



# Contextualization of the Concept of Nusyūz in Indonesian Marriage Law: Critical Discourse Analysis

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## Abstract

This research examines the contextualization of the concept of nusyūz in marriage law in Indonesia and the implications for its resolution regarding the act of beating through a discourse analysis approach. The main focus of the research is to analyze how the interpretation and application of the concept of nusyūz originating from Islamic law is adapted in the context of modern Indonesian marriage law, especially regarding the "beating" solution mentioned in classical texts. Using critical discourse analysis methods, this research explores how discourse about nusyūz is formed and interpreted in various legal texts, fiqh literature, and judicial practices in Indonesia. The research results show a shift in the interpretation of the nusyūz concept from a textual to a contextual understanding that is more in line with the principles of gender equality and human rights. Research finds that "beating" solutions need to be recontextualized with more constructive approaches such as mediation and marriage counseling. These findings contribute to the development of Indonesian marriage laws that are more gender responsive while still respecting Islamic values.

**Keywords:** *Contextualization, Concept Nusyuz, Marriage Law, Critical Disacourse Analysis*

## Introduction

The concept of nushūz in Islamic marriage law has long been the subject of debate, especially regarding its interpretation and application in a modern context. In Indonesia, as the country with the largest Muslim population in the world, the discourse about nusyūz has significant implications for marital life and husband-wife relations. This research seeks to examine how the concept of nusyūz which is rooted in the classical fiqh tradition is contextualized in the contemporary Indonesian marriage law system.

The urgency of this research lies in the need to reconstruct an understanding of nusyūz that is more in line with the principles of gender equality and human rights, without ignoring fundamental Islamic values. In particular, this research pays attention to the aspect of "beating" as one of the solutions mentioned in classical texts, which needs to be reexamined for its relevance in the contemporary context.

Etymologically Nusyūz comes from Arabic which means "high" or "defiant". In classical jurisprudence literature, this concept generally refers to a wife's defiance of her husband, although some scholars also recognize the possibility of nushūz on the part of the husband. Classical fuqaha such as Imam Syafi'i and Imam Malik provide various interpretations regarding the criteria and consequences of nusyūz.

Contemporary scholars such as Amina Wadud and Asma Barlas have offered a rereading of the concept of nusyūz with a more contextual approach. They emphasized the importance of understanding this concept within the framework of equal and just husband-wife relations

Compilation of Islamic Law (KHI) and Law no. 1 of 1974 concerning Marriage is the main legal basis for handling marriage cases in Indonesia. These two legal instruments reflect efforts to harmonize Islamic law and modern values.

## **Method**

This research uses a critical discourse analysis (CDA) method with a qualitative approach. Data is collected through:

1. Analysis of legal documents and legislation
2. Study of classical and contemporary jurisprudence literature
3. Review the decision of the Religious Court regarding the nusyūz case
4. In-depth interviews with judges, academics and legal practitioners

Data analysis was carried out using Norman Fairclough's theoretical framework which emphasizes three dimensions of analysis: text, discursive practice, and social practice.

## **Findings**

Here are some nusyūz from wives:

1. Refusing husband's invitation to have sex

Marriage is a bond of faithfulness between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on the Almighty God in which there is a responsibility from both parties. When two people are married, it is permissible for them to have sexual intercourse. The hope is that every married couple wants to achieve satisfaction in their marriage. A satisfying marriage is a form of success in a husband and wife relationship in the household. However, in marriage there will be problems that lead to nusyūz. Even nusyūz has been discussed in the Qur'an. The Qur'an that discusses the problem of

nusyūz of husband and wife is in Q.S. an-Nisa / 4:34 and 128. In Q.S. an-Nisa / 4:34

Asbabu al-nuzūl of the verse according to Ahmad Mustafa al-Maragi in his interpretation, that once a woman came and complained about her problem to the Messenger of Allah. She said that her face was slapped by her husband, who was one of the Ansar friends. The purpose of the woman's arrival was to seek revenge for her husband's actions in slapping her face. At that time the Messenger of Allah granted her request, because there was no legal certainty from Allah SWT. In connection with this incident, Allah SWT revealed the 34th (thirty-fourth) verse as a confirmation of the husband's rights and obligations to educate his disobedient wife. The wife's unwillingness to obey her husband's desire to have sexual intercourse, or the wife does not immediately carry out her husband's orders and does not immediately respond when her husband calls her to have sexual intercourse. The understanding that must be built in this matter is that the wife's reluctance to have sexual intercourse with her husband is not caused by any sharia reasons, such as the wife being in poor health. Sixth, there is a change in the wife's attitude from good to bad, from gentle to rough. In this case, the husband as head of the household must respond to it with full responsibility.

Talking about nusyūz, there are two hadiths from Aisyah ra that discuss it specifically using the term nusyūz. Both hadiths talk about the wife's concern about her husband who will ignore her (husband's nusyūz), because he is no longer liked, because he is old or something else, so that the wife is afraid of being divorced. Meanwhile, regarding the wife's nusyūz, there is no specific hadith that uses the term nusyūz, but scholars use several hadiths related to the wife's disobedience or ignoring her husband's orders, and refusing the husband's request to have sexual intercourse, as legal evidence about the wife's nusyūz to her husband. Hadiths about nusyūz are actually always related to the rights and obligations of husband and wife. This is because nusyūz is interpreted as disobedience, avoiding the obligations that are carried out, whether carried out by the husband or wife.

From the explanation of the husband and wife relationship in the context of the hadith, it can be seen that the first and second hadith (hadith from 'Aisyah ra) illustrate that it is possible that the nusyūz carried out by a husband towards his wife takes the form of ignoring the wife's right to have a night shift (sexual intercourse), not ignoring the wife's right to receive other forms of income, such as food, clothing and shelter.

Islam also allows committing acts of violence as ta'dib in the household. The violence referred to here is not violence carried out out of anger or violence that injures or (even) kills. However, the form of violence in question is forms of physical action that are permitted by Sharia, when Sharia does not allow or even prohibit it then it is a crime.

Ash-Shafi'i explained that hitting is permissible but leaving it is better. In Jumal Al-Jalalain's side note, it is also stated that each step must be based on clarity of the problem and must not be based on mere conjecture. The right of persuasion and physical sanctions in Tafsir Ibn Kathir is explained that if you are worried about nusyūz from your wives, then advise them, and separate yourself in their beds, if your advice is ignored then do not talk to them without ending your marriage with them, and if all that does not work, then you may beat them with blows that do not damage parts of their bodies especially their faces and heads

## 2. Leaving the house without the husband's permission

A wife leaving the shared residence without her husband's permission or without a reason permitted by the sharia, but if the wife's leaving the shared residence is related to fulfilling her duties and obligations as a housewife, such as shopping at the supermarket for family needs, or buying school uniforms for her children, then the wife's leaving her husband's house in such circumstances, even without her husband's permission, cannot be said to be a nusyūz act, because in this case there is something that is darūriyat related to the continuation of life in the family.

A husband's permission is very important for a wife in her household life, especially when traveling, because it has been taught in Islam both in the Qur'an, hadith and Fiqh, to find out whether a wife always asks her husband's permission when she wants to leave the house. The wife's reluctance to move to a residence that has been provided by her husband. Such a wife's attitude is not immediately judged as an act of nusyūz, because the wife's unwillingness to move to the residence that has been provided by her husband may have certain factors, such as trauma to the location where the house is located. In such a situation, the husband must act wisely, with the wife's attitude. The wife's actions are only said to be nusyūz when she does not want to move to the residence that has been provided by her husband without any reason justified by religion.

Talking about husband's permission, in its existence it is often associated with taking part in Islamic law. This means that husband's permission is often seen as a law for a wife in her ability to do something or leave something because of the absence of permission from her husband. The issue of husband's permission seems to be a dilemma in itself because the author has not found a single article that discusses this topic specifically so that there is no clear point and explicit explanation regarding this matter whether husband's permission is an absolute law because of the encouragement of sharia or even becomes a rule that arises on the basis of the morality of marriage between husband and wife itself. The discussion about obtaining husband's permission is also often juxtaposed with the dimension of obedience where obtaining husband's permission is seen as a form of obedience to husband. In fiqh literature, permission from husband is described in various forms as will be explained by the author in the following discussion.

Husband's permission for wife can be categorized into 3 things: First, permission to leave the house, information in the Qur'an, Allah SWT. Says in Q.S. al-Ahzab / 33:33.

From the verse above, it is understood that the place and duties of a wife are at home. In relation to the verse above, the majority of scholars (including scholars of the Hanafi, Maliki, Syafi'i, and Hambali schools) agree that a wife must obey her husband in matters of permission to leave the house. The wife is obliged to stay in her husband's house as long as she has received her dowry. The wife is not allowed to go out without her husband's permission. From this verse, it is understood that one form of a wife fulfilling her husband's rights is illustrated by the wife's obedience to permission to leave the house. Sheikh al-Islam Ibn Taymiyyah said, "It is not lawful for a wife to leave the house except with her husband's permission." He also said, "If the wife leaves her husband's house without his permission, it means that she has committed *nusyuz* (disobedience), disobedience to Allah Ta'ala.

### 3. Leaving the Duties

The wife's selfish and arbitrary attitude towards her husband, because the husband lives in his wife's house with the permission and wishes of his wife. This attitude arises because the wife feels she has more power than her husband, because the husband's status is only a guest at his wife's house. This situation is usually experienced by those who just started a household and the husband is not yet able to provide a place for his wife to live.

The wife is obliged to fulfill her husband's rights, obey his commands such as matters related to the household, for example the husband does not allow someone to enter without his permission, this provision applies if the person who comes is not the wife's mahram, this is intended so that the peace of the household is maintained. A wife may not neglect her obligations to her husband even though her husband has *nusyūz* because there is no such recommendation in Q.S. an-Nisa' verse 128. If the wife neglects her obligations then she has *nusyūz* as explained in Q.S. al-Nisa' verse 34. Regarding the solution to the husband's *nusyūz*, except making an agreement to reduce each other's rights and obligations as a way of peace.

Abandoning an obligation, such as not fulfilling maintenance. This is widely discussed in Imamiyah fiqh, namely about violating the obligation of maintenance, namely not providing maintenance intentionally even though he knows and is able to support his family. This is as implied in the word of Allah SWT, Q.S. at-Thalaq/65:7 that it has become a religious decree that a husband must provide for food, drink, clothing and accommodation for his wife and children according to his ability.

#### 4. Betraying your husband

Infidelity is a breach of trust. This occurs when one or both partners no longer honor the agreement to be faithful. The causes of infidelity are very diverse and are usually not only caused by one thing. Dissatisfaction in marriage is the main cause that is often complained about by couples, but there are also other factors outside of marriage that influence the entry of a third person into the marriage, the needs of husband and wife in the household are not met.

The wife's needs include the need for affection, conversation, honesty and openness, financial commitment and family commitment.

While the husband's needs include sexual fulfillment, recreational companionship, having an attractive spouse, domestic support and admiration.

#### B. How to Resolve Nusyūz

If it appears from a woman that you are worried about her disobedience, then advise her. If she openly opposes it, then stay away from her if that can change her, if not, then the husband may hit her with a blow that does not hurt. That is some of the instructions on how to resolve a wife's nusyūz towards her husband.

Here are ways to resolve the wife's nusyūz as follows;

##### 1) Advice

In order to address the issue of nusyūz, the first step offered in the Qur'an is to provide wise advice to the wife who is nusyūz. Of course, advice to wives differs from one to another, depending on the situation and conditions faced, because some of them are affected by worldly sanctions, such as being hated and so on, and some are not.

##### 2) Deliberation

In everyday life, an atmosphere of deliberation and democracy is needed in household life. Deliberation means that all aspects of household life must be decided and resolved based on deliberation at least between husband and wife. While the meaning of democracy is that husband and wife must be open to each other to be able to accept the views and opinions of their partners.

The husband explains to his wife about what might happen in the afterlife, for women who are pleased with their Lord and obedient to their husbands. Giving advice according to the Qur'an as well as the hadiths of the Prophet and also the scholars of interpretation do not limit fiqh to what is seen during a certain time. It should be for the husband to continue to give advice to his wife and prioritize it before moving on to the next problem-solving phase. This is intended as a way of subtle improvement to eliminate all obstacles that disturb the loving relationship between husband and wife. The husband should remind them of the strong bond of promise (*mitsaqan galizha*) between them that should not be faded away by the heart or mind. The wife is also told about the bad consequences that will befall their relationship if she continues to do nusyūz.

Husband and wife deliberation is intended to erode psychological obstacles. Sometimes problems arise not because there is no compatibility between the two parties, but because of the lack of opportunities for both of them to talk heart to heart. It may be that, only with dialogue or just light chat, conflicts that seem difficult to solve can dissolve by themselves. Deliberation is also intended for *tabayyun* or mutually obtain clarity. *Tabayyun* is carried out to correct the information that

### 3) Separate beds/bunks

In completing *nusyūz*, then leave them in bed (separate beds). There were times when it was a pitiful punishment for a woman if her husband showed anger by separating her from sleep. Indeed, if the relationship has been going on for decades, the "punishment" of separate beds is not that big, it is also common for husbands and wives who have many children and grandchildren, because their parents share separate beds. But when you are young, you separate your beds because you don't show your heart

### 4) Mediation

Mediation is an effort to resolve conflict by involving a neutral third party, who does not have the authority to make decisions that help the disputing parties reach a resolution (solution) that is acceptable to both parties. The legal basis for implementing mediation in the Court is the Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning mediation procedures in the Court which is a revision of the Regulation of the Supreme Court (Perma) No. 1 of 2008, where in Perma No. 1 of 2008 there are still normative weaknesses that make the Perma not achieve the maximum desired target.

No one wants a holy marriage to be threatened by problems and conflicts, let alone causing extraordinary quarrels. Absolutely no one wants a strong marriage (*mitsaqan Galizha*) to fall apart so that children can no longer be with their father because of divorce. Absolutely no one longs for a holy marriage to be dark because there is no longer a place to unite.

### 5) Light beating

#### a) Beating according to *Fuqaha fiqh* (Classical Scholars)

One of the last alternatives in solving the problem when the wife commits *nusyūz*. Beating without hurting or injuring the wife's body parts. This last step is only done if the two previous steps of advice and separation do not provide awareness to the wife. However, the act of "beating" can only be done after the wife's *nusyūz* carried out repeatedly after going through these stages. Beating, Imam Syafi'i said: "The husband does not hit her with blows that injure and harm her body, not the face or head."

There are also women who have to be dealt with in a harsher way. So use the third way, and (if necessary) hit them. Of course, this third method is only used on women who deserve to be beaten. It can be realized that there are indeed women who are beaten in order to correct their disobedience. There are women who want to step on their husband's head, insult him, insult him, curse him, make a fuss, embarrassing the neighbors.

Instructions on how to hit, namely not to hit the face, not on parts of the body that will be damaged, similar to hitting a child. M. Quraish Shihab also explained, "The women you are worried about," before their nusyūz occurs, namely disobedience to the rights bestowed by Allah SWT upon you, O husbands, then advise them at the right time and with words that touch their hearts, not causing irritation to them, and if your advice has not ended their disobedience, then leave them by not leaving the house, but in your bed together by turning your faces away and turning your backs on them. If necessary, do not talk to them for a maximum of three consecutive days.

This action is done to show your annoyance and lack of need for them. Judging from the interpretation above, a wife who is nusyūz if she is not obedient and disobedient, both to Allah SWT, and to her husband as a protector in the family. From this act, the husband should resolve it with three steps, first, advising, by teaching and making the wife aware with gentle words of sinful acts and the firmness and wisdom of a husband in teaching, in order to avoid the wife's arrogant attitude and not accepting the advice. If a wife who is nusyūz has returned from her nusyūz, meaning she is no longer nusyūz, then the husband is not allowed to silence her and beat her because both are permissible because of the nusyūz factor. If the wife has left her nusyūz, then she has abandoned the reasons for which silence and beatings are permitted for the husband to do things that have previously been permitted in the context of completing nusyūz. Ibn Kathir believes in his interpretation that if the advice is not useful and separating oneself from one's wife has no results, then the husband may hit him with blows that do not injure him.

#### b) Beatings according to Contemporary Scholars

In understanding the verse on how to deal with a wife who is nusyūz, contemporary scholars have a somewhat different view from previous scholars. This is especially evident in their opinions related to the last step, namely *اَضُّ رِبُوهُنَّ*. This is because contemporary scholars tend to adjust its meaning to the current context where beatings have been considered taboo.

Siti Musdah Mulia stated that the nusyūz verse is not a command, but is a sentence that is khabariyyah in nature, so it only applies to the socio-cultural context of Arab society at the time the verse was revealed. She added that *اَضُّ رِبُوهُنَّ* should not be interpreted as beatings, but can be interpreted as setting an example, educating or having sexual intercourse. According to him, the meaning of beating is laden with the interests of a certain group. Mohammed Talbi, a Tunisian religious thinker and historian, offers a historical approach in interpreting



this verse. He does not reject the meaning of 'beat', because beating is one of the techniques of disciplining wives that is culturally justified in Arab society at the time the Prophet lived. This is a historical and cultural fact that cannot be denied. However, the permissibility of beating there is a forced permissibility (*ibaha karahiyyah*). This permissibility of beating is not a permissibility that applies to all times and places. This permissibility is bound by the context history at that time, where Allah as the Shari'a had a further main intention and purpose, namely to completely eliminate the permissibility of beating in line with the loss of historical conditions that bind it, supported by the facts that the Messenger of Allah, saw, never beat his wives and he also forbade beating wives in a number of hadiths.

Amina Wadud opposes beating a wife who is *nusyūz*. Beating is not the best way to solve a problem, but instead makes the problem worse. Beating a wife who is *nusyūz* requires reinterpretation as a way to return to making peace and improving the relationship between husband and wife. In fact, according to her, the second step in the form of bed separation therapy is the right time to think about the continuation of the marriage relationship, so that if during the period of bed separation the husband and wife feel that their marriage can no longer be continued, then it is better to end it with divorce and there is no need for beatings as the next step.

A number of reformist commentators such as Muhammad Abduh, interpret it as a gentle loving blow. Meanwhile, a number of contemporary progressive Muslims, such as Edib Yuksel, al-Shaiban and Nafeh interpret the word *dharb* as leave or divorce, because one of the meanings of the word *dharaba* is to leave. And according to them, this is in line with the actions of the Prophet who never slapped or was rude to his wives, so that after they were separated there was no other way except to divorce.<sup>206</sup> Some thinkers also argue that the Qur'an never recommends beatings. One of them is the opinion of Ahmed Ali from the book *Raghib al-Mufradat fi Gharib al-Quran* which is quoted by a feminist thinker Ashgar Ali Engineer that the term *dharaba* has a metaphorical meaning, namely an order to have sexual intercourse.

### c) Beatings in the Law

When you first hear the word beating, it must be identical to a Criminal act of abuse, beatings / abuse in Indonesia are regulated in Article 351 of the Criminal Code to 356 of the Criminal Code with threats ranging from 2 years 8 months to 8 years + 1/3 if the act is categorized as serious abuse premeditated against a person. However, it should be noted that the beating was carried out in self-defense efforts that were carried out because they were forced to defend themselves or others against their own moral honor or property or that of others, because there was an attack or threat of attack that was very close at that time which was against the law.

Forced defense that goes beyond the limits, which is directly caused by great mental shock due to the attack or threat of attack, is not punishable. If contextualized in the present day, the first two steps to deal with a wife who is nusyuz, namely advising and separating beds, are things that are still acceptable and can still be justified.

However, for the third or final step, namely beating, is a step that should require reinterpretation due to the many acts of violence against women/wives that are often carried out using the legitimacy of texts whose meaning is no longer contextual in their time. Although the act of beating is mentioned in the verse of nusyūz, this beating does not mean an act of violence, because the purpose of beating is not to hurt, but to teach a lesson. Even the Qur'an provides a balanced portion in other verses, there are commands to associate with wives with ma'ruf and prohibitions on hurting wives or prohibitions on doing harm to wives as contained in Q.S. al-Baqarah/2:228-229, and Q.S. an-Nisa/4:19. The verse explains the prohibition of all forms of coercion and taking the rights of a wife that have been given. However, there is an exception, namely fahisyah mubayyinah. The term fahisyah is generally used in referring to adultery, while mubayyinah means proof. So it can be concluded that the heinous act is an act of adultery that is proven/can be proven. The hadith and verses above require limitations on the actions

Ministry of Religious Affairs of the Republic of Indonesia, Al-Qur'an and Its Translation, which can be categorized as nusyūz. If referring to both, it can be concluded that the nusyūz of a wife towards her husband occurs if the wife is proven to have committed adultery. Because so far the concept of nusyūz has only been understood as a wife's disobedience or disobedience to her husband, so its meaning has become very broad. In addition, some of the concepts of nusyūz that have developed which are offered by several classical scholars are also no longer in accordance with today's socio-cultural conditions, for example a wife leaving her husband's house which is considered an act of nusyūz.

Of course, this is no longer in accordance with current conditions where women not only play a role in the domestic sphere (housewives), but also have a role in the public sphere ranging from educational needs to professional demands that require wives to enter and leave the house freely. Indonesia is one of the countries that is committed to eliminating all forms of domestic violence. This is also intended to uphold human rights, eliminate all forms of discrimination and efforts to uphold justice and gender equality. This commitment is proven by the ratification of Law No. 23 of 2004 concerning the Elimination of Domestic Violence (hereinafter referred to as the PKDRT Law) on September 22, 2004. The law regulates all acts that fall into the category of domestic violence, case handling procedures, protection for victims of domestic violence and criminal sanctions for perpetrators. Article 1 of the law states that acts of domestic violence are:

The forms of domestic violence mentioned in the Domestic Violence Law are divided into:

- a. Physical violence, namely acts that result in pain, illness or serious injury.
- b. Psychological violence, namely acts that result in fear, loss of self-confidence, loss of ability to act, self-confidence, and/or severe psychological suffering in a person.
- c. Sexual violence, namely forced sexual intercourse committed against a person who lives in the household environment, and forced sexual intercourse against one person in the household with another person for commercial purposes and/or certain purposes.
- d. Domestic neglect, such as a person who causes economic dependence by limiting and/or prohibiting proper work inside or outside the home so that the victim is under the control of that person. If we look at the forms of domestic violence above, then beatings are acts of domestic violence that can be categorized in physical violence because they can cause pain to serious injury. So that it can be called a criminal act that has consequences for the existence of criminal sanctions for the perpetrators.

So the concept of *nusyuz* in the term beating cannot be understood solely as a form of giving pain to the wife, because it is an act of violation according to the UU PKDRT. It can even be said that beating a wife that is *nusyuz* as a form of lesson can be said to be no longer relevant to be carried out in Indonesia. Because the form of violence that is legislated in the PKDRT Law has been interpreted more broadly to include physical, psychological and sexual violence. So, there is no form of pressure on women that can be tolerated based on the PKDRT Law. In addition, there are several opinions of classical scholars regarding the concept of *nusyuz* which seem contradictory to the provisions in the PKDRT Law, such as refusing a husband's invitation to have sex (*jima'*) which is considered an act of *nusyuz*.

This can open up opportunities for sexual violence if there is an element of coercion in doing it as stated in the Domestic Violence Law, for example, the wife is exhausted or sick. So, it can be said that such a concept can no longer be applied in the current context because there are elements of discrimination and arbitrariness against women, even violence that cannot be justified by positive law in Indonesia.

So, the case of *nusyuz* committed by the wife can be resolved in three ways, namely giving good advice, *al-hijr* or separate beds, and beatings. This study aims to analyze the background and implementation of *al-hijr* carried out by the parties to the case in the Religious Court. The concept of *nusyuz* needs to be reinterpreted to suit the socio-cultural conditions and existing legal institutions. The term beating in the concept of *nusyuz* cannot be understood as a form of domestic violence which is in fact included in the category of criminal acts in our positive law.

This must be interpreted more humanely, namely as a form of education given by a husband to his wife. Because in essence Islamic law through its concepts, in this case the concept of nusyūz, cannot be separated from the objectives of sharia law (maqashid al-syari'ah) which upholds human rights and eliminates all acts of violence that are discriminatory. Based on the above, classical scholars allow beating a wife who has nusyūz her husband, but beating a wife is not to hurt her feelings and body, but solely to provide a deterrent effect. Meanwhile, contemporary scholars are in line with Law 140 that a husband is not allowed to beat his wife because she is protected by the Law on the Protection of Human Rights (HAM).

The research found a significant shift in the interpretation of nusyūz in Indonesia, from a textual-patriarchal understanding to a contextual-egalitarian understanding. Religious Courts tend to apply a more moderate approach in handling nusyūz cases.

The "beating" solution mentioned in classical texts rarely appears in court decisions. Instead, mediation and marriage counseling are the main methods of conflict resolution.

Analysis of court decisions shows a tendency to integrate human rights principles and gender equality in legal considerations, although they still refer to sources of Islamic law

## **Discussion**

The research results show that the contextualization of the concept of nusyūz in Indonesia takes place through a complex process, involving interactions between Islamic values, modernity and local wisdom. The shift in interpretation reflects awareness of the importance of considering the socio-cultural context in the application of Islamic law.

Research findings indicate the need to develop more constructive and humane conflict resolution mechanisms. The mediation and counseling approach have proven to be more effective in resolving nusyūz cases than the punitive approach

Recontextualization of the concept of nusyūz contributes to the development of marriage laws that are more gender responsive. This is in line with the Islamic law reform agenda which emphasizes the principles of justice and benefit.

## **Conclusion**

This research shows that the contextualization of the concept of nusyūz in Indonesian marriage law has undergone a significant transformation. The shift from textual to contextual interpretation reflects efforts to harmonize Islamic values with the demands of modernity and human rights principles. The "beating" solution mentioned in classical texts has been recontextualized into a more

constructive approach through mediation and counseling. This research recommends the importance of further development of marital conflict resolution mechanisms based on the principles of gender equality and justice.

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