



## **REINTERPRETING THE CONCEPT OF *NUSYUZ* FROM THE PERSPECTIVE OF ISLAMIC FAMILY LAW HERMENEUTICS**

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### **ABSTRACT**

The concept of *nusyuz* in classical fiqh perspectives is often interpreted as a form of wife's defiance against her husband. This interpretation not only reflects the dominant patriarchal view of the past, but also has a significant impact on the formation of family law norms in various modern Muslim societies today. The purpose of this research seeks to reinterpret the concept of *nusyuz* in the construction of modern society. This qualitative research in the form of a literature study uses a descriptive-analytical approach. The research data used scientific literature related to the reinterpretation of the concept of *nusyuz*. Hermeneutic theory is used as the basis for perspective. Data were obtained using documentation techniques. Data analysis uses data reduction, presentation, and verification. The results concluded that in a hermeneutic perspective, the condition of the increasing role of women in the public sphere in the construction of modern society has led to changes in family structure, so it is important to reinterpret the concept of *nusyuz* to be more relevant to the needs of the times and in line with the principles of universal justice promoted by Islamic law. This research contributes to the importance of a contextual understanding of the concept of *nusyuz* to not only be understood from the normative side, but also from a socio-historical perspective

**Keywords:** *Nusyuz*, Hermeneutics, Islamic family law

## A. Introduction

The concept of *nusyuz* in Islamic family law has become one of the most debated issues, especially in the context of gender relations and social justice. In classical understanding, *nusyuz* is often interpreted as a form of wife's defiance against her husband, as contained in various classical fiqh books. (Demircigil, 2025). This definition often places women in a subordinate position who must submit to the husband's authority, thus reinforcing the gender hierarchy in family relationships. This interpretation not only reflects the dominant patriarchal view of the past, but also has a significant impact on the formation of family law norms in various Muslim societies to this day.

The above explanation calls for the importance of hermeneutically reinterpreting the concept of *nusyuz* in the midst of modern society. In this context, hermeneutics for Heidegger is a process to explore the meaning that exists in everyday human experience. One important aspect of Heidegger's hermeneutics is the concept of "pre-understanding". Heidegger argues that every individual brings with them backgrounds, experiences, and prejudices that influence the way they understand the world. This means that no understanding is completely objective, as all understanding is always tied to personal and historical context. In this regard, Heidegger's hermeneutics emphasizes the importance of critical reflection on our own assumptions and prejudices in the process of understanding.

The purpose of this research seeks to reinterpret the concept of *nusyuz* in the construction of modern society. This type of research is a qualitative research in the form of a literature study with a descriptive-analytical approach. The research data comes from various scientific literature related to the reinterpretation of the concept of *nusyuz*. Hermeneutic theory is used as the basis for perspective. Data were obtained using documentation techniques. Data analysis uses data reduction, presentation, and verification.

Previous relevant research, among others, Alamsyah concluded that the recontextualization of modern thinking about the equality of the enforcement of the concept of *nusyuz* is in line with the principles of equality and justice in the view of the Qur'an.(Alamsyah, 2018). Later studies by Nisa', Muslih, and Hapsin stated that in the perspective of tafsir mubādalāh which is reciprocal, *nusyūz* can be applied to both husband and wife. (Nisa' et al., 2020). Furthermore, Bakhri, and Taufiq in their study explained that in Shia law there are rules related to the enforcement of *nusyuz* by both husband and wife. (Bakhri, & Taufiq, 2023). Next, Febri Ayu in her study also concluded that the interpretation of the contextualization of the concept of *nusyuz* must be understood more deeply, because the conditions of women's existence in family life today are different from the Jahiliyah period.(Ayu, 2021). This conclusion is in line with the study of Al Kautsar, and Lestari, which states that it is necessary to develop the process of resolving *nusyuz* by adjusting existing modern social rules. (Al Kautsar, & Lestari,

2021). Furthermore, the study by Hakim and Alkosibati explains that in the case of *nusyūz*, although the husband is allowed to beat his wife, it is only a light beating, and if there is a disability caused, then the husband must be responsible. (Hakim, & Alkosibati, 2021).

Unlike the studies above, this research uses Heidegger's hermeneutic perspective in reinterpreting the concept of *nusyuz* in the construction of modern society. This research is urgent because it is expected to make a theoretical contribution to the hermeneutic study of Islamic family law related to the concept of *nusyuz*.

## **B. Understanding Martin Heidegger's Construction of Hermeneutics**

Martin Heidegger was born on September 26, 1889, in Messkirch, Germany, into a Catholic family. From an early age, he showed great interest in philosophy and theology. Heidegger continued his education at the University of Freiburg, where he studied theology, philosophy, and mathematics. In Freiburg, he was influenced by phenomenological thought, especially the work of Edmund Husserl, who became his important mentor and colleague. In 1916, Heidegger earned his doctorate with a dissertation on "Critique of Kant." (Tapung, 2024).

Hermeneutics is a discipline that deals with the art and science of interpretation, especially of texts, whether in the context of literature, law, or philosophy. In the history of thought, many philosophers have made significant contributions to the development of hermeneutics, among them Martin Heidegger. Heidegger's work, especially in "Being and Time," takes the hermeneutic approach to a deeper level with a focus on human existence and social context. Below, we will discuss the main characteristics of Heidegger's hermeneutics and compare it to other hermeneutical approaches, especially those developed by Hans-Georg Gadamer and Friedrich Schleiermacher. (Tjahyadi, 2008).

### **1. Focus on Dasein**

One of the most fundamental characteristics of Heidegger's hermeneutics is the emphasis on the concept of "Dasein." Dasein, which means "being here," refers to human existence that is conscious and capable of contemplating its own existence. Heidegger argues that understanding cannot be separated from individual experience and the historical context in which the individual exists. This is in contrast to earlier hermeneutical approaches, such as that of Schleiermacher, which focused more on interpreting texts by taking into account the context of the author and reader. (Herwindo Chandra, 2021).

In comparison, Schleiermacher, known as the "father of modern hermeneutics," emphasized the importance of understanding the author's intention and historical context when interpreting texts. He argued that the interpreter must understand the psychological and cultural context of the author to derive the right meaning.

While Heidegger, while recognizing the importance of context, puts more emphasis on the experience and existence of Dasein as the basis of understanding. In other words, Heidegger brings the focus from the text and author to human existence itself.

## 2. Alienation and Pre-understanding

Heidegger developed the concepts of "alienation" and "pre-understanding" which are central to his hermeneutics. Dasein is in a state of "thrownness", which suggests that individuals do not choose to be born or to be in a particular context. This creates an awareness of alienation that drives individuals to search for meaning in their lives. Gadamer, a student of Heidegger, continues this line of thought by introducing the concept of "perspective fusion." According to Gadamer, understanding occurs when the perspective of the interpreter and the context of the text meet, creating a new meaning. Although Gadamer recognizes the importance of isolation, he places more emphasis on the dialogue between the interpreter and the text. In this sense, Gadamer develops Heidegger's thought by adding an element of interaction and dialogicity to the interpretive process. (Aiman, 2022).

## 3. Language as a Medium of Understanding

In Heidegger's hermeneutics, language is not only considered as a means of communication, but also as a medium through which meaning is formed. Heidegger argues that language has the power to create reality and influence the way we understand the world. This is in contrast to Schleiermacher's view who sees language more as a means to convey meaning that already exists.

When compared to Schleiermacher, language is a tool to convey the author's intention and the meaning of the text. He focuses on how words and language structures function to express the author's thoughts. Heidegger, on the other hand, sees language as something more dynamic and creative, which shapes our experience and understanding of the world. In this sense, Heidegger's thoughts on language are closer to contemporary views that emphasize the social construction of meaning. (Herwinda Chandra, 2021).

## 4. Dialogical Process in Understanding

Heidegger emphasized the importance of dialogue in the process of interpretation. Understanding, in his view, is not an isolated individual activity, but is the result of an interaction between the interpreter and the text. This process involves critical reflection on our own assumptions and prejudices. In comparison to Gadamer, this dialogical tradition developed the concept of "dialogical hermeneutics." He argues that understanding does not only occur in one direction, but is a dynamic process that involves interaction between the interpreter and the

text. In Gadamer's view, this dialog creates space for an exchange of ideas that enriches meaning. Thus, while Heidegger also emphasized dialogue, Gadamer took this approach to a more interactive and collaborative level. (Kau, 2014).

## 5. Historical and Social Context

Heidegger emphasized that understanding is always bound to historical and social context. He rejected the positivist view that knowledge can be achieved through objective scientific methods. Instead, he argued that meaning cannot be separated from the situation in which it arises. When compared to Positivist Hermeneutics, the positivist approach, pioneered by scientists such as Auguste Comte, focuses on the search for knowledge through objective observation and experimentation. In this context, understanding is considered to be the result of the scientific method unaffected by social or cultural context. Heidegger argues that this approach ignores the existential and contextual dimensions of understanding. In this regard, Heidegger's thinking is more in line with the phenomenological approach which emphasizes subjective experience as the basis of understanding.

## 6. Authenticity and Responsibility

In Heidegger's hermeneutics, the concept of authenticity is key to understanding how individuals can live with a sense of meaning. Heidegger invites us to face alienation and the awareness of death as a way to achieve a more authentic life. The responsibility for creating meaning in life lies with the individual. When compared to Existentialist Hermeneutics, the existentialist approach, pioneered by thinkers such as Jean-Paul Sartre, also emphasizes the importance of authenticity and individual responsibility. Sartre argued that individuals are free to create meaning in their lives, even though life has no inherent meaning. Although there are similarities in the emphasis on individual responsibility (Muaz, 2020), Heidegger focuses more on historical and existential context, whereas Sartre emphasizes more on individual freedom and choice.

## C. Ontological Discourse on the Concept of *Nusyuz*

Linguistically, the term *nusyuz* comes from the Arabic word *nasyaza* which means defiance or rejection. In fiqh, this term describes the attitude of one spouse who ignores the obligations towards their partner although it is often only associated with the wife. In fact, in contemporary Islamic legal discourse it is also realized that husbands can commit *nusyuz* if they do not carry out their responsibilities. (Wardatun, & Smith, 2020). Maimunah also pointed out that classical fiqh scholars such as Ibn Kathir and Mahmud al-Misri considered *nusyuz* as disobedient behavior on the part of the wife, such as refusing an invitation to marital relations or leaving the house without permission. On the other hand,

scholars such as Wahbah al-Zuhaili and Quraish Shihab assert that when a husband neglects to provide maintenance or treats his wife harshly and unfairly, then he can also be categorized as a *nusyuz* offender.

Furthermore, Maimunah in her study emphasizes that *nusyuz* is not just a matter of formal obedience, but more broadly concerns the ethical relationship between husband and wife. In an epistemological perspective, *nusyuz* also reflects a failure to carry out household functions and responsibilities by one of the parties. He also highlights that factor such as economic hardship, lack of religious understanding, and the presence of a third party trigger *nusyuz*, both on the part of the wife and husband. This shows the importance of an integrative approach in understanding household dynamics.(Maimunah, 2020)

The Compilation of Islamic Law (KHI) applicable in Indonesia places the concept of *nusyuz* unilaterally, which is only addressed to the wife. There is no explicit regulation related to the possibility of *nusyuz* committed by the husband. This shows the tendency of the law to favor gender. In this case, Jamilatul Nuril Azizah through the mubadalah approach offers a more just and equal perspective. The principle of mubadalah emphasizes the existence of equality in the relationship between husband and wife, so that if the husband is negligent in obligations such as providing maintenance or not treating his wife well, then he also has the right to be considered as committing *nusyuz*. (Azizah, 2024). Zulkarnain and Irwansyah also compared the Islamic legal approach to *nusyuz* with the Law on the Elimination of Domestic Violence. In Islam, the handling of *nusyuz* is carried out in stages, starting from giving advice (*mau'izah*), bed separation (*hajr*), Therefore, it is important to make adjustments between Islamic norms and positive law to avoid contradictions that are detrimental to women, as well as to ensure a humane and educative approach to resolution.(Zulkarnain, & Irwansyah, 2022).

Based on the above explanation, several important points can be concluded. First, the concept of *nusyuz* is not only relevant for wives, but also applies to husbands who neglect their household obligations. Second, Islam provides guidelines for resolving *nusyuz* that are gradual, but need to be reinterpreted so as not to perpetuate violence. Third, the mubadalah approach and epistemological reading of fiqh encourage more just and equal household relations. Fourth, harmonious integration between Islamic law and the PKDRT Law is important so that family law is not discriminatory.

#### **D. A Review of Islamic Family Law Hermeneutics in Recontextualizing the Concept of *Nusyuz***

In an increasingly complex world, Muslims are faced with various challenges, such as globalization, secularization, and identity conflicts. Heidegger's hermeneutic approach can help Muslims adapt to these changes while adhering to

religious values. This approach can be used to analyze how Muslims respond to contemporary challenges with creative and innovative approaches. For example, in dealing with issues such as gender, the environment or human rights, Muslims can seek inspiration from Islamic teachings to devise relevant solutions. (Ginting et al, 2023, Latif et al, 2023, Pahutar et al, 2024). Thus, Heidegger's hermeneutics can be a tool for developing Islamic thought that is adaptive and responsive to changing social contexts. However, with the emergence of modern gender discourse, the concept of *nusyuz* began to receive critical attention from contemporary Islamic scholars. Researchers such as Amina Wadud and Asma Barlas highlight that many interpretations of Islamic law, including *nusyuz*, are often gender-biased because they are based on social contexts that are no longer relevant. They emphasize the importance of a contextual hermeneutic approach to revisit legal concepts deemed unfair to women. In Heidegger's hermeneutics, historical and social contexts become important elements in understanding. In Islamic studies, understanding the historical context in which sacred texts were revealed is essential for accurate interpretation. (Calis, 2022).

An analysis of the historical and cultural background in which the Qur'an and hadith were revealed can provide deeper insights into the meaning and application of Islamic teachings. (Anwar, 2024). For example, understanding the social conditions in Mecca and Medina at the time of Prophet Muhammad can help researchers explore how Islamic teachings emerged in response to the challenges of those times. It can also help understand how those teachings are applied in different modern contexts. In the modern context, many Muslim societies face new socio-cultural challenges, such as the increasing role of women in the public sphere, changes in family structure, and the influence of globalization. (Al Gharaibeh, & Islam, 2024, Tariq, & Syed, 2017, Uddin, 2021). These conditions demand a reinterpretation of Islamic law to make it more relevant to the needs of the times and in line with the principles of universal justice promoted by Islamic sharia. The concept of *nusyuz* must be viewed not only from the normative side, but also from a historical perspective to understand how it developed in various contexts of time and place.

Heidegger suggests that humans experience thrownness in their lives, which means that individuals do not choose the circumstances or context in which they are born. In the context of Islam, this alienation can be seen as a challenge faced by Muslims in diverse social and cultural environments. This approach helps to understand how Muslims search for meaning and identity in contexts that are often not fully supportive of Islamic principles. A clear example can be found in the many Muslims living in non-Muslim countries, where they feel alienated and have to adapt to different cultural norms. (Supriyanto, 2022). In this process, they may refer back to Islamic teachings for guidance and meaning. This alienation can also trigger a deeper spiritual quest, encouraging individuals

to delve deeper into religious teachings.

With regard to the concept of *nusyuz* in classical literature, it tends to be gender biased, as this concept is often based on a patriarchal structure that prioritizes the interests of men as the head of the family. In traditional fiqh books, women are regarded as the party who must submit without considering the context of equal rights and obligations between husband and wife. This bias not only reflects the social views of the time, but also reinforces norms that limit women's position in domestic life. Socio-cultural changes affect the interpretation of this concept, especially in response to the dynamics of gender roles, the development of family structures, and the influence of global modernization. These changes raise the urgent need to review the concept of *nusyuz* by considering the principles of justice and gender equality that are more relevant to the context of contemporary society. In this context, tafsir is no longer static, but rather a dynamic process that must be adjusted to the universal values promoted by Islam, such as justice, compassion, and benefit.

The gender approach and critical hermeneutics can be used to deconstruct the understanding of *nusyuz* in a fairer way, by exploring the roots of structural biases inherent in traditional interpretations and building more inclusive reinterpretations. (Sarwar, & Safdar, 2025). The gender approach helps identify the unequal power relations that are often legitimized by classical texts, while critical hermeneutics provides tools to understand the historical context and relevant universal values, such as justice and equality, in the reinterpretation process. Heidegger emphasizes the importance of dialogue in the process of interpretation. Understanding is not an isolated activity, but the result of interaction between the interpreter and the text, as well as the social and historical context. In the context of Islamic studies, dialog between various interpretations and views can open up space for a richer understanding (Arif, 2017). This approach can be used in the study of Qur'anic and hadith commentaries, where different views and interpretations dialogue with each other. For example, in understanding verses related to contemporary issues such as tolerance, social justice or human rights, dialogue between scholars, intellectuals and the public can lead to a more inclusive and relevant understanding. It also allows for a fusion of perspectives, where different points of view can complement each other.

Although the discussion of gender often raises the view of some people that the rules in Islamic family law do not seem to place wives in a position equal to husbands, especially when compared to the principles of justice that are widely voiced in modern times. Examples of this include the permissibility of polygamy for husbands, the difference in inheritance shares between men and women, and the rule that husbands may reprimand or lightly beat their wives for *nusyuz* or insubordination. Such a view demands a reasonable explanation or a clear reason why in Islam there are differences in treatment between husbands and wives. If we

look at it, the sources of reference between Islamic family law and gender discussions are different. So it is only natural that finding a middle ground or equating views between the two is rather difficult and not easy. But at least, there still needs to be a reasonable explanation, so that the views of Islamic law and gender discourse can approach each other, using general values that can be accepted by both parties (Badarudin, 2021). In the context of today's modern digital world, the phenomenon of *nusyuz* behaviour is increasingly complex, as expressed in online interactions in the social media space, which has the potential to adversely affect the stability of domestic life. Such conditions make it important for digital education to be an adaptive policy in responding to new challenges arising from digital interactions in husband-wife relationships (Wijaya, & Permatasari, 2023). This reality increasingly requires the importance of reinterpretation as well as contextual handling of the development of the practice of *nusyuz* in the midst of the construction of the growing social life of Muslims.

### E. Conclusion

Based on the subject matter of the study, it is concluded that from a hermeneutic perspective, the conditions of modern Muslim societies that face new socio-cultural challenges, such as the increasing role of women in the public sphere, changes in family structure, and the influence of globalization, it is important to reinterpret the concept of *nusyuz* to make it more relevant to the needs of the times and in line with the principles of universal justice promoted by Islamic law.

This research contributes to the importance of a paradigm in understanding the concept of *nusyuz* to be seen not only from the normative side, but also from a socio-historical perspective to understand how it develops in various contexts of time and place. The limitations of this research have not examined the views of the authority of modern Islamic religious fatwa institutions in various countries. This is an important study because Islamic religious fatwa institutions have an urgent role in building family law contrusions in Muslim societies. Therefore, further studies are important.

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