag such concerns where they arise when discussing the issue of *nushūz*.

5 Sinai argues from similar disconnects between the Qur'an and the early Islamic legal tradition that the closure of the Qur'anic text antedates the legal positions – had the text been amenable to

change, we would have expected it to reflect the emerging legal doctrines more closely (see Sinai, 'When did the Consonantal Skeleton ...? Part I', p. 289).

6 The phrase *bi-mā* is usually translated 'because'/'since'/'as' (e.g. Jones), and occasionally 'through what' (e.g. Abdel Haleem). The former translation treats the particle *mā* as *maṣḍariyya* (cf. Q. 2:61), and the latter as *mawṣūla*, or a relative pronoun (cf. Q. 2:4). To determine the correct translation here, we should first of all note that the three occurrences of *bi-mā* in the verse are unlikely to have separate senses, as cola *b* and *c* (the first two uses of *bi-mā*) are joined by a coordinating conjunction, and colon *f* (the third use) is in a parallel construction with cola *b* and *c*: *Men are ... bi-mā ... and bi-mā ... Righteous women are ... bi-mā ...* The structure thus indicates that *mā* is either *maṣḍariyya* or *mawṣūla* throughout. We can rule out *mā* being a relative pronoun here, as this does not fit the final use; if the *mā* were a relative pronoun, this part of the verse would translate as: *Righteous women ... are guarding in [their husbands'] absence by that which (bi-mā) God has guarded*. In other words, through something that God has guarded, they guard their chastity. This is grammatically possible, but highly unclear. The exegetes who support this reading have then to take several steps to clarify what the verse is saying. Perhaps God has guarded their dowry, in the sense of guaranteeing it for them, and through this they are able to guard themselves in their husbands' absence (e.g. al-Ḥalabī, *al-Durr al-maṣūn*, vol. 3, p. 671). Such stretches are not necessary if we take the *mā* as *maṣḍariyya* throughout, in which case the link between *ḥāfiẓāt* and *ḥāfiẓa* in colon *f* becomes clear: righteous women should guard their chastity in their husbands' absence *because* God has guarded their chastity by enabling them to marry. But just because the *mā* is *maṣḍariyya* does not mean that *bi-mā* has to be translated as 'because' (the way it often is elsewhere in the Qur'an – e.g. Q. 2:10). If it were so translated, cola *a–c* would read, *Men are qawwāmūn of women ... because they spend from their wealth*. In this case, *qawwāmūn* could not simply mean 'financially responsible' for their wives (see below), as cola *a* and *c* would then be propositionally equivalent, which cannot be if *c* is providing the justification for *a*. In fact, the particle *mā* being *maṣḍariyya* simply means we may substitute the verbal noun (*maṣḍar*) in place of *mā* and the preceding verb, which then may or may not be best translated using 'because'. Consider Q. 12:3, *We are recounting to you the finest of stories, through Our inspiring (bi-mā awḥaynā) you with this Qur'an*. Here, *bi-mā awḥaynā* is equivalent to *bi-ihā'inā*, which in this context can hardly mean 'because We have inspired' – it only makes sense as 'through Our inspiring'. Returning to Q. 4:34, using 'through' rather than 'because' in cola *b* and *c* is clearly the best translation strategy, as it avoids prematurely constraining the meaning of *qawwāmūn*.

7 Barlas suggests that this could refer to the relative material superiority men have over each other, so the verse is instructing them to spend according to their means (Barlas, *Believing Women*, p. 186). To my mind, this is not a plausible reading. First, it requires the particle *mā* to be understood as a relative pronoun, and as I argued in n. 6 above, that is unlikely. Second, verse 34 clearly echoes the diction of verse 32, where the material disparity is gendered (see below for a more detailed discussion).

8 Bauer, *Gender Hierarchy*, p. 169. This dual sense of the word *qawwāmūn* is the opinion, for example, of al-Qurṭubī, who connects it both with men's obligation to financially spend on their wives, but also on their obligation to discipline the latter in matters of religion (al-Qurṭubī, *al-Jāmi'*, vol. 6, pp. 278, 280).

9 For example, Ibn Kathīr, *Tafsīr*, vol. 2, p. 292.

10 Ali, *Sexual Ethics*, p. 117, notes that such an interpretation is 'fitting with the Qur'anic portrayal of women in other verses as full human beings and partners in the relationship of marriage', for an example of which see the discussion below on Q. 4:1. See also Mubarak, 'Breaking the Interpretive Monopoly', p. 275. There is also a view that the verse may not be talking about husbands and wives at all (the verse does not say *husbands are qawwāmūn of wives*), but rather placing a general duty of care on the males of the household towards the

females. (Ali, 'Religious Practices', notes that verse 34 is not explicitly talking about husbands and wives; see also Wadud, *Qur'an and Woman*, p. 72.) This is unlikely, as the verse goes on to speak of abandoning the women's beds as a punishment, and the following verse (v. 35) begins, *And if you fear a breach between the two, then appoint an arbiter from his people and an arbiter from her people*.

11 Ali, *Sexual Ethics*, p. 118; Barlas, *Believing Women*, p. 186. The exegetes also frequently connect the *tafḍīl* ('favour') mentioned in Q. 4:34<sup>b</sup> with Q. 2:228, which decrees that *men have a degree (daraja) over them [their wives]*. However, from its context the latter verse is quite clearly referring to additional rights that men have over women in regards to the divorce process. See Wadud, *Qur'an and Woman*, pp. 66–69, and Barlas, *Believing Women*, pp. 192–197.

12 Chaudhry also attempts to place verse 34 into its literary context, but extends the subsection into which it is embedded as far back as verse 32 only (Chaudhry, *Domestic Violence*, pp. 24–25).

13 See Zahniser, 'Major Transitions', p. 30; Klar, 'Text-Critical Approaches to Sura Structure. Part One', pp. 8–15 and p. 26; and Sinai, 'Towards a Compositional Grammar'.

14 The phrase *wa-lā taqtulū anfusakum*, literally *do not kill yourselves* is occasionally understood in *tafsīr* literature as a prohibition against suicide (see Sayis, *Tafsīr āyāt al-Qur'ān*, vol. 1, p. 273). This is almost certainly incorrect. *Anfusukum* ('yourselves') is a common idiom in Qur'anic Arabic for 'each other' (cf. Q. 2:84–85, Q. 9:36, Q. 24:61, and Q. 49:11). The structure of the verse also weighs against the phrase being interpreted as forbidding suicide. The two negative commands are parallel, *lā ta'kulū amwālakum* (literally, *do not consume your wealth*) and *wa-lā taqtulū anfusakum* (*do not kill yourselves*); the pronoun 'your' in the first prohibition is clearly best understood as 'each other's', and it should be similarly translated in the second prohibition. Finally, the context of the verse also suggests that we understand this prohibition in the manner here suggested, as both prohibitions in the verse relate to acting wrongfully against other members of the community.

15 al-Sayis, *Tafsīr āyāt al-Qur'ān*, vol. 1, p. 105.

16 Chaudhry, *Domestic Violence*, p. 26.

17 This is the most plausible rendering of the verse. Translators generally struggle with *li-kull* (literally, 'for each'). Translations often either make little sense (e.g. *The Study Quran: To each We have appointed heirs for what parents and kinsfolk leave*) or interpret the phrase as a contraction of *li-kulli shay'in* ('for everything') (e.g. Abdel Haleem: *We have appointed heirs for everything that parents and close relatives leave behind*). However, my preferred rendering continues the diction from verse 32: *li'l-rijāl (for men) ... li'l-nisā' (for women)* (v. 32), *li-kull (of each)* (v. 33). This maintains a uniform linguistic topic or theme across verses 32–34: men and women. Moreover, verse 33 seems to be reiterating the law introduced in verse 7, with which verses 32–33 share considerable diction, that both men and women have inheritance rights. Ibn ʿĀshūr gives the reading preferred here as one of the possible ways to parse this verse (Ibn ʿĀshūr, *al-Taḥrīr wa'l-tanwīr*, vol. 5, p. 33).

18 See Bauer, *Gender Hierarchy*, p. 169, and Chaudhry, *Domestic Violence*, p. 27.

19 Bauer, *Gender Hierarchy*, p. 169; Ali, *Sexual Ethics*, p. 118; Wadud, *Qur'an and Woman*, pp. 70–71.

20 All three authors nonetheless include it in section 1 of the sura due to its making mention of women (and, for Lowry, 'sexual defilement'), a prominent topic of this first section. See Iṣlāḥī, *Tadabbur-i Qur'ān*, vol. 2, p. 294; Iṣlāḥī's structural analysis is summarised by Mir, *Coherence in the Qur'an*, pp. 46–47; Zahniser, 'Sūra as Guidance', pp. 74–76; and Lowry, 'A Guide to the Legal Material'. Farrin, on the other hand, notes that the end of his second section (vv. 43–104) provides legislation for performing the ritual prayer during war, and so includes verse 43 (which

gives rules for ritual purity) in the second section too (Farrin, 'Sūrat Al-Nisā', pp. 3–6). As Zahniser notes, an abrupt change in subject matter to prayer may be a transitioning device in both Q. 2 and here in Q. 4:43 (Zahniser, 'Sūra as Guidance', p. 74 n. 14, and Zahniser, 'Major Transitions', p. 40). In any case, the difference is not material to the present study.

21 Iṣlāḥī calls this section *iṣlāḥ-i mu'āsharat* ('rectification of society', Iṣlāḥī, *Tadabbur-i Qur'ān*, vol. 2, p. 304); Zahniser calls it the 'Women Block' (Zahniser, 'Sūra as Guidance', p. 74); Lowry calls it the 'Legislation Section' (Lowry, 'A Guide to the Legal Material'); and Farrin calls it 'Reciprocity and Justice' (Farrin, 'Sūrat Al-Nisā', p. 2).

22 This is the interpretation of the verse argued for by Iṣlāḥī (*Tadabbur-i Qur'ān*, vol. 2, p. 252). See also Mir, *Understanding the Islamic Scripture*, pp. 99–100, 108–109). The verse reads: *If you fear that you will not deal fairly with the orphans, then marry such women as seem good to you, two, three, or four ...* It is frequently encountered in classical Islam texts dealing with problematic verses, for it is not clear what the connection is between dealing fairly with orphans and marrying women. See, for example, Ibn Qutayba, *Ta'wīl*, p. 26. Traditional *mufasssirs* and modern scholars have generally understood this to mean that one should marry the orphans themselves. However, Iṣlāḥī's interpretation is certainly the correct one. First, the verse speaks of marrying women (*nisā'*) rather than girls (*banāt*). Second, Iṣlāḥī's interpretation does not create a lacuna regarding what to do about orphan boys whom one fears one will not be able to deal with justly. Third, the passage goes on to insist that women be given their dowry (v. 4), but that money be held back from orphaned children until they come of age (vv. 5–6). Fourth, and most compellingly, the orphans and the adult women of their household (i.e. their mothers) are treated as separate categories in verse 127, *They seek a ruling from you concerning women (nisā')*. Say, 'God gives you a ruling concerning them, and that which has been recited to you in the scripture concerning the orphans of the women (*yatāmā'l-nisā'*) ...' (See Harvey, *The Qur'an and the Just Society*, p. 164.) Finally, we should note that whereas in English we speak of 'women and children' as the parties who may need to be cared for when a man dies, the Arabic equivalent is *women and orphans (yatāmā)*, as lexically in Arabic an *orphan (yatīm)* is someone who has lost his or her father (see, for example, Ibn Manẓūr, *Lisān al-'Arab*, 'y-t-m'). We can see this clearly, for example, in a verse attributed to 'Antara (d. c. 600 CE), as he threatens the Banū 'Āmir with war:

And the women (*nisā'*) will scream from fear of being taken as war prisoners /  
And they will weep over the small orphans (*yatāmā*).

Admittedly, the poem from which this line is taken is missing from Ahlwardt's critical edition of 'Antara's *diwān*, and is instead collected in Cheikho, *Shu'arā' al-Naṣrāniyya*, p. 869 (without citing his source for the poem), which considerably reduces the likelihood of it being authentically attributable to 'Antara (see Jones, 'Antara'). Furthermore, the poem seems to contain clear echoes of Qur'anic diction, such as: 'An oath by the one who gives life and gives death (*amāta wa-aḥyā*)', cf Q. 53:44, suggesting a post-Islamic date. Nonetheless, the cumulative evidence suggests clearly that where we see *nisā'* and *yatāmā* contrasted in Q. 4, we should no more take them to refer to the same group as we would 'women and children' in English idiom.

23 Lowry, 'A Guide to the Legal Material'.

24 The significance of the opening verse to understanding the content of Q. 4 is argued for by al-Farāhī, commenting on Q. 4:34: 'The great matter which He expresses in *Sūrat al-Nisā'* ... is that the sacred laws are based on us being parts of a single self (*naḥs wāhida*). So if we rectify our affair, we will become as a single self. So the governance (*ḥukūma*) of men over women is not a type of authoritarianism, but rather service of some for others, like the parts of a single body' (al-Farāhī, *Ta'liqāt*, vol. 1, pp. 34–35. See also Mir, *Understanding the Islamic Scripture*, pp. 95–970). See also Harvey, *The Qur'an and the Just Society*, pp. 142–143.

25 al-Rāzī, *Mafātīḥ al-ghayb*, Q. 4:1; Mir, *Understanding the Islamic Scripture*, p. 95. Bauer highlights some phraseological differences between Q. 4:1 and the other three verses



listed here, but these seem to be inconsequential for the purpose of intra-Qur'anic hermeneutics (e.g. the use of the plural *anfus* in Q. 16:72, Q. 30:21, and Q. 42:11, versus the singular *nafs* in Q. 4:1) (Bauer, *Gender Hierarchy*, p. 109). Note that Speyer is open to the possibility that the *nafs wāḥida* is referring to the creation of a genderless ideal form, from which men and women were both subsequently created, an idea current in pre-Islamic Greek thought and in rabbinic writings (Speyer, *Die biblischen Erzählungen*, p. 61. See also Bronson, 'Imagining the Primordial Woman', p. 131, who supports this idea, and Bauer, *Gender Hierarchy*, p. 108).

26 Farrin, 'Sūrat Al-Nisā' and the Centrality of Justice', pp. 3–4. Although Farrin spots the significance of the opening verse for the section, he tries to make it part of an unconvincing ring structure, rather than an aid to interpreting the more difficult verses in the sura.

27 For a detailed breakdown of Q. 4's legislative content, see Lowry, 'A Guide to the Legal Material'.

28 In fact, the husband's financial responsibility to his wife is alluded to in the sura prior to verse 34 (and indeed elsewhere in the Qur'an, e.g. Q. 2:233), though nowhere else is the wife's duty of obedience mentioned. In the verses on inheritance laws in the opening section (vv. 11–12), we are told that the basis for the division between the inheritors is that those who are *aqrabu lakum naf'an* (nearer to you in benefit, v. 11), i.e. the ones you have financially benefitted from more, should inherit more from you upon your death. Hence, the husband's inheriting more from the wife than she does from the husband (v. 12) implies that she should have benefitted more from him financially during their marriage than he from her. See Ghāmīdī, *al-Bayān*, vol. 1, pp. 457–458, n. 29.

29 Zahniser, 'Sūra as Guidance', p. 77.

30 See, for example, al-Zabīdī, *Tāj al-ʿarūs*, 'q-w-m'. A minor possible exception to this is al-Zamakhsharī's *Asās al-balāgha*, 'q-w-m', in which he quotes a verse of poetry from al-Shammākh (d. c. 30/650):

He remained in the desert of al-Busayṭa, ruling /  
over it (*qā'imān ʿalayhā*) like the ruler (*qiyām*) of a crowned Persian.

He adduces this to show that *qāma ʿalā* has the meaning of ruling over a people. But in fact the *Dīwān* of al-Shammākh has *šā'imān ʿalayhi* in place of *qā'imān ʿalayhā*, and the *Dīwān*'s editor notes that al-Zamakhsharī's variant is unique to him (al-Shammākh, *Dīwān*, p. 94).

31 Muqātil, *Tafsīr Muqātil*, vol. 1, p. 371.

32 See al-Ṭabarī, *Jamīʿ al-bayān*, vol. 6, p. 691.

33 Ali, *Sexual Ethics*, p. 120; Ali, 'Religious Practices'; Barlas, *Believing Women*, p. 187. See also Chaudhry, *Domestic Violence*, p. 47 n. 86.

34 For example, Ibn ʿĀshūr, *al-Taḥrīr wa'l-tanwīr*, vol. 5, p. 40.

35 Wadud, *Qur'an and Woman*, p. 77. Note that Q. 2:223 is sometimes adduced as giving husbands sexual dominion over their wives (Bauer, *Gender Hierarchy*, p. 167, and Ali, *Sexual Ethics*, p. 129–131), which certainly would be a stark instance of wives being required to submit and be obedient to their husbands. The passage (vv. 223–24) is as follows:

<sup>223</sup>They ask you concerning menstruation. Say, 'It is a hurt, so keep away from women during menses, and do not approach them until they are purified. And when they are purified, go in unto them in the way God has commanded you.' Truly God loves those who repent, and He loves those who purify themselves.  
<sup>224</sup>Your women are a tilth to you, so go unto your tilth as (annā) you will, but send forth for your souls. And fear God and know that you shall meet Him, and give glad tidings to the believers.

The particle *annā* in verse 223, here translated ‘as’, is often translated as ‘when’ or ‘whenever’, which could indeed raise questions of sexual consent. Although this matter requires more research, I am sceptical that *annā* can carry the latter meanings. Certainly, late lexicographic sources give three definitions of *annā*: *kayfa* (‘how’), *min ayna* (‘whence’), and *matā* (‘when’) (see, for example, al-Zabīdī, *Tāj al-‘arūs*, ‘*’-n-n*’). But in fact the earliest lexicographic sources, both dictionaries and works devoted to particles, give only two definitions of *annā*: *kayfa* (‘how’), *min ayna* (‘whence’ or ‘from where’) (see Khalīl b. Aḥmad, *Kitāb al-‘Ayn*, ‘*al-lafīf min nūn*’, vol. 8, p. 399, and al-Zajjājī [d. 337/949], *Ḥurūf al-ma‘ānī*, p. 61). It may well be that the later sources incorporated the meaning of *matā* (‘when’) from the exegetical tradition which, as far back as al-Ṭabarī, suggested that *annā* could mean *matā* in verse 223. This would then be an instance of a speculative exegetical gloss eventually influencing the lexicographic tradition. (See also the discussion on *nushūz* below). Indeed, works that give all three possibilities for *annā* are able to adduce philological evidence from the Qur’an or Jāhili poetry only for the senses of *kayfa* and *min ayna* – see, for example, the popular modern *balāgha* textbook by Aḥmad b. Ibrāhīm, *Jawāhir al-balāgha*, p. 82. The philological evidence for the sense of *matā*, where it is produced, is invariably ambiguous, such that the text in question could just as well just carry the meaning of *kayfa*; for example, al-Baghdādī, *Khizānat al-adab*, vol. 7, p. 95, interprets the first hemistich in Labīd’s verse *fa-aṣbaḥta annā ta’tihā taltabis bihā*, as: ‘So you were such that whenever (*annā*) you would approach it (i.e. some affair), you would get entangled in it.’ The poet is describing here a difficult situation that his addressee has to navigate. As is clear, the particle *annā* here could just as easily be translated as ‘however’ or ‘from wherever’.

The parable in verse 223, *Your women are a tilth to you, so go unto your tilth as (annā) you will*, is providing a justification for the rulings in the previous verse, which prohibits sex during a woman’s menstruation (just as a field should only be planted in the appropriate season), and prohibits non-coital sex (just as the seed should only fall on fertile soil) (see Iṣlāḥī, *Tadabbur-i Qur’ān*, vol. 1, p. 526). The verse’s concern is thus what is permissible with regards to sexual enjoyment between a husband and wife. Reading issues of consent into it is only possible after a thorough literary de-contextualisation of the verse. Note finally that Rabbinic sources, just like the Qur’an, also use an allegory to illustrate permissible sexual activity with one’s wife. Thus in b. Ned 20a Rabbi Yoḥanan ben Dehavai prohibits that husbands ‘overtake their tables’ during sex, i.e. that they pedicate. His opinion is rejected however in b. Ned 20b, and an allegory is produced to counter him: ‘A man may do whatever he pleases with his wife [at intercourse]: A parable; Meat which comes from the abattoir, may be eaten salted, roasted, cooked or seethed; so with fish from the fishmonger.’ Much of Q. 2, including the section in which verse 223 is situated, is in ‘close dialogue with Late Antique sexual purity regulations’ (Zellentin, ‘Gentile Purity Law’, pp. 165–169). For a comparative study of laws regarding pedication in early Islam and rabbinic Judaism, see Maghen, *After Hardship*, pp. 161–209, esp. pp. 182–183, where this verse is briefly discussed.

36 On the importance of obedience to the Prophet in the Medinan suras, see Marshall, *God, Muhammad and the Unbelievers*, pp. 165–176.

37 Bauer, *Gender Hierarchy*, pp. 170, 205.

38 This is also the interpretation favoured by Paret, *Der Koran*, p. 94. Many classical commentators add ‘and their husband’s wealth’ to their interpretation (Ali, *Sexual Ethics*, p. 119). A few (e.g. al-Māturidī, *Ta’wīlāt*, vol. 1, p. 414) include that it might mean guarding their husband’s secrets. A list of exegetes who understood *li’l-ghayb* to mean ‘in their [husband’s] absence’, which I take to be the evident meaning here, is given by Chaudhry, *Domestic Violence*, p. 228 app. 8. Chaudhry’s assertion that the literal translation of the verse is ‘what God would have them guard’ could only have been tenable if the two prepositions in the verse were transposed (*ḥāfiẓāt bi’l-ghaybi li-mā ḥafiẓa Allāh*), but even then it could hardly be the ‘literal translation of the Arabic’ (Chaudhry, *Domestic Violence*, p. 27, incl. n. 8. See also Ali, *Sexual Ethics*, p. 119, for a progressive reading of the phrase).

39 There are still interpretive issues to be resolved regarding the meaning of *muḥṣinūn* men and *muḥṣanāt* women as used in Q. 4:24–25 and Q. 5:5, but chastity, in the sense of abiding by acceptable sexual mores, is clearly a key component. This is the conclusion reached by Motzki, 'Wal-muḥṣanātu mina n-nisā'i', p. 205, and accepted by Witztum: 'Q 4:24 Revisited', pp. 4–5. Watt's and Burton's analyses of the *ḥ-ṣ-n* root are discussed in Lowry, *Early Islamic Legal Theory*, p. 99 n. 68 – both are compatible with construing the word as essentially meaning 'chaste' in the sense defined here.

40 Note that the prepositions *bi-* and *li-* may both be used to indicate a time or place of an event, and thus *bi'l-ghaybi* can have the same meaning as *li'l-ghaybi* (Ibn Hishām, *Mughnī al-labīb*, vol. 2, p. 132, and vol. 2, p. 171).

41 Nasr et al., *The Study Quran*, p. 604.

42 While the verse does not explicitly mention *trade* as the purpose of travel, that is the clear implication: [*Charity is*] *for the poor who are constrained in the way of God (fī sabīli'llāh), who are not able to travel in the earth (darban fī'l-arḍ) ....* Evidently, the believers under consideration here are impoverished because they are not able to 'travel in the earth', i.e. trade.

43 Fears of women's unfaithfulness during long absences of their husbands is not, of course, a uniquely Qur'anic idea. Indeed, it has an interesting Biblical precedence. Proverbs 7 warns at length against being seduced by women, one of whom – whose husband is, as in the Qur'anic verse, away on a trade journey – is heard to whisper to the foolish youth being taken in by her:

<sup>18</sup> 'Come, let us take our fill of love until morning; /  
let us delight ourselves with love.

<sup>19</sup> For my husband is not at home /  
he has gone on a long journey.

<sup>20</sup> He took a bag of money with him /  
he will not come home until the full moon.'

For a discussion on what the motives of the voice in Proverbs 7 who is reporting this attempted seduction might be, see Brenner, 'Proverbs 1–9', pp. 113–126, and the response by Bellis, 'The Gender and Motives'.

44 For the development of warfare in the Qur'an, see Marshall, *God, Muhammad and the Unbelievers*.

45 Serjeant, 'Early Arabic Prose', pp. 121–122.

46 Bauer, *Gender Hierarchy*, pp. 169–170; Ali, *Sexual Ethics*, p. 120; Ali, *Marriage and Slavery*, p. 80; Ali, 'Religious Practices' (where she points out that the Qur'an does not clearly define *nushūz*, despite the near consensus of the exegetical and legal tradition); Chaudhry, *Domestic Violence*, p. 63; Wizārat al-Awqāf, *al-Mawsū'a al-fiqhiyya*, vol. 40, pp. 287–290.

47 I owe this insight to Abdel Haleem's analysis, as presented by Nouman Ali Khan; see his 'Hitting Women', at 8:40.

48 Bauer, *Gender Hierarchy*, p. 252; Ali, *Sexual Ethics*, p. 120; Ali, 'Religious Practices'.

49 Bauer, *Gender Hierarchy*, 206, and Chaudhry, *Domestic Violence*, p. 229 app. 13.

50 Several sources, for example, Ibn Sīda, *al-Muḥkam wa'l-muḥīt*, 'kh-w-f' (vol. 5, p. 307), attribute to 'Alī b. al-Mubārak/Hāzim al-Liḥyānī (fl. second half second/eighth century AH) the possibility of using *khawf* to mean 'ilm. This is presumably from his work *al-Nawādir*, though I have not been able to verify this.

51 Bauer, *Gender Hierarchy*, p. 206, where she cites the Shii exegete Muḥammad b. Mas'ūd al-<sup>c</sup>Ayyāshī (d. c. 320/932) as a rare exception who discusses male and female *nushūz* together; Chaudhry, *Domestic Violence*, p. 99 n. 11, where she cites al-Zajjāj as exceptionally

providing a uniform definition of husbandly and wifely *nushūz*; Ali, *Sexual Ethics*, p. 122; see also ‘Aṭā’<sup>3</sup>’s opinion in al-Ṭabarī, *Jāmi‘ al-bayān*, Q. 3:34, that ‘*nushūz* is that she wants to leave him, and for the man likewise’.

52 Ali, *Marriage and Slavery*, p. 80, and Ali, *Sexual Ethics*, p. 121.

53 I am grateful to Behnam Sadeghi for sharing his personal notes on *nushūz* in which he made these observations.

54 Traditionally, Q. 4:24 was understood as explicitly prohibiting polyandry. A new reading of the verse is offered by Witztum, ‘Q 4:24 Revisited’.

55 A possible objection to both of these suggestions is that they assume a greater degree of interconnectedness between Qur’anic laws than is warranted. While it is true that Qur’anic legislation remains under-theorised, making it difficult to conclude the extent to which various laws mutually cohere, there are certainly clear instances of where the Qur’an develops or assumes earlier legislation. See the following section on Q. 4 and Q. 24, for instance.

56 al-Juday‘, *al-Minhāj al-mukhtaṣar*, p. 167.

57 The feminine form *nāshiza* is attested in early Islamic literature, but *nāshiz* is by far the more common other than in Ḥanafī legal texts (Ali, *Marriage and Slavery*, p. 80).

58 Zellentin, ‘Law in the Medinan Qur’an’.

59 This passage is traditionally connected with the *Sīra* story about the false rumours that were circulated concerning the Prophet’s wife ‘Ā’isha. While I see no reason to doubt that this is the background, one need not accept it for the purpose of this analysis. For the literary function of the story in the corpus, as a way of cementing the parallels between ‘Ā’isha and Mary, see Robinson, *Christ in Islam and Christianity*, pp. 159–160.

60 See n. 62 below.

61 Holger Zellentin, ‘Gentile Purity Law’, pp. 155–165.

62 Zellentin thereby shows that *zinā* is a subcategory of *fāḥisha*. Nonetheless, he holds that Q. 4:15–16 is dealing specifically with illicit same-sex relationships (‘Gentile Purity Law’, p. 160). He interprets the switch from the feminine plural in verse 15 (*those of your women* [plural] *who commit a fāḥisha ... confine them to their houses until death takes them, or until God appoints for them another way*) to the masculine/mixed dual in verse 16 (*And if two of those among you are guilty thereof ... hurt them both, but if they repent and make amends, then let them be*) as indicating legislation for illicit same-sex relationships between women first, and then men. We should also note, in support of Zellentin, the seemingly free interchange between the dual and plural in Q. 38:21–23 when referring to two brothers who brought their dispute to David (see al-Māturīdī, *Ta’wīlāt*, vol. 4, p. 264, for an attempt to explain the alternation between the plural and dual pronouns in the story). Yet the switch from the feminine plural in verse 15 to the masculine/mixed dual in verse 16 still calls for an explanation – why not contrast the feminine dual with the masculine/mixed dual, or the feminine plural with the masculine/mixed plural? Zellentin notes that the feminine dual relative pronoun is not attested elsewhere in the Qur’an (‘Gentile Purity Law’, p. 200 n. 215), it may therefore be that the consistent use of feminine dual relative pronouns is a feature of classical rather than Qur’anic Arabic. This remains speculative, however.

The *mufasssirs* offered various reconciliations of the two verses, including Zellentin’s preferred option, and also that perhaps verse 15 is addressing the issue of adulterous women, whereas verse 16 legislates for pre-marital fornication. There is, however, nothing in the text that supports the latter view: see Nasr et al., *The Study Quran*, pp. 195–196; al-Sayis, *Tafsīr āyāt al-Qur’ān*, vol. 1, pp. 70–71; Lowry, *Early Islamic Legal Theory*, pp. 93–104; and Fadl, *The Search for Beauty*, pp. 111–112.

I would suggest that if we understand the masculine/mixed dual in verse 16 to be referring to male-female illicit sexual relationships, we can then suggest an alternative explanation for the feminine plural in verse 15 by postulating that it refers to a type of *fāhisha* that was unique to women, and for which confinement to houses is an explicable punishment. It seems that prostitution is a good fit. This is Ghāmīdī's suggestion, viz. that verse 15 is speaking of prostitution, and verse 16 of all other illicit sexual acts (Ghāmīdī, *al-Bayān*, vol. 1, pp. 463–464). The punishment for prostitution – *confine them to their houses until death takes them, or until God appoints for them a way* (*yaj'ala'llāhu lahunna sabīlan*) – would then be designed to stop the crime; it ensures these women are not sexually available. The separate punishment for women prostitutes also fits with the legislation given in Q. 4:25, which prescribes a lighter punishment for ex-concubines (compared to women who are not from a slave background) who after marriage commit sexual misdeeds. Note also that, as Zellentin notes, rabbinic punishment for repeat offenders against sexual morality is also house arrest (Zellentin, 'Gentile Purity Law', p. 161).

The *mufasssirs* have generally understood the final phrase, *until God appoints for them a way*, as meaning 'until legislation is given concerning them'. This would be very unusual: nowhere else does the Qur'an proclaim that it is *going* to legislate on a certain issue at some indefinite time in the future. Furthermore, the phrase *ja'ala li ... sabīlan* ('he made **for** [someone] a way') contrasts with *ja'ala 'alā ... sabīlan* ('he made **against** [someone] a way'). The former is used in a positive sense (e.g. Q. 43:10), and the latter in a negative (e.g. Q. 4:90 and 141). This suggests that the minority interpretation of this phrase in Q. 4:15 among the *mufasssirs*, that it refers to such women finding marriage partners, may be correct; see, for example, al-Zamakhsharī, *al-Kashshāf*, p. 226. We should note that Qur'anic law either discourages or places severe restrictions on marriage to concubines (Q. 4:25) and those who have been found guilty of adultery (Q. 24:3). The expression in verse 15, *until God appoints for them a way*, may simply indicate the social unlikelihood of someone who has been a prostitute finding a marriage partner, unless God wills otherwise.

63 cf. Qatāda's opinion that '*Fāhisha* is *nushūz*' (°Abd al-Razzāq, *al-Muṣannaf*, vol. 6, p. 323, no. 11020).

64 Additional plausibility may be provided to this argument if one accepts, as argued in n. 62, that that Q. 4:15 is legislating for prostitutes. In this case, there are three verses that deal with sexual offences in Q. 4: verse 15 (prostitutes), verse 16 (any two fornicators/adulterers), and verse 34 (a wife suspected of being adulterous), this last category being a subset of the middle one. Now, the four witnesses rule is given for prostitutes only (v. 15), yet by Q. 24 it is assumed that the Qur'an's audience should have known that four witnesses are required for accusing *any* two people of adultery, including when a husband accuses his wife. This shows that the four-witness rule, legislated for convicting prostitutes, was supposed to be understood as legislated for all adulterers (see Lowry, *Early Islamic Legal Theory*, p. 94, who also regards this inference as reasonable), including the case dealt with in Q. 4:34. Note that Barlas quotes Rafī Ullah Shahab as connecting verses 34 and 15 in Q. 4 on the basis that he regards both as addressing the same issue: a woman's sexual transgression. While I would rather connect verse 34 to verse 16, the basic insight is sound: once *nushūz* in verse 34 is recognised as referring to sexual transgression, then it has to be read alongside other verses that legislate for the same (Barlas, *Believing Women*, pp. 188–189).

65 Bauer, *Gender Hierarchy*, pp. 211–212.

66 See, for example, Mālik, *al-Mudawwana*, vol. 16, p. 49.

67 Motzki, 'Bridewealth'.

68 Khalīl, *Kitāb al-°ayn*, 'j-d-l' (vol. 6, p. 81).

69 This view is also espoused by several reformist scholars: see Bauer, *Gender Hierarchy*, p. 247, and Fadl, *The Search for Beauty*, p. 112.

70 As mentioned in n. 10, some scholars have questioned the general view that cola *a-f* are about the husband and wife. While I am not persuaded by these challenges to the standard reading, I am nonetheless arguing against the view that the subsequent cola are particularly addressed to the husband.

71 Also, the verses leading up to verse 34 are addressed to the community (Wadud, *Qur'an and Woman*, p. 72).

72 This is the interpretation offered by Ghāmidī, *al-Bayān*, vol. 1, p. 448.

73 °Abd al-Razzāq, *al-Muṣannaf*, vol. 6, p. 504, no. 11851. See also Ibn Abī Shayba, *al-Muṣannaf*, vol. 6, pp. 505–506, no. 18725.

74 Khalīl, *Kitāb al-°Ayn*, 'n-sh-z' (vol. 6, p. 232).

75 al-A°shā, *Dīwān*, p. 149, and A°shā, *Gedichte*, p. 108.

76 This is a variant of *nāshiz*, along with *nāshis*. See, for example, Khalīl, *Kitāb al-°Ayn*, at 'sh-s-n' (vol. 6, p. 226).

77 This is universally how the verse was understood by its commentators. See al-A°shā, *Dīwān*, p. 148.

78 Abu Tammām, *al-Ḥamāsa*, vol. 2, p. 188.

79 Quṭrub, *al-Azmina*, p. 50.

80 Needless to say, given the vastness of the *ḥadīth* corpus, it remains very possible there are *ḥadīths* that have escaped my attention.

81 By far the most common occurrence of the term in *ḥadīths* is in relation to the incident of the Prophet reportedly wishing to divorce his wife Sawda. In order to remain married, she proposes to the Prophet that she relinquish some of her conjugal rights, upon which Q. 4:128 (discussed above) is revealed: *If a wife fears nushūz or desertion (i°rād) from her husband, there is no blame upon them should they come to an accord, for an accord is better ...* (see Ali, *Sexual Ethics*, p. 121, and Ali, *Marriage and Slavery*, p. 128). These narrations are sometimes generalised, without the Prophet or Sawda being mentioned, for example, the narration from °Ā°isha in al-Bukhārī, *al-Ṣaḥīḥ*, 'al-Maḏālim' 11, *Bāb Idhā ḥallallahu min ḡulmihi fa-lā ruḡa fīhi*, no. 2450; 'al-Ṣulḥ' 4, *Bāb Qawl Allāh ta°ālā an yuṣliḥa baynahumā ṣulḥan wa'l-ṣulḥu khayr*, no. 2649; 'Tafsīr al-Qur°ān', no. 4601; 'al-Nikāḥ' 95, *Bāb 'Wa-in imra°atan khāfat min ba°lihā nushūzan aw i°rādan*', no. 5206. Such narrations are not helpful in determining the meaning of *nushūz*, however, as Q. 4:128, the verse these *ḥadīths* connect to the incident, mentions both *nushūz* and *i°rād*, and the Prophet's reported attitude to Sawda may well have been considered to fall into the latter category. Note also the *ḥadīths* of Jamīla the wife of Thābit b. Qays, who desired to divorce him because she did not like him. See, for example, °Abd al-Razzāq, *al-Muṣannaf*, vol. 6, p. 483, no. 11759. There is no mention in any of the *ḥadīths* of her being *nāshiz* as a result of this attitude, but later commentators describe her as such (e.g. al-Birmāwī, *al-Lāmi° al-ṣabīḥ*, vol. 13, p. 401). This *ḥadīth* cluster will also therefore be disregarded. Finally, the early *ḥadīth* collections mixed Prophetic *ḥadīths* with the legal opinions of later authorities (e.g. al-Zuhri's opinion in °Abd al-Razzāq, *al-Muṣannaf*, vol. 6, p. 495, no. 11815). The latter genre of reports, being legal opinions and often aligned with legal works in their definition of *nushūz*, are therefore also not part of the present survey.

82 al-Bukhārī, *al-Ṣaḥīḥ*, 'al-Libās' 23, *Bāb Thiyaḇ al-khuḍr*, no. 5825.

83 It should also be noted the *ḥadīths* mention that °Abd al-Raḥmān was severely beating his wife. However, it is not clear from the *ḥadīth* whether °Abd al-Raḥmān regarded this beating as enacting the legislation in Q. 4:34, or whether this was of his own accord.

84 Aḥmad b. Ḥanbal, *al-Musnad*, vol. 11, p. 481, no. 6886.

85 There are other *ḥadīths* reporting the Prophet's assent to women being struck. However, none of them connect the husband's striking their wives to *nushūz* either explicitly or (as in the farewell sermon considered here) implicitly. The early jurists nonetheless considered all *ḥadīths* that mention beating as connected to the issue of *nushūz*. See Kecia Ali, 'The Best of You Will Not Strike'. For several *ḥadīths* that explicitly forbid hitting, see Mubarak, 'Breaking the Interpretive Monopoly', p. 277.

86 al-Tirmidhī, *al-Jāmi'*, 'al-Riḍā' 11, *Bāb Mā jā'a fi ḥaqq al-mar'a 'alā zawjihā*, no. 1163; 'al-Tafsīr' 9, no. 3087; 'Abd al-Razzāq, *al-Muṣannaf*, vol. 6, p. 173, no. 10391; Ibn Abī Shayba, *al-Musnad*, vol. 2, p. 56, no. 562; Ibn Mājah, *al-Sunan*, *al-nikāḥ* 3, no. 1851; al-Nasā'ī, *al-Sunan al-kubrā*, no. 9124.

87 This is incorrectly vocalised in several editions of al-Tirmidhī's *al-Jāmi'* as 'awānun, giving the impression that it is from the root 'w-n. In fact, it is a defective noun plural of 'āniya, i.e. 'awānin, from the root 'n-w. It should also be noted that the tenor of the *ḥadīth* makes it clear that the phrase 'they are captives to you' is not intended to establish a norm, but rather to evoke sympathy for the social reality of the wife's situation.

88 As noted by Ali, *Sexual Ethics*, p. 185 n. 31.

89 This was noticed by al-Qurṭubī, who avoids connecting the *ḥadīth* to Qur'anic *nushūz* by interpreting the *fāḥisha mubayyina* in the *ḥadīth* as meaning 'allowing someone the husband disapproves of to enter the house' (al-Qurṭubī, *al-Jāmi'*, vol. 6, p. 286). For how the *ḥadīth* was understood outside the Qur'anic exegetical tradition too, see Marín, 'Disciplining Wives', p. 37).

90 An echo of this is retained in the legal tradition. In the *Mudawwana*, such an act was explicitly linked to *nushūz* (Mālik, *al-Mudawwana*, vol. 5, p. 23).

91 Lane, *Lexicon*, 'firāsh', and al-Zabīdī, *Tāj al-'arūs*, 'firāsh'.

92 For example, al-Bukhārī, *Ṣaḥīḥ*, 'Ḥudūd' 23, *Bāb Li'l-'āhir al-ḥajar*, no. 6818.

93 al-Zabīdī, *Tāj al-'arūs*, 'w-ṭ-ṣ'.

94 This is also the interpretation supported by Serjeant, 'Early Arabic Prose', pp. 121–122, on the basis of other historical reports that women in pre-Islamic Arabia would take lovers in their husbands' absence.

95 For example, al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, vol. 8, p. 183.

96 The rabbis derived the necessity of the husband's warning his wife from reinterpreting Numbers 5:14, 'If a spirit of jealousy (*qin'ā*) comes on him, and he is jealous (*wā-qinnē*) of his wife who has defiled herself, or if a spirit of jealousy (*qin'ā*) comes on him and he is jealous (*wā-qinnē*) of his wife, though she has not defiled herself ...' The rabbis reinterpreted the multiply recurring 'jealousy' (*qin'ā*) in the verse as meaning that he must 'warn' her (*meqanne*). See Rosen-Zvi, *The Mishnaic Sotah Ritual*, pp. 22–23.

97 There are various possible explanations for this prohibition. It may be that if she has had an illicit sexual relationship, she has defiled herself and thus is technically already divorced from the husband, thus making sexual relations between the two proscribed. Alternatively, as the bitter waters will kill her if she has been unfaithful, the husband's withdrawal from her may be to prevent him impregnating her and thus exposing his legitimate child to danger. Finally, the prohibition from sexual intercourse may be related to the old rabbinic idea (which did not endure) that sexual relations interfere with the divorce process – for example if a man writes a *get* (a bill of divorce), and then has sexual relations with the wife, he can't then deliver his *get* to her. Instead, he has to write a new one if he wishes to proceed with the divorce. See b. Giṭ 79b. I am grateful to Holger Zellentin for the first two suggestions, and to Hallel Baitner for the last.

98 Rosen-Zvi, *The Mishnaic Sotah Ritual*, pp. 176–180.

99 Rosen-Zvi, *The Mishnaic Sotah Ritual*, pp. 153–164.

100 The most obvious Mishnaic reference in the Qur'an is Q. 5:32 (see Sinai, *The Qur'an*, pp. 139–140).

101 The Biblical punishment for adultery is that both the adulterer and the adulteress are to be put to death (Leviticus 20:10; Deuteronomy 22:22–24) on the basis of two witnesses (Deuteronomy 19:15).

102 See for example Zellentin, *The Qur'an's Legal Culture*, p. 139, incl. n. 14.

103 Bauer, *Gender Hierarchy*, pp. 212–213.

104 Rosen-Zvi, *The Mishnaic Sotah Ritual*, pp. 27–37, esp. 36–37. Alternative explanations of the purpose of the warning have also been suggested. Shivi Greenfield proposes that it is to register the husband's initial suspicion in a legally determinable way (Greenfield, 'The Theater of Deviance', p. 114). Similar explanations for the requirement of a pre-ritual warning of some sort can be traced as far back as Philo and the Dead Sea Scrolls community (see Rosen-Zvi, *The Mishnaic Sotah Ritual*, pp. 22–23). This is not mutually exclusive of the rationale for the admonishment stage offered here.

105 Both definitions are found in the *OED*, 'run away'.

106 See also the story of Sukayna bt al-Ḥusayn, whose mother-in-law Ramla bt al-Zubayr described her as *nāshiz* to the caliph ʿAbd al-Malik b. Marwān when Sukayna left Ramla's son and demanded a divorce. See al-Zubayr, *Jamharat nasab Quraysh*, vol. 1, pp. 243–244.

107 See, for example, Crone, 'Two Legal Problems', and Witztum, 'Q 4:24 Revisited'.

108 For a summary of the problem, in particular Crone's contribution to the debate, see Sinai, 'When did the Consonantal Skeleton ...? Part I', pp. 288–289.

109 Sinai calls this a 'disembedding' (see Sinai, 'When did the Consonantal Skeleton ...? Part I', pp. 288–292).

110 See Chaudhry, 'Marital Discord in Qur'anic Exegesis', pp. 325–326. Bauer also recognises the role that social milieu would have played in exegetical and legal discussions, but nonetheless argues, in contrast to the view presented in this study, that the hierarchical reading of Q. 4:34 is the correct one (Bauer, *Gender Hierarchy*, p. 165).

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