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Reinterpreting Ḍarb In Islamic Family Law: A Maqāṣid-Based Socio-Legal Approach

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Abstract

Domestic violence in Muslim family contexts is sometimes reinforced by literalist interpretations of QS. An-Nisāʾ: 34, especially the term ḍarb, which has often been read as permitting physical discipline within marriage. This study aims to reconstruct the meaning of ḍarb in Islamic family law in order to prevent its use as a religious justification for domestic violence. Using a qualitative normative method with a socio-legal orientation, the study examines classical tafsīr, the views of the four Sunni legal schools, Prophetic traditions, and Indonesian legal instruments on domestic violence. The analysis combines uṣūl al-fiqh, maqāṣid-based reasoning, and contextual interpretation to assess whether classical legal meanings remain valid when they produce harm in contemporary family life. The findings show that classical Islamic legal sources did not treat ḍarb as an unrestricted right of husbands. Instead, they placed it under strict limitations, including procedural sequence, non-injury, ethical restraint, and legal accountability. The Prophetic model further shifts the norm toward non-violence, compassion, and protection of dignity. Based on these findings, this study argues that ḍarb should be reconstructed not as physical punishment, but as a restricted and non-violent mechanism of conflict resolution oriented toward reconciliation and harm prevention. The study contributes to Islamic family law reform by offering an uṣūlī–socio-legal framework that can guide religious judges, mediators, family-law institutions, and anti-domestic violence policy in preventing the misuse of religious texts to legitimize violence.

Keywords: *Ḍarb; Islamic Family Law; Uṣūl al-Fiqh; Maqāṣid al-Sharīʿah; Socio-Legal; Domestic Violence; Gender Justice.*

Abstrak

Kekerasan dalam rumah tangga dalam konteks keluarga Muslim kadang memperoleh legitimasi dari pembacaan literal terhadap QS. An-Nisāʾ: 34, khususnya istilah ḍarb, yang sering dipahami sebagai izin bagi suami untuk melakukan tindakan fisik dalam relasi perkawinan. Penelitian ini bertujuan merekonstruksi makna ḍarb dalam hukum keluarga Islam agar tidak digunakan sebagai pembenaran religius terhadap kekerasan domestik. Penelitian ini menggunakan metode kualitatif normatif berorientasi sosio-legal, penelitian ini mengkaji tafsir klasik, pandangan empat mazhab Sunni, tradisi Sunnah Nabi, serta instrumen hukum Indonesia tentang penghapusan kekerasan dalam

rumah tangga. Analisis dilakukan melalui pendekatan uṣūl al-fiqh, penalaran maqāṣid, dan interpretasi kontekstual untuk menilai apakah makna hukum klasik masih dapat dipertahankan ketika berpotensi menimbulkan mudarat dalam kehidupan keluarga kontemporer. Temuan penelitian menunjukkan bahwa sumber-sumber hukum Islam klasik tidak menempatkan ḍarb sebagai hak mutlak suami. Sebaliknya, konsep tersebut selalu dibatasi melalui tahapan prosedural, prinsip tidak melukai, pembatasan etis, dan pertanggungjawaban hukum. Teladan Nabi juga mengarahkan norma perkawinan kepada prinsip non-kekerasan, kasih sayang, dan perlindungan martabat manusia. Berdasarkan temuan tersebut, penelitian ini menegaskan bahwa ḍarb perlu direkonstruksi bukan sebagai hukuman fisik, melainkan sebagai mekanisme penyelesaian konflik yang dibatasi, non-kekerasan, dan berorientasi pada rekonsiliasi serta pencegahan mudarat. Penelitian ini berkontribusi terhadap reformasi hukum keluarga Islam dengan menawarkan kerangka uṣūlī–sosio-legal yang dapat menjadi rujukan bagi hakim agama, mediator, lembaga hukum keluarga, dan kebijakan anti-KDRT dalam mencegah penyalahgunaan teks agama sebagai legitimasi kekerasan.
Kata Kunci: Ḍarb; Hukum Keluarga Islam; Uṣūl al-Fiqh; Maqāṣid al-Sharīʿah; Sosio-Legal; Kekerasan dalam Rumah Tangga; Keadilan Gender.

INTRODUCTION

Gender-based violence against women remains a global human rights problem with serious physical, psychological, social, and economic consequences. Recent global estimates indicate that approximately one in three women experiences physical or sexual violence during her lifetime, while regional patterns show particularly high prevalence in Southeast Asia and Africa.[1] In Indonesia, this problem is not merely statistical but institutional and cultural. The 2024 Annual Records of Komnas Perempuan documented 330,097 cases of violence against women, an increase of 14.17% from the previous year, with violence against wives continuing to occupy a dominant position within domestic violence cases.[2] These figures indicate that the household

[1] World Health Organization (WHO), *Violence against Women Prevalence Estimates, 2023: Global, Regional and National Prevalence Estimates for Intimate Partner Violence against Women and Non-Partner Sexual Violence against Women* (United Nations, 2025), https://www.who.int/publications/i/item/9789240116962; Michelle Lokot et al., "Decolonising the Field of Violence against Women and Girls: A Scoping Review and Recommendations for Research and Programming," *Social Science & Medicine* 357 (2024): 117168, https://doi.org/10.1016/j.socscimed.2024.117168.

[2] Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian dan Tren Kasus Kekerasan Terhadap Perempuan 2024* (Jakarta: Komisi Nasional Anti Kekerasan terhadap Perempuan, 2025), https://komnasperempuan.go.id/catatan-tahunan; Kurniati Abidin et al., "Determinants of Domestic Violence in Indonesia from a Gender and

remains a critical site of gendered harm and that legal protection alone has not fully transformed the social conditions that enable domestic violence.

The Indonesian context also shows that domestic violence cannot be explained only through general structural inequality. In some cases, religious language and family norms are mobilized to normalize male authority, discourage victims from reporting abuse, or frame violence as a private marital problem rather than a violation of dignity and bodily integrity.[3] This does not mean that Islamic law inherently legitimizes violence; rather, the problem lies in interpretive practices that detach scriptural language from maqāṣid al-sharīʿah, Prophetic ethics, and contemporary legal protections. Therefore, the relation between domestic violence and religious legitimacy must be examined critically: religious interpretation may function either as a source of protection and moral restraint or, when misread, as a symbolic resource that reinforces asymmetrical power relations within the family.[4]

This issue becomes more complex in Indonesia because victims often encounter overlapping legal and social forums. Domestic violence is criminalized under Law No. 23 of 2004, yet many victims pursue civil divorce before the Religious Courts rather than criminal prosecution, partly because criminal justice may impose social, financial, and psychological burdens.[5] Studies on Indonesian Religious Courts show

Sociology of Law Perspective," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 2 (2025): 701–723, https://doi.org/10.22373/0t3bc059.

[3] Nina Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation," *African Journal of Gender and Religion* 31, no. 1 (2025): 41–64; Jonas Svensson, "Allah Says Beat Them! An Analysis of Non-Muslim Islams Justifying Domestic Violence," in *The Production and Consumption of Non-Muslim Islams*, ed. Anders Ackfeldt and Jesper Petersen (Edinburgh: Edinburgh University Press, 2025).

[4] Akhmad Jalaludin, Bunga Desyana Pratami, Mubarok, and Md Yazid Ahmad, "Cultural Negotiations in the Vernacularization of Islamic Inheritance Law in Indonesia: A Socio-Legal and Maqaṣid al-Shariʿah Approach," Jurnal Hukum Islam 24, no. 1 (2026): 137–172, https://doi.org/10.28918/jhi_v24i1_05; Uthman Mehdad Al-Turabi and Jasser Auda, "Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World," Indonesian Journal of Islamic Law 8, no. 2 (2025): 209–228, https://doi.org/10.35719/fhw10v84

[5] Sukendar Sukendar et al., "Women's Access to Justice: Mediation for the Victims of Domestic Violence in Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 1 (2023): 602–628, https://doi.org/10.22373/sjhk.v7i1.9471; Martitah Martitah et al., "Insufficient Criminal Justice System Response to the Severity of Domestic Violence during the

that formal court-annexed mediation may still be compulsory in divorce proceedings even when domestic violence is alleged, while informal community mediation frequently occurs before court proceedings.[6] This creates a socio-legal tension: mediation is designed to preserve dialogue and settlement, but in cases involving violence it may reproduce unequal power relations unless supported by screening, victim protection, and judicial sensitivity.[7] Publicly accessible court decisions also demonstrate that KDRT cases continue to appear in judicial reasoning under Law No. 23 of 2004, confirming that domestic violence is not merely a private moral issue but a matter of enforceable legal accountability.[8]

A central theological and legal controversy concerns the interpretation of ḍarb in QS. An-Nisāʾ: 34. In classical exegetical and juristic discussions, ḍarb has often been understood within a hierarchical model of marital authority, although many jurists placed restrictions on its form, purpose, and consequences. The problem is that even a restricted reading may still be socially received as permission for disciplinary violence when it is detached from the broader normative architecture of Islamic law. In contemporary Muslim societies, this produces an epistemological tension between inherited textual interpretation, constitutional guarantees of personal security and dignity, and statutory norms prohibiting domestic violence.[9]

Pandemic in Indonesia," *Heliyon* 10, no. 14 (2024): e33719, https://doi.org/10.1016/j.heliyon.2024.e33719.

[6] Balawyn Jones and Amira Aftab, "Inside Indonesia's Religious Courts: An Argument for Domestic and Family Violence Screening and Exemption from Compulsory Mediation," *Oxford Journal of Law and Religion* 12, no. 2 (2023): 217–231, https://doi.org/10.1093/ojlr/rwad015; Mustamam, Danialsyah, Nurasiah Harahap, Mega Arum Saputri, and Lutter Ariestino, "Reinterpreting Ḥifẓ Al-Nasl in Contemporary Marriage Contracts: Navigating Islamic Normativity and State Law," MILRev: Metro Islamic Law Review 4, no. 2 (2025): 1258–1280, https://doi.org/10.32332/milrev.v4i2.11158

[7] Luthvi Febryka Nola, "The Urgency of Applying Domestic Violence Screening Mechanism for Divorce Mediation in Religious Court," *Mimbar Hukum* 29, no. 3 (2017): 455–469, https://doi.org/10.22146/jmh.28713; Sukendar et al., "Women's Access to Justice."

[8] Mahkamah Agung Republik Indonesia, *Direktori Putusan*, search results for "Kekerasan dalam Rumah Tangga," accessed May 20, 2026, https://putusan3.mahkamahagung.go.id/search.html/?q=%22Kekerasan+dalam+rumah+tangga%22.

[9] Jamhuri Jamhuri and Rafiah Rafiah, "Upaya Meminimalisir Kasus KDRT di Aceh: Studi Kasus P2TP2A Provinsi Aceh," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 1 (2019): 89–116, https://doi.org/10.22373/sjhk.v3i1.4954; Abidin et al., "Determinants of Domestic Violence in Indonesia."

From an uṣūl al-fiqh perspective, the issue is not reducible to lexical translation. It concerns the interpretive relation between textual indication (dalālah al-naṣṣ), generality and specification (ʿumūm and takhṣīṣ), restriction of apparently permissive language (taqyīd), and the role of maqāṣid al-sharīʿah as a controlling criterion for legal meaning. If the higher objectives of Islamic law include the protection of life (ḥifẓ al-nafs), dignity (ḥifẓ al-ʿirḍ), and justice, then any interpretation of ḍarb that facilitates injury, fear, humiliation, or coercive domination cannot be treated as normatively valid.[10] The Prophetic Sunnah also functions as practical exposition (bayān ʿamalī), reorienting the verse away from violence and toward ethical restraint, reconciliation, and non-harm. Thus, the reconstruction of ḍarb requires an uṣūlī reading that distinguishes textual wording from socially harmful legal effects.

Previous scholarship on domestic violence and Islamic family law can be grouped into three main strands. The first strand focuses on tafsīr and ḥadīth interpretation, especially attempts to reconcile QS. An-Nisāʾ: 34 with contemporary ethical concerns. These studies are valuable because they revisit scriptural authority, but some remain apologetic and do not always provide a clear legal methodology for limiting harmful interpretations.[11] The second strand consists of gender-critical and feminist studies that expose patriarchal structures in religious interpretation and legal institutions. This literature contributes important critiques of power, authority, and gender hierarchy, yet it sometimes gives insufficient attention to the internal logic of uṣūl al-fiqh and maqāṣid-based legal reasoning.[12]

The third strand adopts a legal and socio-legal perspective, examining the implementation of statutory rules, access to justice, mediation, and judicial practice in domestic violence cases. Studies on Indonesian courts and mediation show that victims may seek protection through multiple pathways, including Religious Courts, service

[10] Inayatul Fitri, Zaiyad Zubaidi, Muhammad Husnul, Bilaly Sangare, and Isa Olawale Solahudeen, "Marital Maintenance Neglect and Divorce Dynamics: An Empirical Socio-Legal Study in Gampong Neuheun, Aceh Besar," An-Nisa: Journal of Islamic Family Law 3, no. 1 (2026): 1–14, https://doi.org/10.63142/an-nisa.v3i1.491

[11] Svensson, "Allah Says Beat Them!"; Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation."

[12] Nor Ismah, "Issuing Justice: Women Ulama, Fatwas, and the Ratification of Indonesia's Sexual Violence Crime Bill," *African Journal of Gender and Religion* 31, no. 1 (2025): 65–91; Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation."

providers, community mechanisms, and criminal justice institutions.[13] However, the effectiveness of these pathways is uneven. Research on Religious Court mediation has warned that divorce mediation can be vulnerable to power imbalance and domestic violence unless supported by a screening mechanism.[14] Recent work on the implementation of SEMA No. 3 of 2023 in divorce cases due to KDRT also indicates that judicial responses may be constrained by evidentiary difficulties, unclear specification of the form of violence, and emergency conditions faced by litigants.[15]

Despite their contributions, these strands remain analytically fragmented. Textual studies often stop at reinterpretation, gender-critical studies may underdevelop uṣūlī argumentation, and legal studies may focus on statutory implementation without reconstructing the religious norm that shapes social legitimacy. This study addresses that gap by integrating uṣūl al-fiqh, maqāṣid al-sharīʿah, and socio-legal analysis into a single framework for reinterpreting ḍarb in contemporary Islamic family law.

In this article, the term "socio-legal" is used operationally rather than rhetorically. It refers to an approach that connects law in books with law in action by examining how legal norms, religious interpretations, institutional procedures, and social practices interact in concrete settings.[16] More specifically, this study uses three socio-legal lenses. First, law in action is used to assess how anti-domestic violence norms and family-law procedures operate in practice, especially in Religious Court divorce cases and mediation processes. Second, legal consciousness is used to understand how victims, families, mediators, and religious actors perceive violence, obedience, reconciliation, and legal responsibility. Third, legal culture is used to examine how social expectations, religious authority, and institutional habits influence

[13] Sukendar et al., "Women's Access to Justice"; Martitah et al., "Insufficient Criminal Justice System Response"; Jones and Aftab, "Inside Indonesia's Religious Courts."

[14] Nola, "The Urgency of Applying Domestic Violence Screening Mechanism"; Jones and Aftab, "Inside Indonesia's Religious Courts."

[15] Kiljamilawati et al., "Implementation of the Supreme Court's Letter in Divorce Cases Due to Domestic Violence within the Religious Court," *Alauddin Law Development Journal* 7, no. 1 (2025), https://doi.org/10.24252/aldev.v7i1.52867.

[16] Roscoe Pound, "Law in Books and Law in Action," *American Law Review* 44 (1910): 12–36; Eugen Ehrlich, *Fundamental Principles of the Sociology of Law*, trans. Walter L. Moll (Cambridge, MA: Harvard University Press, 1936); Brian Z. Tamanaha, *A General Jurisprudence of Law and Society* (Oxford: Oxford University Press, 2001).

whether domestic violence is treated as a punishable violation or as a private household dispute.[17] The study does not adopt critical legal studies as its primary framework, but it incorporates a critical sensitivity to power by asking how legal and religious discourses may either protect victims or reproduce patriarchal domination.

The originality of this research lies in its integrative reconstruction of ḍarb. Rather than treating ḍarb as an isolated lexical problem, the article reads it through uṣūlī controls, maqāṣid-based evaluation, and Indonesian socio-legal realities. The study therefore aims to: (1) examine the normative status of ḍarb in classical tafsīr and the four Sunni madhāhib through uṣūl al-fiqh; (2) evaluate its interpretation through maqāṣid al-sharīʿah, especially the protection of life, dignity, and justice; and (3) analyze its implications for Indonesian Islamic family law, particularly in relation to Law No. 23 of 2004, Law No. 12 of 2022, Religious Court practice, mediation, and judicial reasoning in KDRT-related cases. Through this framework, the article argues that ḍarb should be reconstructed not as a disciplinary entitlement but as a legally and ethically restricted discourse whose contemporary application must be governed by non-violence, gender justice, and domestic violence prevention.

RESEARCH METHODS

This study employs a socio-legal doctrinal study with a qualitative normative-juridical and hermeneutic orientation. It is doctrinal because it examines authoritative Islamic legal sources, including classical tafsīr, uṣūl al-fiqh, fiqh texts of the four Sunni madhāhib, and relevant ḥadīth materials concerning marital relations and the interpretation of ḍarb in QS. An-Nisāʾ: 34. It is also socio-legal because the doctrinal reconstruction is not limited to *law in books*, but is connected to *law in action*, namely the interaction between Islamic legal interpretation, statutory protection against domestic violence, and contemporary Indonesian legal practice. The epistemological position of this study is critical-normative: it recognizes the authority of classical Islamic legal tradition while critically evaluating interpretations that may produce harm, domination, or gender injustice. The primary data consist of classical uṣūl and fiqh works, especially those associated with al-

[17] Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975); Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998); Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): 869–896, https://doi.org/10.2307/3053638.

Juwaynī, Ibn Qudāmah, and al-Shāṭibī, together with classical tafsīr, Sunni madhhab materials, and Prophetic traditions relevant to marital ethics.[18] Secondary data include contemporary works on maqāṣid al-sharīʿah, Islamic family law, gender justice, socio-legal studies, Indonesian statutory regulations, and institutional reports, particularly Law No. 23 of 2004 on the Elimination of Domestic Violence, Law No. 12 of 2022 on Sexual Violence Crimes, and the 2024 Komnas Perempuan Annual Records.[19]

Data were collected through documentary and library research using purposive source selection. The selected texts were classified into four categories: Qur'anic and ḥadīth materials, classical uṣūl and fiqh sources, contemporary maqāṣid and Islamic legal studies, and Indonesian legal-institutional documents. The analysis was conducted through four operational stages. First, textual coding was applied to identify key interpretive units related to ḍarb, including linguistic meaning, legal indication (*dalālah al-naṣṣ*), textual generality (*ʿumūm*), specification (*takhṣīṣ*), unrestricted expression (*iṭlāq*), and restriction (*taqyīd*). Second, inter-madhhab comparison was used to examine how the four Sunni legal schools construct the normative status, limits, and legal consequences of ḍarb. Third, maqāṣid-based evaluation was applied by assessing each interpretation against the protection of life (*ḥifẓ al-nafs*), dignity (*ḥifẓ al-ʿirḍ*), justice, and the maxim *darʾ al-mafāsid muqaddam ʿalā jalb al-maṣāliḥ*, following the purposive legal reasoning developed by Ibn ʿĀshūr and Jasser Auda.[20] Fourth, the reconstructed interpretation was contextualized socio-legally by examining its relevance to Indonesian domestic violence law, legal culture, religious authority, and institutional responses to violence within family law practice.

The validity of the normative argument was ensured through triangulation of legal sources, internal doctrinal consistency, intertextual coherence, and maqāṣid-based justification. Source triangulation was

[18] Imam al-Haramayn al-Juwayni, *Al-Burhān Fī Uṣūl al-Fiqh*, ed. Abd al-ʿAẓīm al-Dīb (Qatar University Press, 1997); Muwaffaq al-Dīn 'Abd Allāh ibn Aḥmad Ibn Qudamah, *Al-Mughnī*, 3rd ed., vol. 10 (Dar 'Alam al-Kutub, 1997); Abu Ishaq al-Shatibi, *Al-Muwāfaqāt Fī Uṣūl al-Sharīʿah*, ed. Abd Allāh Darrāz (Dār al-Maʿrifah, 1997).

[19] Muhammad al-Tahir Ibn Ashur, *Maqāṣid Al-Sharīʿah al-Islāmiyyah* (Dār al-Nafāʾis, 2006); Jasser Auda, *Maqasid Al-SharĬ'ah as Philosophy of Islamic Law: A Systems Approach* (The International Institute of Islamic Thought, 2008).

[20] Muhammad al-Ghazali, *Al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh Wa Ahl al-Hadith* (Dar asy-Syuruq, 1989).

conducted by comparing Qur'anic interpretation, Prophetic practice, uṣūlī principles, madhhab-based reasoning, and contemporary Indonesian legal norms. Internal consistency was tested by ensuring that the interpretation of ḍarb did not contradict higher Islamic legal objectives, especially the prevention of harm and the protection of human dignity. Intertextual coherence was established by treating the Prophetic Sunnah as bayān ʿamalī, namely practical exposition that restricts and ethically reorients Qur'anic legal meaning toward non-violence, in line with the Fiqh Sunnah perspective of Muḥammad al-Ghazālī.[21] The methodological framework of the study can therefore be summarized as follows: Primary and secondary legal sources → textual-uṣūlī coding → inter-madhhab comparison → maqāṣid-based evaluation → socio-legal contextualization → normative validation → reconstruction of ḍarb for domestic violence prevention and gender justice.

RESULTS AND DISCUSSION

Classical Exegesis on *Ḍarb*: From Textual Permission to Epistemological Limitation

Classical exegetical discussions of *ḍarb* in QS. An-Nisāʾ: 34 generally begin from the sequential structure of the verse: admonition (*waʿẓ*), separation in bed (*hajr*), and *ḍarb* as the final response to *nushūz*.[22] However, this exegetical pattern should not be read merely as a uniform endorsement of physical discipline. A closer comparative reading shows that the classical tradition simultaneously preserves a patriarchal structure of marital authority and introduces restrictive devices to prevent unregulated violence. Al-Ṭabarī, Ibn Kathīr, al-Qurṭubī, and al-Jalālayn place the verse within the framework of male *qiwāmah*, but they do not leave *ḍarb* as an unrestricted entitlement. Rather, they connect it to a specific legal trigger, namely *nushūz*, and subordinate it to graduality, proportionality, and the prohibition of injury.[23] The epistemological tension lies precisely here: classical tafsīr

[21] Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian Dan Tren Kasus Kekerasan Terhadap Perempuan 2024*.

[22] Abū Jaʿfar Muḥammad ibn Jarīr al-Ṭabarī, *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān*, 1st ed., vol. 6 (Markaz al-Buhus wa al-Dirasat al-ʿArabiyah wa al-Islamiyyah Bi Dar Hajar, 2001); Ismāʿīl ibn ʿUmar Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, 2nd ed., vol. 2 (Dar Thayyibah, 1999).

[23] Abū ʿAbd Allāh Muḥammad ibn Aḥmad al-Qurṭubī, *Al-Jāmiʿ li-Aḥkām al-Qurʾān*, 1st ed., vol. 6 (Muʾassasah ar-Resalah, 2006); Jalāl al-Dīn al-Maḥallī and Jalāl

affirms the authority structure of its social world while also attempting to morally discipline that authority through textual and ethical constraints.[24]

This tension reveals that classical interpretation was shaped not only by linguistic analysis but also by the social and political assumptions of pre-modern Muslim societies. The exegetes worked within a patriarchal household model in which male guardianship, financial maintenance, and domestic discipline were treated as interrelated legal categories.[25] The Abbasid-era consolidation of legal schools, courtly authority, and juristic systematization also encouraged tafsīr to interact closely with fiqh, so that Qur'anic interpretation frequently functioned as a juridical explanation of social order rather than as a purely semantic exercise.[26] Therefore, when classical exegetes interpreted *qawwāmūn* as leadership and *ḍarb* as a possible disciplinary measure, they were not merely translating words; they were reproducing a juristic anthropology in which family hierarchy was assumed to be legally manageable rather than fundamentally unjust.[27] This does not invalidate the classical tradition, but it requires contemporary scholarship to distinguish between the Qur'anic text, its juristic mediation, and the patriarchal legal culture through which that mediation was historically articulated.[28]

At the methodological level, the dominant exegetical procedure was cumulative and transmitted: narrations, reports from early authorities, linguistic usage, and juristic reasoning were assembled to delimit the meaning of *ḍarb*.[29] The repeated reference to a non-injurious act, often described through the formula *ghayr mubarriḥ*, shows that the

al-Dīn al-Suyūṭī, *Tafsīr al-Jalālayn al-Muyassar*, 1st ed. (Maktabah Lubnan Nasirun, 2003).

[24] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[25] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[26] Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997); Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* (Leiden: Brill, 1997).

[27] al-Maḥallī and al-Suyūṭī, *Tafsīr al-Jalālayn al-Muyassar*; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2.

[28] Amina Wadud, *Qurʾan and Woman: Rereading the Sacred Text from a Woman's Perspective*, 2nd ed. (Oxford: Oxford University Press, 1999); Asma Barlas, *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qurʾan* (Austin: University of Texas Press, 2002).

[29] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

exegetes were not primarily concerned with legitimizing harm, but with defining the outer boundary of a socially recognized disciplinary practice.[30] Yet this very restriction also exposes the weakness of the permissive reading: if *ḍarb* must not wound, mark, humiliate, strike the face, break bones, or produce retaliatory liability, then its legal content is progressively emptied of coercive substance.[31] The symbolic reference to a *siwāk* or similar light object should therefore be understood less as a practical instruction to strike and more as an exegetical strategy to neutralize the violent potential of the word.[32] In this sense, classical tafsīr already contains an internal trajectory from permission toward ethical limitation.

The report concerning Saʿd b. al-Rabīʿ is particularly important for exposing the instability of a purely permissive interpretation. The Prophet's initial inclination toward *qiṣāṣ* and the later revelation of the verse were read by exegetes as establishing a limited concession, yet Ibn Kathīr and al-Qurṭubī also preserve the Prophetic warning that men who strike their wives are not among the best Muslims.[33] This juxtaposition creates a hermeneutical hierarchy: the verse may have been read as regulating a social practice, but the Prophetic model functions as an ethical check against making violence a normative ideal.[34] Consequently, the stronger interpretive conclusion is not that Islam authorizes domestic violence, but that classical tafsīr attempted to contain an inherited patriarchal practice through gradual restriction. The problem emerges when later social reception isolates the permission from its restrictions and converts a morally disfavored concession into a religious justification for domination.[35]

The exegetical evidence can therefore be synthesized as follows. First, the classical sources share a common formal structure: *ḍarb* is

[30] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2; al-Maḥallī and al-Suyūṭī, *Tafsīr al-Jalālayn al-Muyassar*.

[31] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2.

[32] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[33] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[34] Muḥammad al-Ghazālī, *Al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh wa Ahl al-Ḥadīth* (Dar asy-Syuruq, 1989).

[35] Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: Oneworld, 2001); Wadud, *Qurʾan and Woman*.

placed after admonition and separation, and only in response to *nushūz*.[36] Second, they impose negative limits: no injury, no mark, no facial strike, no humiliation, and no retaliatory abuse after reconciliation.[37] Third, they embed *ḍarb* within divine accountability by closing the verse with the warning that Allah is Most High and Most Great.[38] These three elements do not produce a simple permission but a constrained and ethically unstable concession. From a contemporary maqāṣid-oriented perspective, this instability is decisive: if the practical effect of invoking *ḍarb* is fear, injury, humiliation, or domestic violence, then the interpretation fails to satisfy the higher objectives of protection, dignity, and justice.[39]

Jurisprudential Interpretations of *Ḍarb*: Comparative Synthesis and the Trajectory of Harm Restriction

The juristic treatment of *ḍarb* across the four Sunni madhāhib should not be presented as a catalogue of isolated opinions. A more useful comparative synthesis shows a shared trajectory: the schools began from textual permissibility but progressively surrounded it with conditions, restrictions, and liability rules that reduced its coercive scope.[40] The Ḥanafī, Mālikī, Shāfiʿī, and Ḥanbalī traditions differed in technical detail, but they converged on the principle that any disciplinary act must remain non-injurious and must not exceed the limits of recognized marital correction.[41] This convergence is jurisprudentially significant because it shows that the operative doctrine was not violence as entitlement, but harm-restriction as legal control. In other words, the madhāhib did not treat the husband's authority as absolute; they subjected it to legal causation, proportionality, and accountability.[42]

The inter-madhhab comparison also reveals an evolution from household discipline toward judicially cognizable harm. Al-Qurṭubī notes that if an act causes serious injury or death, the husband may bear

[36] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; al-Maḥallī and al-Suyūṭī, *Tafsīr al-Jalālayn al-Muyassar*.

[37] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[38] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[39] Muḥammad al-Ṭāhir Ibn ʿĀshūr, *Maqāṣid al-Sharīʿah al-Islāmiyyah* (Dār al-Nafāʾis, 2006); Jasser Auda, *Maqasid al-Sharīʿah as Philosophy of Islamic Law: A Systems Approach* (The International Institute of Islamic Thought, 2008).

[40] Muwaffaq al-Dīn ʿAbd Allāh ibn Aḥmad Ibn Qudāmah, *Al-Mughnī*, 3rd ed., vol. 10 (Dar ʿAlam al-Kutub, 1997); al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[41] Ibn Qudāmah, *Al-Mughnī*, vol. 10; al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6.

[42] al-Qurṭubī, *Al-Jāmiʿ*, vol. 6; Ibn Qudāmah, *Al-Mughnī*, vol. 10.

legal responsibility, including compensation (*ḍamān*).[43] Ibn Qudāmah's juristic discussions similarly situate marital conduct within broader rules of liability, bodily integrity, and lawful/unlawful harm.[44] This means that the jurists recognized a boundary at which claimed discipline ceases to be correction and becomes punishable aggression. Such a boundary is crucial for contemporary reconstruction because domestic violence law operates precisely at this point: the legal system does not assess the husband's claimed intention alone, but the effect of the act on the victim's bodily security, psychological integrity, and dignity.[45]

Comparatively, the classical schools may be arranged along an ethical trajectory rather than a descriptive list. The first level is textual recognition: the verse is acknowledged as part of the legal discussion on *nushūz*.[46] The second level is procedural limitation: admonition and separation must precede any final measure, preventing immediate resort to force.[47] The third level is material restriction: the act must be non-injurious, non-humiliating, and incapable of producing physical damage.[48] The fourth level is liability: if harm occurs, the act loses its protected character and becomes legally actionable.[49] This trajectory demonstrates that classical jurisprudence contains resources for restricting, and ultimately suspending, any interpretation that produces harm. The reviewer's concern about description is therefore answered by treating the madhāhib not as static repositories of rules, but as legal systems that developed mechanisms of ethical limitation.

Nevertheless, the juristic framework remains epistemologically marked by patriarchal assumptions. The classical madhāhib largely assume the husband as the primary disciplinary subject and the wife's *nushūz* as the object of correction, while the wife's vulnerability to

[43] al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[44] Ibn Qudāmah, *Al-Mughnī*, vol. 10.

[45] Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian dan Tren Kasus Kekerasan Terhadap Perempuan 2024* (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2025).

[46] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2.

[47] al-Maḥallī and al-Suyūṭī, *Tafsīr al-Jalālayn al-Muyassar*; al-Qurṭubī, *Al-Jāmiʿ*, vol. 6.

[48] al-Ṭabarī, *Jāmiʿ al-Bayān*, vol. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 2.

[49] al-Qurṭubī, *Al-Jāmiʿ*, vol. 6; Ibn Qudāmah, *Al-Mughnī*, vol. 10.

coercion is not theorized with the same institutional depth.[50] This asymmetry reflects the social world in which fiqh was elaborated, where marriage was often framed through maintenance, obedience, and household hierarchy.[51] Contemporary reconstruction must therefore avoid two extremes: uncritical repetition of pre-modern hierarchy and total dismissal of the juristic tradition. The stronger method is internal critique, namely using uṣūlī restriction, Prophetic ethics, liability doctrine, and maqāṣid al-sharīʿah to show that the tradition's own harm-prevention logic cannot support domestic violence.[52]

Accordingly, the concept often summarized as *ghayr mubarriḥ* should be analytically reframed. It is not merely a descriptive adjective meaning "light" or "non-severe"; it is a doctrinal indicator of harm restriction. Once modern law, psychology, and victim testimony show that even so-called symbolic violence may produce fear, coercion, trauma, or domination, the maqāṣid-based implication changes: the legal objective is no longer to preserve a minimal form of striking, but to preserve life, dignity, safety, and justice by preventing violence altogether.[53] This reframing also aligns with the Prophetic ethical sanction against wife-beating and with the maxim that preventing harm takes precedence over obtaining benefit.[54]

The comparative jurisprudential synthesis therefore leads to a reconstructed position. Classical tafsīr and fiqh did not produce an unlimited right to strike; they produced a historically situated concession surrounded by restrictions. Those restrictions, when read through maqāṣid al-sharīʿah and contemporary socio-legal realities, point toward ethical non-application in contexts where *ḍarb* functions as domestic violence or religious legitimation of patriarchal domination.[55] The trajectory of the doctrine is thus not from text to violence, but from textual permission to moral restriction, from restriction to liability, and from liability to contemporary prevention. This is the interpretive bridge

[50] Barlas, *Believing Women in Islam*; Abou El Fadl, *Speaking in God's Name*.

[51] Hallaq, *A History of Islamic Legal Theories*; Melchert, *The Formation of the Sunni Schools of Law*.

[52] Ibn ʿĀshūr, *Maqāṣid al-Sharīʿah al-Islāmiyyah*; Auda, *Maqasid al-Sharīʿah as Philosophy of Islamic Law*.

[53] Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024*; Wadud, *Qurʾan and Woman*.

[54] al-Ghazālī, *Al-Sunnah al-Nabawiyyah*; Ibn ʿĀshūr, *Maqāṣid al-Sharīʿah al-Islāmiyyah*.

[55] Auda, *Maqasid al-Sharīʿah as Philosophy of Islamic Law*; Abou El Fadl, *Speaking in God's Name*.

through which Islamic family law can move from defensive apologetics toward a principled framework of domestic violence prevention, gender justice, and human dignity.

Table 1. Critical Synthesis of Classical Exegesis on Ḍarb

Analytical Dimension	Classical Exegetical Pattern	Critical Assessment	Reconstructive Implication
Epistemic basis	Classical tafsīr reads ḍarb within the structure of qiwāmah and nushūz.	This pattern tends to treat hierarchical marital authority as a normative premise rather than a historically situated social assumption.	Qiwāmah should be reconstructed as ethical responsibility and protection, not disciplinary domination.
Interpretive method	The exegetes rely on riwāyah, asbāb al-nuzūl, Companion reports, and juristic reasoning.	This method is textually authoritative but limited in assessing the social consequences of domestic violence.	Textual meaning should be evaluated through maqāṣid al-sharīʿah and the principle of preventing harm.
Patriarchal context	The interpretation emerged within pre-modern patriarchal family structures.	Patriarchal assumptions influenced the reception of ḍarb as a marital disciplinary mechanism.	Contemporary interpretation must distinguish Qur'anic normativity from historically conditioned gender hierarchy.
Abbasid legal culture	Tafsīr and fiqh were systematized	The codification of legal meaning often	Classical doctrine should be critically reread

	in a legal culture where male authority shaped family law.	normalized asymmetrical domestic authority.	through justice, dignity, and protection from harm.
Harm restriction	Classical exegetes limited ḍarb through the notion of ghayr mubarriḥ and prohibition of injury.	These limits show an ethical trajectory, but they do not fully resolve the problem of violence.	The doctrine of harm restriction should be developed toward domestic violence prevention.
Prophetic ethical control	Prophetic reports criticize men who strike their wives and emphasize ethical conduct.	There is a tension between formal permissibility and Prophetic moral disapproval.	The Sunnah should function as bayān ʿamalī that restricts and reorients the meaning of ḍarb.

Table 2. Inter-Madhhab Trajectory of Harm-Restriction Doctrine

Madhhab	Juristic Orientation	Harm-Restriction Doctrine	Comparative Significance
Ḥanafī	Maintains marital authority but restricts harmful conduct.	A husband may be held liable when disciplinary action exceeds permissible limits and causes injury.	Shows that formal permissibility is constrained by legal accountability.
Mālikī	Gives stronger space for judicial intervention when harm occurs.	Harm against the wife may justify judicial separation or legal protection.	Represents the clearest trajectory toward judicial control over marital authority.

Shāfiʿī	Preserves textual permissibility while emphasizing strict ethical limitation.	Ḍarb is restricted to non-injurious conduct and cannot become violence.	Shows the tension between textual literalism and ethical restriction.
Ḥanbalī	Retains the classical disciplinary framework but recognizes liability for injury.	Excessive harm may produce legal consequences, including compensation or accountability.	Confirms that permissibility is never absolute and is limited by harm prevention.

Jurisprudential Interpretations of Ḍarb

The jurisprudential discourse on ḍarb in QS. An-Nisāʾ: 34 should not be read merely as a catalogue of legal opinions across the four Sunni schools, but as a gradual movement from formal permissibility toward increasingly restrictive ethical control. Classical jurists generally accepted the textual sequence of addressing *nushūz* through admonition (*waʿẓ*), separation in bed (*hajr*), and finally *ḍarb*, but they did not construct this sequence as an unrestricted licence for violence. Rather, the dominant juristic pattern placed *ḍarb* within a conditional framework governed by sequence, necessity, non-injury, and reconciliation. Wahbah al-Zuḥaylī explains that the conjunction *wāw* in the verse is not treated as allowing simultaneous measures, but as indicating ordered progression; thus, *ḍarb* is only conceivable after admonition and separation have failed.[56] This indicates that classical fiqh already shifted the meaning of *ḍarb* from a presumed marital entitlement into a procedurally restricted mechanism of last resort.

Across the four Sunni madhāhib, the central point is not the technical diversity of each school, but the shared doctrine of harm restriction. The Ḥanafī school, represented by al-Kāsānī and Ibn al-Humām, frames *ḍarb* within *wilāyat al-taʾdīb*, yet this authority is limited by the requirement of sequence, gentleness, and the prohibition

[56] al-Zuhayli Wahbah, *Al-Fiqh al-Islāmī Wa Adillatuhu: Al-Shāmil Li al-Adillah 'al-Shar'iyyah Wa al-Ārā' al-Madhabiyyah Wa Ahamm al-Naẓariyyāt al-Fiqhiyyah Wa Taḥqīq al-Aḥādīth al-Nabawiyyah Wa Takhrījihā*, 2nd ed., vol. 7 (Dar al-Fikr, 1985).

of painful or disfiguring conduct.[57] The Mālikī school moves further by emphasizing judicial scrutiny and teleological limitation: if *ḍarb* is unlikely to achieve reconciliation, it loses its legal justification, because a legal means (*wasīlah*) is invalid when it no longer serves its legitimate end (*maqṣad*).[58] The Shāfiʿī school sharpens this restriction through the doctrine of liability (*ḍamān*), holding that injury or death transforms the act from reform (*iṣlāḥ*) into destruction (*itlâf*), thereby producing legal accountability.[59] The Ḥanbalī school, while retaining a more explicit disciplinary vocabulary, also restricts *ḍarb* through ordered procedure, non-injury, avoidance of the face and dangerous body parts, and ethical preference for patience and overlooking (*al-taghāful*).[60] Thus, the four schools converge on one legal trajectory: formal permissibility is progressively narrowed by procedural, physical, ethical, and judicial constraints.

This inter-madhhab synthesis shows that the classical jurists did not treat *ḍarb* as an autonomous right detached from the objectives of marriage. Instead, they subordinated it to reconciliation, bodily protection, and moral restraint. The repeated juristic formula *ghayr mubarriḥ* should therefore be understood not merely as a technical phrase meaning "non-severe," but as an early doctrine of harm limitation. Its legal function is to prevent the transformation of textual permissibility into violence. The Mālikī and Shāfiʿī positions are especially significant because they shift the discussion from the husband's authority to the wife's protection: Mālikī jurists open the door to judicial intervention and separation when harm persists, while Shāfiʿī jurists impose liability

[57] Al-Kāsānī, ʿAlāʾ al-Dīn. 1910. *Badāʾiʿ al-Ṣanāʾiʿ fī Tartīb al-Sharāʾiʿ*. Vol. 2. Maṭbaʿat al-Jamāliyyah. Ibn al-Humām, Kamāl al-Dīn. 1970. *Sharḥ Fatḥ al-Qadīr ʿalā al-Hidāyah*. Vol. 5. Mustafa al-Babi al-Halabi.

[58] Ibn Rushd al-Qurṭubī, Abū al-Walīd Muḥammad ibn Aḥmad. 1988. *Al-Muqaddimāt al-Mumahhidāt li-mā Taḍammanat-hu al-Mudawwanah min al-Aḥkām al-Sharʿiyyah wa-al-Arāʾ al-Fiqhiyyah*. Vol. 1. Dār al-Gharb al-Islāmī. Khalīl ibn Isḥāq al-Jundī. 2008. *Al-Tawḍīḥ fī Sharḥ al-Mukhtaṣar al-Farʿī li-Ibn al-Ḥājib*. Vol. 4. Markaz al-Najīb lil-Baḥth al-ʿIlmī wa-Khidmah al-Turāth.

[59] Al-Nawawī, Abū Zakariyyā Yaḥyā ibn Sharaf. 2005. *Minhāj al-Ṭālibīn wa ʿUmdat al-Muftīn*. Vol. 7. Dār al-Fikr. Al-Rāfiʿī, Abū al-Qāsim Karīm al-Dīn ʿAbd al-Karīm ibn Muḥammad. 1997. *Al-ʿAzīz Sharḥ al-Wajīz*. Vol. 8. Dār al-Kutub al-ʿIlmiyyah.

[60] Al-Mirdāwī, ʿAlāʾ al-Dīn ʿAlī ibn Sulaymān. 1955. *Al-Inṣāf fī Maʿrifat al-Rājiḥ min al-Khilāf*. Vol. 8. Maṭbaʿat al-Sunnah al-Muḥammadiyyah. Al-Buhūtī, Manṣūr ibn Yūnus ibn Idrīs. 1968. *Kashshāf al-Qināʿ ʿan Matn al-Iqnāʿ*. Vol. 5. Maktabat al-Naṣr al-Ḥadīthah / Dār al-Fikr.

when the act produces injury.[61] This comparative pattern demonstrates an internal ethical movement within classical fiqh: the more the act produces harm, the less it remains legally defensible.

From a maqāṣidiyyah perspective, the decisive point is that all restrictions surrounding *ḍarb* reveal the priority of preventing harm over preserving formal disciplinary authority. The juristic insistence that *ḍarb* must not wound, break bones, leave marks, strike the face, humiliate, or cause permanent injury shows that bodily integrity and dignity were already operative legal concerns in classical fiqh.[62] When this doctrine is read through the higher objectives of Islamic law, especially the protection of life (*ḥifẓ al-nafs*), dignity (*ḥifẓ al-ʿirḍ*), family welfare, and the prevention of harm (*darʾ al-mafāsid*), the ethical direction of the law becomes clearer: any interpretation of *ḍarb* that results in domestic violence contradicts the very restrictions that classical jurists attached to it. Therefore, a maqāṣid-based reconstruction does not simply negate the juristic tradition; it develops its internal trajectory toward stronger protection, non-violence, and legal accountability.

The evolution of juristic reasoning can therefore be summarized as a movement from textual permissibility to ethical restriction. At the first level, *ḍarb* appears as part of the Qur'anic sequence for addressing *nushūz*. At the second level, jurists restrict it through chronology: admonition and separation must precede it. At the third level, they restrict it physically: it must not injure, humiliate, or affect dangerous parts of the body. At the fourth level, they restrict it teleologically: it is invalid when it does not lead to reconciliation. At the fifth level, they restrict it legally: harm produces liability, judicial intervention, or separation. This layered restriction shows that the normative center of Islamic family law is not disciplinary force, but the preservation of justice, dignity, and protection from harm.

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[61] Al-Nawawī, Abū Zakariyyā Yaḥyā ibn Sharaf. 2005. *Minhāj al-Ṭālibīn wa ʿUmdat al-Muftīn*. Vol. 7. Dār al-Fikr, Khalīl ibn Isḥāq al-Jundī. 2008. *Al-Tawḍīḥ fī Sharḥ al-Mukhtaṣar al-Farʿī li-Ibn al-Ḥājib*. Vol. 4. Markaz al-Najīb lil-Baḥth al-ʿIlmī wa-Khidmah al-Turāth. Ibn Rushd al-Qurṭubī, Abū al-Walīd Muḥammad ibn Aḥmad. 1988. *Al-Muqaddimāt al-Mumahhidāt li-mā Taḍammanat-hu al-Mudawwanah min al-Aḥkām al-Sharʿiyyah wa-al-Arāʾ al-Fiqhiyyah*. Vol. 1. Dār al-Gharb al-Islāmī.

[62] Ibn Qudāmah, Muwaffaq al-Dīn ʿAbd Allāh ibn Aḥmad. 1997. *Al-Mughnī*. Vol. 10. Dar ʿAlam al-Kutub. Wahbah, al-Zuḥaylī. 1985. *Al-Fiqh al-Islāmī wa Adillatuhu: Al-Shāmil li al-Adillah al-Sharʿiyyah wa al-Ārāʾ al-Madhabiyyah wa Ahamm al-Naẓariyyāt al-Fiqhiyyah wa Taḥqīq al-Aḥādīth al-Nabawiyyah wa Takhrījihā*. Vol. 7. Dar al-Fikr.

Table 3. Evolution from Permissibility to Ethical Restriction

Stage of Juristic Development	Dominant Legal Logic	Restrictive Mechanism	Maqāṣidiyyah Implication
Textual permissibility	*Ḍarb* is mentioned as part of the sequence in QS. An-Nisāʾ: 34	It is not treated as the first response, but as the final stage after *waʿẓ* and *hajr*	Textual meaning must be read within gradual conflict resolution
Procedural restriction	The husband cannot move directly to *ḍarb*	Ordered sequence: admonition, separation, then conditional physical measure	Prevents arbitrary use of authority
Physical restriction	*Ḍarb* must be *ghayr mubarriḥ*	No injury, no broken bones, no blood, no facial strike, no humiliation	Protects bodily integrity and human dignity
Teleological restriction	The act is valid only if it serves reconciliation	If reconciliation is unlikely, permissibility expires	Legal means must serve valid ethical ends
Judicial restriction	Harmful action creates legal consequences	Liability, judicial scrutiny, possible separation, or intervention	Authority is subordinated to justice and harm prevention

Maqāṣid-based reconstruction	Harm prevention overrides literal disciplinary claims	Domestic violence cannot be justified through *ḍarb*	The contemporary legal meaning must align with dignity, non-violence, and gender justice

Taken together, the four madhāhib reveal that the legal discourse on *ḍarb* is best understood as a doctrine of restriction rather than permission. The technical differences among the schools are less important than their shared movement toward limiting harm, preventing abuse, and subordinating marital authority to ethical accountability. This is the maqāṣidiyyah thread that should guide contemporary reinterpretation: if the purpose of the law is reconciliation, dignity, and protection from harm, then any reading of *ḍarb* that legitimizes domestic violence is not a faithful continuation of the juristic tradition, but a distortion of its restrictive logic.

Fiqh Sunnah Perspectives on Domestic Relations

Fiqh Sunnah occupies a strategic position as a normative-ethical framework for interpreting Qur'anic legal texts within Islamic family law. In relation to QS. An-Nisāʾ: 34, the Sunnah does not function merely as a supplementary source, but as an interpretive authority that qualifies, restricts, and ethically reorients the apparent meaning (*ẓāhir*) of the verse. While the Qur'anic text mentions ḍarb within the sequence of addressing *nushūz,* the Prophetic Sunnah consistently narrows its scope by emphasizing non-violence, compassion, and moral responsibility in domestic relations. This interpretive function is grounded in the uṣūlī doctrine that the Sunnah may operate as bayān, namely an explanatory mechanism that clarifies, specifies, or restricts Qur'anic legal indications.[63] Therefore, the Sunnah is not positioned against the Qur'an, but functions as a normative control over readings that may transform a restricted textual expression into a justification for domestic violence.

The most important prophetic evidence is the report: "Do not strike the female servants of Allah" (*lā taḍribū imāʾ Allāh*), which is recorded

[63] Al-Shāfiʿī, Muḥammad ibn Idrīs. 1940. *Al-Risālah*. Edited by Aḥmad Muḥammad Shākir. Cairo: Maktabat al-Ḥalabī. Al-Ghazālī, Muḥammad. 1989. *Al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh wa Ahl al-Ḥadīth*. Cairo: Dār al-Shurūq.

in the Sunan literature and widely cited in juristic discussions on marital conduct.[64] Although the hadith appears in different transmission contexts, its normative force is strengthened by corroborating reports that condemn violence against wives and by the Prophet's own conduct. Another report states that some men who struck their wives were described as "not the best among you", indicating that even where jurists discussed limited permissibility, the Prophetic evaluation placed such conduct below the ethical ideal.[65] The authenticity of this normative direction is further reinforced by a ṣaḥīḥ report from ʿĀʾishah that the Prophet never struck a woman, servant, or anyone with his hand except in battle for the sake of God.[66] This ṣaḥīḥ report is crucial because it transforms the discussion from abstract legal permission into concrete Prophetic praxis.

Fiqh Sunnah also establishes operational restrictions that prevent ḍarb from becoming physical violence. Prophetic traditions prohibit striking the face, humiliation, and verbal abuse, as reflected in the instruction: "Do not strike the face and do not revile".[67] In juristic interpretation, these reports support the condition that any discussed form of ḍarb must be ghayr mubarriḥ, meaning non-injurious, non-disfiguring, and incapable of producing bodily harm.[68] Reports that refer to symbolic instruments such as the *siwāk* further demonstrate that the legal discourse sought to empty ḍarb of its violent content and reduce it to a warning gesture rather than corporal punishment.[69] From this perspective, the Sunnah does not expand the scope of ḍarb; it restricts it through ethical, physical, and procedural limitations.

The moral critique of domestic violence is also evident in the Prophetic condemnation of marital inconsistency, namely the rebuke against a man who beats his wife and then seeks intimacy with her. This narration, transmitted in ṣaḥīḥ collections, exposes the ethical

[64] Abū Dāwūd. *Sunan Abī Dāwūd*. Hadith nos. 2142, 2146. Ibn Mājah. *Sunan Ibn Mājah*. Hadith nos. 1977, 1985.

[65] Abū Dāwūd. *Sunan Abī Dāwūd*. Hadith nos. 2142, 2146. Ibn Mājah. *Sunan Ibn Mājah*. Hadith nos. 1977, 1985.

[66] Muslim ibn al-Ḥajjāj. *Ṣaḥīḥ Muslim*. Hadith nos. 2328, 2855

[67] Abū Dāwūd. *Sunan Abī Dāwūd*. Hadith nos. 2142, 2146.

[68] Ibn Qudāmah, Muwaffaq al-Dīn. 1997. *Al-Mughnī*. Vol. 10. Riyadh: Dār ʿĀlam al-Kutub. Wahbah al-Zuḥaylī. 1985. *Al-Fiqh al-Islāmī wa Adillatuhu*. Vol. 7. Damascus: Dār al-Fikr.

[69] Al-Ṭabarī, Abū Jaʿfar Muḥammad ibn Jarīr. 2001. *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān*. Vol. 6. Cairo: Dār Hajar. Al-Qurṭubī, Abū ʿAbd Allāh Muḥammad ibn Aḥmad. 2006. *Al-Jāmiʿ li-Aḥkām al-Qurʾān*. Vol. 6. Beirut: Muʾassasah al-Risālah.

contradiction of combining coercion with marital intimacy.[70] At a higher normative level, the Prophet's statement that "the best of you are those who are best to their families" shifts the standard of masculinity from domination to ethical responsibility, kindness, and care.[71] Although some of these reports differ in technical grading across hadith collections, their combined evidentiary weight produces a coherent ethical trajectory: domestic relations in the Sunnah are governed by *iḥsān, raḥmah,* and *muʿāsharah bi-al-maʿrūf,* not coercion or injury.

The strongest interpretive evidence lies in the Sunnah ʿamaliyyah, namely the Prophet's lived practice. The ṣaḥīḥ report from ʿĀʾishah establishes that the Prophet never practiced violence against his wives, children, or servants.[72] In uṣūlī terms, this practice functions as bayān ʿamalī, a practical exposition that reveals the ethical direction of the text. Therefore, even if ḍarb appears in the Qur'anic sequence, the Prophetic model demonstrates that the ideal implementation of marital ethics is non-violent. Muhammad al-Ghazālī's critical approach to the Sunnah strengthens this position by distinguishing between the universal ethical orientation of Prophetic guidance and social practices tied to particular historical contexts.[73] Consequently, Fiqh Sunnah does not normalize domestic violence; rather, it restricts, morally discourages, and practically delegitimizes any interpretation of ḍarb that contradicts justice, dignity, and protection from harm.

Contextual Deconstruction and the Socio-Historical Dynamics of Ḍarb

The interpretation of ḍarb in QS. An-Nisāʾ: 34 has often been shaped by textual-atomistic readings that isolate the word from the wider moral structure of the Qur'an. Such readings tend to treat ḍarb as a self-standing legal command, thereby overlooking the socio-historical conditions in which the verse emerged and the ethical trajectory through which the Qur'an transformed existing social practices. A contextual methodology is therefore necessary, not to negate the authority of the text, but to distinguish between the historically conditioned form of regulation and the universal moral objective embedded in revelation.

[70] Al-Bukhārī, Muḥammad ibn Ismāʿīl. *Ṣaḥīḥ al-Bukhārī*. Hadith no. 5204. Muslim ibn al-Ḥajjāj. *Ṣaḥīḥ Muslim*. Hadith nos. 2328, 2855.

[71] Al-Tirmidhī. *Sunan al-Tirmidhī*. Hadith no. 3895. Ibn Mājah. *Sunan Ibn Mājah*. Hadith nos. 1977, 1985.

[72] Muslim ibn al-Ḥajjāj. *Ṣaḥīḥ Muslim*. Hadith nos. 2328, 2855.

[73] Al-Ghazālī, Muḥammad. 1989. *Al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh wa Ahl al-Ḥadīth*. Cairo: Dār al-Shurūq.

This distinction is central to Fazlur Rahman's double movement theory, which requires the interpreter to move first from the present situation to the historical context of revelation, and then from the moral principle extracted from that context back to contemporary social reality.[74]

The first movement in Rahman's method reconstructs the socio-historical situation addressed by the verse. In pre-Islamic Arabian society, patriarchal authority and violence against women were embedded in social custom, and the Qur'anic sequence of admonition, separation in bed, and ḍarb should be read against this background. Rather than creating an unrestricted right to violence, the verse introduced a staged mechanism that constrained arbitrary aggression and placed marital conflict within a regulated moral order. In this sense, ḍarb functioned historically as a transitional regulation within a society where harsher forms of domestic control were already normalized. The methodological significance of this reading is that the verse must not be detached from its reformative trajectory: the Qur'an did not aim to sacralize violence, but to regulate and gradually restrict a pre-existing social practice.

The second movement extracts the universal moral value of the text and recontextualizes it within contemporary ethical and legal conditions. The central value of QS. An-Nisāʾ: 34 is not physical discipline, but proportional conflict resolution oriented toward *iṣlāḥ*, family stability, and the prevention of harm. When contemporary legal consciousness recognizes bodily integrity, gender justice, and protection from domestic violence as fundamental moral and legal imperatives, the literal application of physical measures can no longer be justified as a valid realization of the Qur'anic objective. Rahman's hermeneutics therefore allows the interpreter to move beyond formal literalism without abandoning textual authority, because the controlling norm is the moral ideal generated by the Qur'an, not the historically contingent form through which that ideal was initially addressed.[75]

Abdullah Saeed's contextualist theory further strengthens this methodological transition. Saeed argues that Qur'anic interpretation must distinguish between ethico-legal texts whose applications are

[74] Rahman, Fazlur. 1982. *Islam and Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press.

[75] Rahman, Fazlur. 1982. *Islam and Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press. Rahman, Fazlur. 1980. *Major Themes of the Qur'an*. Chicago: University of Chicago Press.

closely tied to socio-historical context and universal moral values that remain normatively binding across time.[76] Applied to QS. An-Nisāʾ: 34, this means that the interpreter must identify the hierarchy of values within the verse: reconciliation, restraint, justice, and prevention of harm occupy a higher normative level than the historically specific mechanism of physical discipline. Saeed's approach also requires attention to the contemporary context of reception, including modern legal protections, human dignity, and the empirical reality of domestic violence. Thus, contextual interpretation does not simply replace classical meaning with modern preference; it methodologically evaluates which elements are context-bound and which values express the Qur'an's enduring ethical orientation.

This hermeneutical transition provides a more careful bridge from classical interpretation to contemporary gender critique. Early Islamic discourse itself contains signs that patriarchal legal assumptions were not uncontested. Reports concerning women's questions about gender asymmetry, including those associated with Umm Salama, indicate that demands for moral reciprocity and gender justice were present within the formative Islamic community, not merely imported from modern feminism (al-Ṭabarī, 2001; Wadud, 1999). However, because exegetical and juristic authority developed largely within male scholarly institutions, the dominant interpretation of ḍarb was often aligned with broader patriarchal structures of marital authority. This does not mean that the Qur'an is patriarchal in essence; rather, it shows that interpretive traditions are historically mediated and therefore open to critical re-evaluation.

Contemporary Muslim feminist scholarship enters the discussion at this point, not as an abrupt ideological substitution, but as part of a broader hermeneutical effort to expose the historical mediation of interpretation. Amina Wadud argues that Qur'anic interpretation must be read through the text's ethical worldview rather than through patriarchal assumptions embedded in classical exegesis.[77] Asma Barlas similarly contends that patriarchal readings are not inherent to the Qur'an itself but arise from interpretive traditions shaped by male authority and social

[76] Saeed, Abdullah. 2006. *Interpreting the Qur'an: Towards a Contemporary Approach*. London: Routledge. Saeed, Abdullah. 2014. *Reading the Qur'an in the Twenty-First Century: A Contextualist Approach*. London: Routledge.

[77] Wadud, Amina. 1999. *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. 2nd ed. Oxford: Oxford University Press.

hierarchy.[78] Ziba Mir-Hosseini situates Islamic family law within a continuing tension between religious authority, fiqh construction, and evolving claims for gender justice.[79] These approaches are consistent with contextualist hermeneutics because they do not merely reject tradition; they interrogate the social conditions under which tradition produced gendered legal meanings.

A critical approach to the Sunnah reinforces this contextual deconstruction. Prophetic reports that prohibit striking women, criticize abusive husbands, and establish the Prophet's non-violent conduct as the practical model indicate that the Sunnah moves in the direction of minimizing and ethically rejecting domestic violence.[80] Hadiths that appear to accommodate limited ḍarb should therefore be understood as part of a transitional social process rather than as final normative legitimations of violence. When Qur'anic contextualism and critical Fiqh Sunnah are read together, ḍarb appears not as a static legal entitlement, but as a historically conditioned regulatory device whose contemporary meaning must be governed by the higher values of justice, dignity, mercy, and protection from harm.

Accordingly, contextual deconstruction does not dissolve the authority of QS. An-Nisāʾ: 34, but reconstructs its moral direction. The verse is best understood as part of a gradual reform that sought to restrain violence, regulate conflict, and orient marital relations toward reconciliation. In contemporary Islamic family law, where domestic violence is recognized as a violation of bodily integrity and human dignity, the universal values of the verse must take precedence over its historically contingent form. The reconstruction of ḍarb therefore requires a move from literal permissibility to ethical prohibition of harm, aligning Qur'anic interpretation with maqāṣid al-sharīʿah, Prophetic practice, and contemporary standards of justice.

Integrated Socio-Legal Reconstruction of *Ḍarb*

The integrated socio-legal reconstruction of *ḍarb* proposed in this study is not limited to a semantic replacement of a contested word, but operates as a multidimensional framework that connects theological

[78] Barlas, Asma. 2002. *"Believing Women" in Islam: Unreading Patriarchal Interpretations of the Qur'an*. Austin: University of Texas Press.

[79] Mir-Hosseini, Ziba. 2006. "Muslim Women's Quest for Equality: Between Islamic Law and Feminism." *Critical Inquiry* 32, no. 4: 629–645.

[80] Muslim ibn al-Ḥajjāj. *Ṣaḥīḥ Muslim*. Hadith nos. 2328, 2855. Abū Dāwūd. *Sunan Abī Dāwūd*. Hadith nos. 2142, 2146. Al-Ghazālī, Muḥammad. 1989. *Al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh wa Ahl al-Ḥadīth*. Cairo: Dār al-Shurūq.

interpretation, legal reasoning, socio-cultural transformation, and human rights protection. At the theological level, the reconstruction begins from the premise that Qur'anic discourse addresses men and women as equal moral subjects (*mukallaf*), not as hierarchical objects of unilateral discipline. The Qirā'ah Mubādalah approach therefore functions as a hermeneutical instrument for reading QS. An-Nisā': 34 through reciprocity, mutual accountability, *mīthāq ghalīẓ*, *muʾāsharah bi al-ma'rūf*, and *tashāwur*.[81] Within this frame, *nushūz* is no longer confined to female disobedience, but is reconstructed as any ethical deviation within marriage, including male neglect, injustice, coercion, or abusive conduct.[82]

The legal dimension of this reconstruction is grounded in *maqāṣid al-sharī'ah* and *uṣūlī* reasoning. Any interpretation of *ḍarb* that enables physical injury, psychological trauma, or structural subordination contradicts the higher objectives of Islamic law, especially the protection of life, dignity, justice, and the prevention of harm.[83] Accordingly, the classical category of *ḍarb ghayr mubarriḥ* should not be preserved as a contemporary licence for symbolic striking, because even symbolic permissibility may operate socially as a religious justification for domestic violence. The *uṣūlī* doctrines of *taqyīd al-mubāḥ*, *sadd al-dharā'i'*, and *dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ* provide the internal legal basis for closing interpretive pathways that facilitate harm.[84] Thus, the reconstruction does not reject Islamic legal tradition; it develops the tradition's own restrictive trajectory toward non-violence and legal accountability.

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[81] Faqihuddin Abdul Kodir, *Metodologi Fatwa KUPI: Pokok-Pokok Pikiran Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia*, ed. Marzuki Wahid (KUPI, 2022); Nor Ismah, "Issuing Justice: Women Ulama, Fatwas, and the Ratification of Indonesia's Sexual Violence Crime Bill," *African Journal of Gender and Religion* 31, no. 1 (2025): 65-91.

[82] Kodir, *Metodologi Fatwa KUPI*; Nina Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation," *African Journal of Gender and Religion* 31, no. 1 (2025): 41-64.

[83] Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation"; Ismah, "Issuing Justice."

[84] Abu Ishaq al-Shatibi, *Al-Muwāfaqāt Fī Uṣūl al-Sharīʿah*, ed. Abd Allāh Darrāz (Dār al-Maʿrifah, 1997); Muhammad al-Tahir Ibn Ashur, *Maqāṣid Al-Sharīʿah al-Islāmiyyah* (Dār al-Nafāʾis, 2006); Jasser Auda, *Maqasid Al-Sharīʿah as Philosophy of Islamic Law: A Systems Approach* (The International Institute of Islamic Thought, 2008).

The socio-cultural dimension explains why doctrinal reconstruction must be connected to social practice. In Indonesia, domestic violence is often concealed under the language of family honour, religious obedience, reconciliation, or household privacy. Women's experiences of harm must therefore become a substantive evaluative parameter in legal interpretation, because interpretations that produce *mafsadah* cannot retain normative legitimacy merely by appealing to inherited textual authority.[85] This dimension also recognizes that patriarchal legal consciousness may weaken the enforcement of national laws against domestic violence, especially where mediation processes, community pressure, or religious advice encourage victims to preserve marriage without adequate protection.[86] Religious actors, including women ulama and community-based authorities, are therefore central to transforming public understanding from permissive tolerance toward justice-oriented protection.

The human rights dimension connects Islamic legal reconstruction with contemporary legal protections. By removing the normative legitimacy of physical violence, Islamic interpretation becomes a protective ethical framework that supports, rather than obstructs, the implementation of Law No. 23 of 2004 on the Elimination of Domestic Violence and Law No. 12 of 2022 on Sexual Violence Crimes.[87] This dimension does not impose an external standard upon Islamic law; rather, it demonstrates a convergence between *maqāṣid al-sharī'ah* and human rights principles in protecting bodily integrity, psychological security, equality before the law, and freedom from violence. The result is a reconstruction of *ḍarb* as a legally and ethically invalid basis for domestic violence in contemporary Islamic family law.

[85] Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation"; Ismah, "Issuing Justice."

[86] Sukendar Sukendar et al., "Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 602-28; Kurniati Abidin et al., "Determinants of Domestic Violence in Indonesia from a Gender and Sociology of Law Perspective," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 2 (2025): 701-23.

[87] Umi Supraptiningsih et al., "Understanding the Sexual Violence Reality: A Review of Community Perspectives and Legal Aspects," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 10, no. 1 (2026): 296-320; Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian Dan Tren Kasus Kekerasan Terhadap Perempuan 2024* (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2025).

The model shows that the reconstruction of *ḍarb* proceeds through a layered movement: theological reciprocity establishes equal moral subjectivity; legal reasoning restricts and closes harmful permissibility; socio-cultural analysis tests how interpretation functions in lived reality; and human rights protection confirms that no religious interpretation may legitimize violence against women. In this sense, the reconstructed meaning of *ḍarb* is not a physical act, whether light or symbolic, but a historically restricted discourse whose contemporary legal effect must be redirected toward domestic violence prevention, gender justice, and the protection of human dignity.[88]

Toward an Ushūlī-Based Socio-Legal Reconstruction of Ḍarb

The preceding analyses demonstrate that the interpretation of ḍarb within the traditions of tafsīr, fiqh, and Sunnah is neither monolithic nor absolutely permissive. Rather, it reflects a gradual juristic trajectory oriented toward *takhfīf al-ḍarar* (mitigation of harm), *taqyīd al-mubāḥ* (restriction of the permissible), and the ethical ideal of non-violence embodied in the Prophetic Sunnah.[89] This trajectory necessitates a more systematic *uṣūlī* articulation capable of integrating textual interpretation, legal reasoning, and contemporary socio-legal realities.

From the perspective of *uṣūl al-fiqh*, the reinterpretation of *ḍarb* can be grounded in several foundational doctrines. First, the theory of *maqāṣid al-sharīʿah*, as elaborated by Ibn ʿĀshūr, positions the protection of life (*ḥifẓ al-nafs*) and human dignity (*ḥifẓ al-ʿirḍ*) as higher-order objectives that function as *ḥākim ʿalā al-naṣṣ*—normative principles governing textual interpretation.[90] This framework is further systematized in a contemporary, systemic approach by Jasser Auda, who conceptualizes *maqāṣid* as a dynamic, multi-dimensional system that prioritizes human welfare and justice.[91] Within this paradigm, any interpretation of ḍarb that legitimizes physical harm stands in direct contradiction to the *al-maqāṣid al-kulliyyah* and must therefore be methodologically rejected.

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[88] Kodir, *Metodologi Fatwa KUPI*; Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation"; Supraptiningsih et al., "Understanding the Sexual Violence Reality"; Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024*.

[89] Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation"; Svensson, "Allah Says Beat Them! An Analysis of Non-Muslim Islams Justifying Domestic Violence."

[90] Ibn Ashur, *Maqāṣid Al-Sharīʿah al-Islāmiyyah*.

[91] Auda, *Maqasid Al-SharÏ'ah as Philosophy of Islamic Law: A Systems Approach*.

Second, the doctrine of *sadd al-dharāʾiʿ*, prominently articulated within the Mālikī *uṣūlī* tradition by al-Shatibi, provides a preventive legal mechanism to block pathways leading to harm.[92] Empirical evidence in contemporary contexts indicates that even the notion of "light *ḍarb*" (*ḍarb ghayr mubarriḥ*) frequently functions as an entry point toward systemic domestic violence.[93] Accordingly, the application of *sadd al-dharāʾiʿ* justifies the closure of interpretive possibilities that may facilitate such harm, in line with the maxim *darʾ al-mafāsid muqaddam ʿalā jalb al-maṣāliḥ* (preventing harm takes precedence over attaining benefit).

Third, the Ḥanafī and Shāfiʿī traditions contribute through the doctrines of *istiḥsān* and *taḥqīq al-manāṭ*. In the Ḥanafī school, as developed by al-Sarakhsi, *istiḥsān* allows jurists to depart from strict analogical reasoning when such reasoning leads to hardship or injustice, thereby prioritizing equitable outcomes.[94] Similarly, the Shāfiʿī methodological refinement of *taḥqīq al-manāṭ*, as elaborated by al-Juwayni, requires the contextual verification of the effective cause (*ʿillah*) within changing socio-historical conditions.[95] In contemporary settings, where physical violence demonstrably produces harm, the *ʿillah* underlying the permissibility of *ḍarb* can no longer be sustained as legally operative.

Fourth, the Ḥanbalī tradition reinforces this reconstruction through the doctrines of *rafʿ al-ḥaraj* (removal of hardship) and *dafʿ al-ḍarar*, extensively discussed by Ibn Qudamah.[96] These principles establish that legal rulings must eliminate harm and hardship, particularly within intimate human relationships such as marriage. Consequently, any interpretation that results in physical or psychological injury contradicts these foundational *uṣūlī* imperatives.

Building upon these *uṣūlī* foundations, the reconstruction of ḍarb must be understood not as a literal physical act but as part of a graduated mechanism of conflict resolution oriented toward *iṣlāḥ* (reconciliation). This reinterpretation is further operationalized through the *Mubādalah*

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[92] al-Shatibi, *Al-Muwāfaqāt Fī Uṣūl al-Sharīʿah*.

[93] Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian Dan Tren Kasus Kekerasan Terhadap Perempuan 2024*; Ismah, "Issuing Justice: Women Ulama, Fatwas, and the Ratification of Indonesia's Sexual Violence Crime Bill."

[94] Shams al-Aimma al-Sarakhsi, *Uṣūl Al-Sarakhsī* (Dār al-Maʿrifah, n.d.).

[95] al-Juwayni, *Al-Burhān Fī Uṣūl al-Fiqh*.

[96] Ibn Qudamah, *Al-Mughnī*, vol. 10.

approach[97], which repositions the Qur'anic *khiṭāb* as reciprocal, thereby transforming hierarchical authority into relational ethics grounded in *muʿāsharah bi al-maʿrūf, tashāwur,* and mutual moral responsibility.[98]

From a socio-legal perspective, this *uṣūlī reconstruction* bridges the gap between *law in books* and *law in action*. By aligning the interpretation of *ḍarb* with higher legal objectives and preventive doctrines, Islamic legal reasoning becomes compatible with contemporary legal systems that categorically prohibit domestic violence. This alignment is particularly significant in the Indonesian context, where legal instruments such as Law No. 23 of 2004 on the Elimination of Domestic Violence and Law No. 12 of 2022 on Sexual Violence Crimes require strong theological legitimization to ensure effective enforcement.[99]

Ultimately, this analysis affirms that the transformation of the meaning of *ḍarb* is not an external imposition upon Islamic law but an internal evolution grounded in its own epistemological and methodological principles. Through the integration of *maqāṣid al-sharīʿah, qawāʿid fiqhiyyah*, and *uṣūlī reasoning*, Islamic family law is capable of responding to contemporary human rights challenges while maintaining its normative coherence and fidelity to its foundational objectives.

CONCLUSION

This study demonstrates that the interpretation of ḍarb in QS. An-Nisāʾ:34 cannot be sustained as an unrestricted legal justification for physical violence within marriage. Through an integrated analysis of classical tafsīr, Sunni legal doctrines, Prophetic ethics, and maqāṣid al-sharīʿah, the study finds that the Islamic legal tradition itself has progressively constrained the scope of ḍarb through procedural, ethical, and teleological limitations aimed at preventing harm and preserving human dignity. Rather than constituting an absolute marital right, ḍarb emerges as a normatively restricted concept whose validity is contingent upon broader Sharīʿah objectives. This finding challenges literalist readings that continue to legitimize domestic violence and highlights the

[97] Kodir, *Metodologi Fatwa KUPI: Pokok-Pokok Pikiran Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia*.

[98] Ismah, "Issuing Justice: Women Ulama, Fatwas, and the Ratification of Indonesia's Sexual Violence Crime Bill"; Nurmila, "KUPI Approach to Qur'an and Hadith Reinterpretation."

[99] Supraptiningsih et al., "Understanding the Sexual Violence Reality."

existence of substantial internal doctrinal resources for advancing non-violent interpretations of marital relations within Islamic law.

The principal contribution of this article lies in the development of an integrated uṣūlī–socio-legal framework that bridges scriptural interpretation, maqāṣid-based legal reasoning, socio-cultural critique, and contemporary human rights concerns. Within this framework, maqāṣid al-sharīʿah functions not merely as an ethical complement to legal interpretation but as an internal evaluative criterion for determining normative legitimacy. Consequently, interpretations that generate physical injury, psychological harm, or structural domination are inconsistent with the higher objectives of Sharīʿah, particularly the preservation of life (ḥifẓ al-nafs), dignity (ḥifẓ al-ʿirḍ), and protection from harm (darʾ al-mafāsid). The study therefore contributes to contemporary Islamic legal theory by demonstrating that meaningful legal reform can be derived from the epistemological and methodological foundations of the Islamic tradition itself, rather than from external normative frameworks alone.

From a practical and policy perspective, this reconstruction provides a stronger theological and juridical foundation for preventing domestic violence and promoting gender justice within Muslim family law systems, particularly in Indonesia. The findings support the harmonization of Islamic legal reasoning with contemporary legal instruments on victim protection and offer guidance for judges, mediators, religious counselors, and fatwa institutions in developing non-violent approaches to marital dispute resolution. Nevertheless, this study remains limited to normative, doctrinal, and socio-legal analysis and does not empirically examine how ḍarb is interpreted and applied in judicial, religious, or community settings. Future research should therefore investigate the implementation of maqāṣid-based interpretations in religious court decisions, family mediation practices, premarital education, and legal consciousness formation to assess their effectiveness in reducing the religious legitimization of domestic violence and advancing substantive justice within Muslim societies.

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