

Digital Divorce Arising from Social Media Infidelity: Reconstructing the Concepts of Nusyūz and Shiqāq in Light of Maqāṣid al-Sharī'ah

Rasdiana Wirhanuddin^{1*}

¹ UIN Alauddin Makassar, Indonesia

Correspondence:

rasdiana@uin-alauddin.ac.id

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Abstract: *The growing use of social media has given rise to a new pattern of marital conflict known as digital divorce, namely divorce triggered by infidelity conducted through virtual communication without physical contact. This phenomenon has not yet been accommodated within the classical formulations of the concepts of nusyūz and shiqāq in Islamic family law. This study aims to analyse how digital infidelity has altered patterns of marital conflict and to reconstruct the concepts of nusyūz and shiqāq through the perspective of Maqāṣid al-Sharī'ah so that they remain relevant to digital society. This study employs a normative-qualitative method with a library research design, drawing on the Qur'an, hadith, classical and contemporary fiqh literature, Indonesian marriage legislation, and prior research, which are analysed descriptively-analytically using a maqāṣid approach. The findings indicate that digital infidelity encompassing emotional relationships conducted through private messages, sexting, and concealed virtual relations constitutes a substantial violation of marital commitment that may be categorised as a contemporary form of nusyūz, while the jealousy, excessive surveillance, and communication breakdown that it generates reflect an expanded meaning of shiqāq. Maqāṣid al-Sharī'ah, particularly ḥifẓ al-nasl and ḥifẓ al-'ird, provides a normative foundation for this reconstruction, extending family protection from the biological dimension towards trust, honour, and emotional security.*

Abstrak: Meluasnya penggunaan media sosial memunculkan pola konflik perkawinan baru yang disebut digital divorce, yaitu perceraian yang dipicu oleh perselingkuhan melalui komunikasi virtual tanpa kontak fisik. Fenomena ini belum terakomodasi dalam rumusan klasik konsep nusyuz dan syiqaq dalam hukum keluarga Islam. Penelitian ini bertujuan menganalisis bagaimana perselingkuhan digital mengubah pola konflik perkawinan serta merekonstruksi konsep nusyuz dan syiqaq melalui perspektif Maqashid Syariah agar tetap relevan dengan masyarakat digital. Penelitian ini menggunakan metode kualitatif normatif dengan desain kepustakaan, bersumber dari Al-Qur'an, hadis, literatur fikih klasik dan kontemporer, peraturan perundang-undangan perkawinan Indonesia, serta penelitian terdahulu, yang dianalisis secara deskriptif-analitis dengan pendekatan maqashid. Hasil penelitian menunjukkan bahwa perselingkuhan digital mencakup hubungan emosional melalui pesan pribadi, sexting, dan relasi virtual tersembunyi merupakan pelanggaran substansial terhadap komitmen perkawinan yang dapat dikategorikan sebagai bentuk nusyuz kontemporer, sementara kecemburuan, pengawasan berlebihan, dan kerusakan komunikasi yang ditimbulkannya merefleksikan perluasan makna syiqaq. Maqashid Syariah, khususnya hifz al-nasl dan hifz al-'ird, memberikan landasan normatif bagi rekonstruksi ini, memperluas

perlindungan keluarga dari dimensi biologis menuju kepercayaan, kehormatan, dan keamanan emosional.

Keywords: *Digital Divorce; Nusyūz; Shiqāq; Digital Infidelity; Maqāṣid al-Shari'ah*



Introduction

The development of information and communication technology in the digital era has brought highly significant changes to various aspects of human life, including family relations and married life. The presence of social media platforms such as Facebook, Instagram, WhatsApp, TikTok, and various other digital communication applications does not merely function as a means of social interaction, but has also created new spaces for the formation of emotional relationships, personal closeness, and even virtual infidelity. This phenomenon has subsequently given rise to increasingly complex forms of domestic conflict which, in many cases, culminate in what may be termed digital divorce, namely divorce triggered by a partner's digital activities, particularly inappropriate communication, concealed emotional relationships, or infidelity conducted through social media. Within the context of Islamic family law, the issue of infidelity has conventionally long been examined through the concepts of nusyūz and shiqāq. Nusyūz is classically understood as one spouse's disobedience towards marital obligations, capable of disrupting domestic harmony. Shiqāq, meanwhile, is understood as continuous discord and conflict between husband and wife that makes it difficult to attain a harmonious household life (*sakīnah, mawaddah, wa rahmah*). Both concepts were formulated within the context of traditional societies that had not yet encountered the digital spaces of interaction that exist today.

The transformation of patterns of social interaction through digital media has given rise to new problems in the study of Islamic family law. Activities such as engaging in intimate communication with another person through direct messages, deliberately deleting conversation histories, sexting, developing emotional closeness with a third party, or maintaining a virtual romantic relationship have not been explicitly addressed within the classical fiqh formulations of nusyūz and shiqāq. Consequently, there is a need to reinterpret these concepts so that they remain relevant amid social change and technological development. The phenomenon of digital infidelity cannot be regarded as a simple matter. Although it does not always involve physical contact, online emotional relationships frequently generate pain, loss of trust, jealousy, and damage to the psychological bond between spouses. In many families, betrayal of trust through social media has an impact equal to, or even greater than, direct infidelity, owing to its continuous, concealed nature, which can occur at any time without spatial or temporal limitation. Consequently, the presence of digital technology has altered the form and character of marital conflict, requiring a more adaptive legal approach.

From the perspective of Indonesian positive law, divorce may occur where grounds exist that render a husband and wife unable to live harmoniously as a household. Provisions concerning continuous discord and conflict as grounds for divorce may be found in Article 39 of Law Number 1 of 1974 concerning Marriage, in conjunction with Government Regulation Number 9 of 1975, as well as Article 116(f) of the Compilation of Islamic Law (*Kompilasi Hukum Islam, KHI*). However, these regulations have not yet specifically addressed the forms of domestic conflict arising from the use of social media and digital infidelity. This condition demonstrates a gap between the development of social reality and the existing formulation of family law norms. Sociologically, the increasing use of social media has influenced patterns of communication between spouses. Social media presents extensive opportunities for building new relationships, rekindling past

relationships, or forming emotional closeness with another party without a partner's oversight. This phenomenon demonstrates that marital fidelity in the digital era relates not only to the existence of sexual relations outside marriage, but also to emotional loyalty, transparency of communication, and moral responsibility in the use of technology.

The concept of digital divorce is important to examine because it demonstrates a shift in the meaning of violation within marital relationships. In the classical fiqh paradigm, discussion of violations of the marital relationship focused primarily on acts of a physical and tangible nature. In the digital era, however, betrayal may occur through virtual spaces that leave electronic traces in the form of messages, photographs, videos, or interactions on social media. Such digital traces are, moreover, frequently used as evidence in divorce proceedings before the courts. In this context, the Maqāṣid al-Sharī'ah approach becomes relevant as an analytical framework for reconstructing the concepts of nusyūz and shiqāq. Maqāṣid al-Sharī'ah does not merely understand Islamic law textually, but is also oriented towards the fundamental objectives of the sharī'ah in realising benefit (jalb al-maṣāliḥ) and preventing harm (dar' al-mafāsid). The objective of protecting the family and lineage (ḥifẓ al-nasl) constitutes one of the principal principles in maintaining the continuity of the institution of marriage. In the digital context, such protection must be extended beyond the biological dimension to encompass the protection of trust, honour, emotional security, and the psychological stability of family members. Through the maqāṣid approach, digital infidelity may be analysed as a form of conduct that threatens family benefit (maṣlaḥah) because it undermines the element of trust that constitutes the foundation of the marital relationship. The concept of nusyūz can therefore no longer be understood narrowly as disobedience towards domestic obligations, but must be reconstructed as any act by a husband or wife that consciously violates the moral commitment of marriage and causes damage to family relationships, including through digital media. Similarly, the concept of shiqāq needs to be understood more broadly as domestic conflict arising from changing patterns of communication, digital jealousy, excessive surveillance through social media, and virtual infidelity.

Several prior studies on Islamic family law have focused predominantly on nusyūz from the perspective of classical fiqh, gender equality, and the rights and obligations of husband and wife. Other studies on digital technology have tended to focus on the impact of social media on interpersonal relations and the rise in domestic conflict. However, studies that specifically integrate the phenomenon of digital divorce, the reconstruction of the concepts of nusyūz and shiqāq, and analysis using the Maqāṣid al-Sharī'ah approach remain very limited. This limitation indicates an academic space that requires further development to address the challenges facing Islamic family law amid digital transformation. Based on this background, this study aims to analyse how infidelity conducted through social media alters patterns of marital conflict, and how the concepts of nusyūz and shiqāq may be reconstructed through the perspective of Maqāṣid al-Sharī'ah so that they remain relevant to the development of digital society. This study is expected to make a theoretical contribution to the reform of Islamic family law, particularly in broadening the understanding of forms of violation of marital fidelity in the digital era, and to provide a conceptual foundation for the resolution of divorce cases triggered by infidelity on social media.

Literature Review

The Classical Concept of Nusyūz and the Need for Reconstruction in Islamic Family Law

Nusyūz constitutes a fundamental concept in Islamic family law relating to violations of the rights and obligations of husband and wife within domestic life. Etymologically, the term nusyūz derives from the words nashaza-yanshuzu, meaning to rise, to elevate, or to depart from one's place. In fiqh terminology, this concept is understood as an attitude that leads to the destruction of marital harmony as a result of the neglect of a spouse's obligations. The Qur'an, through Sūrah al-Nisā' verse 34, addresses the possibility of nusyūz on the part of the wife, while Sūrah al-Nisā' verse 128

acknowledges the possibility of nusyūz on the part of the husband. This demonstrates that, normatively, the concept of nusyūz is not exclusive to women, but may occur on the part of either spouse.

However, the construction of classical fiqh, which developed within patriarchal societies, has largely positioned nusyūz as a form of disobedience by the wife towards the authority of the husband. Contemporary Islamic family law therefore undertakes a reinterpretation, positioning nusyūz as any act by either husband or wife that violates the marital commitment and results in the loss of the objective of a *sakīnah*, *mawaddah*, and *rahmah* family. From this perspective, the development of digital technology presents new forms of violation of marital commitment that were unknown in classical fiqh literature, necessitating an expansion of the meaning of nusyūz to encompass emotional and relational betrayal occurring through digital spaces. This bilateral reading of nusyūz has gained increasing support in recent studies. Izzah (2021) examined solutions to nusyūz within the Compilation of Islamic Law from a Qur'anic perspective and affirmed that the sacred text does not confine nusyūz to the wife alone. In a similar vein, Hadi, Tatarisanto, Putra, Azizah, and Asnawi (2024) specifically examined the husband's nusyūz within Islamic family law, together with its implications and normative-juridical resolution, while Nasution (2005) highlighted women's rights within Indonesian Islamic family law as a context relevant to a balanced reading of nusyūz. The *mubādalah* (reciprocity) framework developed by Faqihuddin Abdul Kodir (2019) likewise provides a methodological foundation for a reciprocal reading of fiqh texts, whereby obligations and violations within the marital relationship must be understood as a shared responsibility rather than a unilateral burden. These four references strengthen the basis for the reconstruction of nusyūz proposed by this study in the results and discussion section.

The Concept of Shiqāq and the Legal Basis for Divorce Due to Continuous Discord

Etymologically, *shiqāq* derives from the word *shaqqa*, meaning to split or to separate, which in fiqh terminology is understood as prolonged discord and conflict between husband and wife that threatens the continuity of the marital bond. Unlike nusyūz, which centres on the neglect of obligations by one party, *shiqāq* describes a broader relational condition, namely the breakdown of communication and the loss of harmony involving both parties reciprocally. Classical fiqh provides the mechanism of *ḥakam* (arbitrator) as a step towards resolution prior to the termination of marriage through divorce. Within Indonesian positive law, *shiqāq* has been adopted as a ground for divorce through Article 39 of Law Number 1 of 1974 concerning Marriage in conjunction with Article 19(f) of Government Regulation Number 9 of 1975, and is further affirmed in Article 116(f) of the Compilation of Islamic Law, which formulates it as circumstances in which "husband and wife continuously experience discord and conflict with no hope of living harmoniously together again as a household". Ilhami (2014) found that, in the practice of the Religious Courts in Yogyakarta, judges interpret *shiqāq* as a form of discord that has caused harm (*muḍārat*) to one or both parties, while the applicable procedural law tends to be merged with the general procedure for resolving disputes. The studies of Susylawati (2018) and Sukur and Shobahah (2021) corroborate this finding, demonstrating that *shiqāq* is the ground most frequently invoked in divorce petitions and applications before the Religious Courts, indicating a high frequency of domestic conflict that remains unresolved through mediation.

Nasution (2024) noted that the frequency with which *shiqāq* is invoked as a ground for divorce continues to increase year on year, yet its normative formulation remains grounded in a conventional depiction of conflict, namely verbal or physical altercation within a shared domestic space. This classical formulation has not yet anticipated the possibility that continuous discord may be triggered and exacerbated by patterns of digital communication, such as suspicion arising from social media activity, the discovery of conversation traces, or excessive surveillance of a partner's devices. It is this gap that underlies the need to reread the concept of *shiqāq* within the context of marital relationships that are increasingly mediated by digital technology.

Maqāṣid al-Sharī'ah as an Epistemological Framework for the Reform of Family Law

Conceptually, maqāṣid al-sharī'ah refers to the highest objectives that Islamic sharī'ah seeks to realise, namely attracting benefit (*jalb al-maṣāliḥ*) and repelling harm (*dar' al-mafāsid*). Al-Shāṭibī, in *al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, systematically formulated these objectives into five fundamental protections (*al-ḍarūriyyāt al-khamsah*): the protection of religion (*ḥifẓ al-dīn*), the protection of life (*ḥifẓ al-nafs*), the protection of intellect (*ḥifẓ al-'aql*), the protection of lineage (*ḥifẓ al-nasl*), and the protection of property (*ḥifẓ al-māl*). These five principles serve as parameters for assessing whether a given legal provision, including family law, is consistent with the fundamental objectives of the sharī'ah or, conversely, deviates from them. Auda (2008) critiques the literalist and hierarchical tendencies in classical readings of maqāṣid, proposing instead a systems approach that regards maqāṣid as a framework that is cognitive, open, multidimensional, and purposeful in orientation, thereby enabling it to accommodate contemporary social change, including digital technological transformation, without reducing the fundamental values of the sharī'ah. In a similar vein, Kamali (2020) emphasises the importance of the actualisation (*taf'īl*) of maqāṣid, namely translating the philosophical objectives of the sharī'ah into concrete and contextual legal application, rather than remaining a normative discourse confined to the theoretical level.

In particular, classical scholars such as Ibn 'Ashūr tended to interpret *ḥifẓ al-nasl* in a protective-genealogical sense, confined to the prevention of confusion of lineage through the prohibition of *zinā*. Contemporary readings extend *ḥifẓ al-nasl* to encompass family welfare, psychological security, and the quality of upbringing of future generations, no longer confined solely to the biological dimension. It is this expanded meaning that opens conceptual space for reading digital infidelity as a violation of *ḥifẓ al-nasl*, even though it does not involve physical contact or *zinā* in the classical sense, because the harm it produces targets the foundation of trust and the psychological stability of the family. From the perspective of gender relations, Putra and Sumbulah (2020) employ Jasser Auda's maqāṣid framework to reinterpret *nusyūz* as a violation of marital commitment that may be committed by either husband or wife, rather than solely as disobedience by the wife, as constructed within classical patriarchal *fiqh*. This reading provides an important conceptual bridge for this study in reconstructing *nusyūz* bilaterally within the context of digital infidelity, as elaborated further in the results and discussion section.

Digital Infidelity and the Concept of Digital Divorce: A Conceptual Review and Prior Research

International studies in relationship psychology have long discussed the phenomenon of digital infidelity. Whitty (2003) and Whitty and Quigley (2008) distinguish between emotional and sexual infidelity occurring online, finding that emotional betrayal conducted through cyberspace is perceived by the majority of respondents as a genuine form of betrayal, almost equivalent to conventional infidelity. Hertlein and Piercy (2006) noted that, until the mid-2000s, no single agreed definition of internet infidelity existed, a definitional problem that, according to Vossler's (2016) subsequent review a decade later, had become even more complex owing to the expansion of social media platforms. Empirically, Clayton, Nagurney, and Smith (2013) found a correlation between the intensity of Facebook use and increased conflict, infidelity, and divorce among couples married for less than three years.

Within the field of Islamic family law studies in Indonesia, Azkiyah, Samsudin, and Djumhur (2025) analyse cyber cheating as a form of violation of a spouse's rights that may potentially be categorised as *nusyūz* or a moral violation of marriage, even in the absence of physical contact. Salsabila and Hakim (2025) reveal that digital infidelity among young Muslim couples generally begins with low-intensity interactions such as liking and commenting on a third party's posts which subsequently escalate into personal communication concealed from the partner. Pramudita, Rohmat, and Hadaiyatullah (2026) specifically analyse divorce cases arising from social media infidelity from the perspective of Islamic family law, while Baidowi (2025) and Nursyifa and Hayati

(2020) highlight the role of social media as a catalyst for domestic breakdown, calling for preventive efforts through the strengthening of digital literacy and family resilience.

A synthesis of prior studies reveals three important points. First, digital infidelity has been widely acknowledged, both in the international relationship psychology literature and in Islamic family law studies in Indonesia, as a genuine form of marital betrayal notwithstanding the absence of physical contact. Second, a number of studies have begun to link cyber cheating with the concept of nusyūz, yet their discussion generally stops at identifying the phenomenon without formulating operational reconstructive criteria. Third, no study has yet been found that systematically reconstructs nusyūz and shiqāq simultaneously through the framework of maqāṣid al-sharī'ah as an integrated conceptual response to the phenomenon of digital divorce. It is this gap that constitutes the point of departure for the novelty of this study.

Method

This study employs a normative (doctrinal) qualitative legal research design, utilizing a conceptual approach integrated with maqāṣid al-sharī'ah to reconstruct the classical fiqh concepts of nusyūz and shiqāq in light of digital infidelity arising from social media. Data were obtained exclusively from secondary legal sources, including primary materials (the Qur'an, hadith, Law No. 1/1974 on Marriage, Government Regulation No. 9/1975, and the Compilation of Islamic Law) and secondary materials (indexed journal articles, books, and prior studies on nusyūz, shiqāq, digital infidelity, digital divorce, and maqāṣid al-sharī'ah). Library research was conducted through academic databases (Google Scholar, Garuda, SINTA, DOAJ, Crossref) using targeted keywords, with literature selected based on thematic relevance, credibility, and recency (prioritizing publications from the last 5–10 years while retaining foundational classical references). Data analysis combined content analysis with normative-conceptual reasoning grounded in maqāṣid theory, involving thematic categorization (classical nusyūz, classical shiqāq, forms of digital infidelity, and maqāṣid principles), followed by descriptive-analytical interpretation and synthesis to formulate a contextually relevant reconstruction of nusyūz and shiqāq for the digital era.

Results and Discussion

Based on the literature review outlined in the preceding section, this section presents an analysis of three principal research questions, namely how digital infidelity alters patterns of marital conflict, how the concepts of nusyūz and shiqāq may be reconstructed to accommodate this phenomenon, and how maqāṣid al-sharī'ah provides epistemological legitimacy for this reconstruction. The discussion is structured analytically, linking the findings of the literature review to maqāṣid theory, prior research, and the objectives of the study, rather than merely describing existing concepts.

Forms of Digital Infidelity as Triggers of Marital Conflict

A synthesis of prior studies demonstrates that digital infidelity does not manifest in a single form, but rather in a range of behaviours that escalate gradually. Salsabila and Hakim (2025) found that digital infidelity among young Muslim couples generally begins with low-intensity interactions liking and commenting on a third party's posts which subsequently develop into concealed personal communication, intense emotional relationships, and, in a number of cases, sexting or cybersex. This pattern of escalation is consistent with the typology proposed by Hertlein and Piercy (2006) and reinforced by Whitty and Quigley (2008), who analytically distinguish between emotional and sexual infidelity in cyberspace, while also finding that both are perceived by the public as genuine forms of betrayal. At least five forms of digital infidelity may be identified from the literature review, namely: (1) concealed emotional communication through direct messages; (2) sexting and cybersex activity; (3) the deliberate deletion of conversation histories as a form of concealment; (4) the

rekindling of relationships with former partners through social media; and (5) digital jealousy and excessive surveillance of a partner's accounts or devices, which frequently trigger derivative conflict even though they do not constitute infidelity in themselves. Azkiyah, Samsudin, and Djumhur (2025) affirm that these five forms, although not involving physical contact, remain potentially categorisable as violations of a spouse's rights within Islamic family law, as they undermine the elements of fidelity and trust (*amānah*) within marriage.

Analytically, the character of digital infidelity differs from conventional infidelity in three fundamental respects, namely accessibility (it can occur at any time without physical presence), plausible deniability (digital histories can be deleted or denied), and continuity (communication can occur continuously without spatial or temporal limitation). These three characteristics explain the empirical finding of Clayton, Nagurney, and Smith (2013) that the intensity of social media use correlates with increased conflict, suspicion, and, ultimately, divorce, because digital space creates a new layer of uncertainty within marital relationships that cannot be fully monitored or verified by a partner.

Reconstructing the Concept of Nusyūz from a Digital Perspective

The construction of classical fiqh positions *nusyūz* as disobedience, which in practice has predominantly been directed at wives who neglect domestic obligations or obedience towards their husbands. This reading, as criticised by Putra and Sumbulah (2020) through Jasser Auda's *maqāṣid* framework, emerged from a patriarchal societal context and does not reflect the true normative balance of the Qur'an, which in fact acknowledges the possibility of *nusyūz* on the part of either spouse. Proceeding from this premise, this study reconstructs *nusyūz* as any act by a husband or wife that consciously violates the moral and emotional commitment of marriage (*mu'āsharah bi al-ma'rūf*), thereby causing damage to family relationships, without confining such violation solely to the neglect of physical-material obligations or to either sex.

On this formulation, digital infidelity may be read as a contemporary form of *nusyūz* where it satisfies three cumulative elements: first, an element of concealment, namely a conscious effort to hide communication or a relationship from a partner, for example through the deletion of conversation histories; second, an element of continuous emotional or sexual involvement outside the marital bond, rather than merely incidental, unremarkable interaction; and third, an element of breach of trust arising from the two preceding elements. This three-element formulation is consistent with the finding of Azkiyah, Samsudin, and Djumhur (2025), who categorise cyber cheating as a form of violation of a spouse's rights notwithstanding the absence of physical contact, while also providing an operational limitation to prevent the concept of *nusyūz* from being extended excessively to ordinary digital interactions that do not violate marital commitment.

Reconstructing the Concept of Shiqāq Arising from Social Media Infidelity

As outlined in the literature review, Ilhami (2014) found that judges in the Religious Courts interpret *shiqāq* as discord that has caused harm to one or both parties, without further detail as to its triggering source. In practice, as demonstrated by Pramudita, Rohmat, and Hadaiyatullah (2026) and Baidowi (2025), the triggers of such discord increasingly originate from digital activity, such as jealousy arising from a partner's posts or interactions on social media, conflict arising from the discovery of digital conversation traces, acquaintance with a third party online, or excessive surveillance of a partner's accounts and devices. This study argues that such digital triggers substantively satisfy the normative elements of *shiqāq* as formulated in Article 116(f) of the Compilation of Islamic Law, namely continuous discord and conflict with no hope of living harmoniously together, and should therefore be explicitly recognised as an independent indicator, rather than merely as unmentioned background within judicial consideration.

Explicit recognition of digital-based *shiqāq* is also relevant to the practical evidentiary needs of the courts, given that digital evidence such as screenshots of conversations, posting histories, and communication metadata is increasingly commonly submitted in divorce proceedings. This

reconstruction does not alter the normative element of shiqāq itself, but rather extends recognition of the range of its triggering sources, thereby providing judges with a clearer conceptual basis for assessing whether discord rooted in digital interaction has reached a level of severity sufficient to satisfy shiqāq as a ground for divorce.

Maqāṣid al-Sharī'ah Analysis of the Reformulation of Nusyūz and Shiqāq

Auda's (2008) systems approach regards fiqh categories, including nusyūz and shiqāq, not as closed entities, but as functional instruments serving higher objectives, namely the protection of lineage (ḥifẓ al-nasl) and the protection of honour (ḥifẓ al-'ird), as well as, indirectly, the protection of life (ḥifẓ al-nafs) in the dimension of the psychological health of family members. The reconstruction of nusyūz and shiqāq proposed by this study is consistent with this logic, because digital infidelity, although it does not give rise to confusion of biological lineage as emphasised in Ibn 'Āshūr's classical reading of ḥifẓ al-nasl, nevertheless undermines the foundation of trust that is a prerequisite for the realisation of a sakīnah, mawaddah, and raḥmah family. Viewed through the principle of jalb al-maṣāliḥ wa dar' al-mafāsid, explicit recognition of digital-based nusyūz and shiqāq yields two benefits simultaneously. First, a preventive benefit, since early recognition of digital indicators enables mediative intervention through ṣulḥ or ḥakam before conflict reaches an irrecoverable point. Second, a protective benefit, since such recognition provides legal space for an aggrieved party to seek divorce without having to wait for a more severe physical violation to occur. Table 1 below presents a summary of the conceptual reconstruction proposed by this study.

Table 1. Reconstruction of the Concepts of Nusyūz and Shiqāq from the Perspective of Maqāṣid al-Sharī'ah

Concept	Classical Understanding	Limitations in the Digital Context	Reconstruction from the Perspective of Maqāṣid al-Sharī'ah
Nusyūz	Disobedience by the wife towards the husband's obligations and authority	Does not encompass emotional/sexual betrayal without physical contact, and is unilateral (gender-specific)	Violation of marital moral commitment by husband or wife, encompassing digital infidelity that satisfies the elements of concealment, continuous involvement, and breach of trust
Shiqāq	Continuous discord and conflict within a shared domestic space	Does not yet accommodate conflict triggers originating from digital activity and digital traces	Explicit recognition of digital jealousy, excessive surveillance, and conflict arising from digital traces as independent indicators of continuous discord

Source: authors' analysis (2026), synthesised from Putra and Sumbulah (2020), Ilhami (2014), Azkiyah, Samsudin, and Djumhur (2025), and Auda (2008).

Implications for the Practice of the Religious Courts and the Reform of Family Law

In practical terms, this conceptual reconstruction has implications for judges of the Religious Courts in assessing electronic evidence, such as screenshots of conversations and social media activity histories, as relevant indicators for identifying nusyūz or shiqāq, in line with the increasingly

common acceptance of digital evidence in contemporary divorce proceedings. Theoretically, this reconstruction contributes to the development of what Smith (2011) terms digital fiqh, namely a scholarly discourse of fiqh that responds to the transformation of textual authority and individual reasoning brought about by digital technological mediation, positioning *maqāṣid al-sharī'ah* as a methodological bridge between classical fiqh categories and the reality of the digital family.

This study further recommends that the explanatory note to Article 116(f) of the Compilation of Islamic Law be textually enriched to accommodate the range of digital-based discord triggers, as a step towards the reform of Islamic family law responsive to the development of digital society, without needing to alter the fundamental normative structure of the concepts of *nusyūz* and *shiqāq* themselves. This logic is consistent with Iwan's (2022) analysis of the marriage certificate as authentic evidence of marriage from the perspective of *maqāṣid al-sharī'ah*, which demonstrates that formal registration and documentation including in digital form serve to protect legal certainty and family rights, such that the acceptance of electronic evidence in *nusyūz* and *shiqāq* cases may be regarded as a reasonable extension of the same principle.

Conclusion

This study concludes that digital infidelity has fundamentally altered patterns of marital conflict, from a form of betrayal that is physical and visible to one that is concealed, continuous, and difficult to verify, as reflected in its five principal forms, namely concealed emotional communication, sexting and cybersex, the deletion of conversation histories, the rekindling of past relationships, and excessive digital jealousy and surveillance. On this basis, this study reconstructs *nusyūz* as a violation of marital moral commitment that is bilateral in nature, capable of being committed by either husband or wife, and identifiable through three cumulative elements, namely concealment, continuous emotional/sexual involvement outside marriage, and breach of trust. Correspondingly, *shiqāq* is reconstructed to explicitly recognise digital-based triggers, such as jealousy arising from social media activity and conflict arising from digital traces, as independent indicators of continuous discord as referred to in Article 116(f) of the Compilation of Islamic Law. *Maqāṣid al-sharī'ah*, particularly the principles of *ḥifẓ al-nasl*, *ḥifẓ al-'ird*, and *jalb al-maṣāliḥ wa dar' al-mafāṣid* as developed by Auda (2008) and Kamali (2020), constitutes the epistemological framework legitimising both reconstructions without altering the fundamental normative structure of classical fiqh.

Theoretically, this study contributes to the development of digital fiqh discourse by offering operational criteria that both restrict and extend the application of *nusyūz* and *shiqāq* within the context of the digital family, thereby enriching Islamic family law scholarship, which has previously tended to address digital infidelity and classical fiqh concepts separately. Practically, this reconstruction provides a conceptual basis for judges of the Religious Courts in assessing electronic evidence as an indicator of *nusyūz* or *shiqāq*, and recommends the strengthening of digital literacy and family resilience as preventive measures. This study also calls for the explanatory note to Article 116(f) of the Compilation of Islamic Law to be textually enriched to accommodate the range of digital-based discord triggers. This study is subject to limitations, as it is normative-conceptual and library-based in nature, such that the reconstruction of *nusyūz* and *shiqāq* proposed has not been empirically tested against judicial reasoning in Religious Court decisions employing digital evidence. Future research is recommended to undertake case law analysis or field research to examine the extent to which the reconstructive criteria proposed by this study are, or may be, genuinely applied in the practice of the Religious Judiciary in Indonesia.

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Conflict of Interest

The author declares that there is no conflict of interest in the writing of this article.

References

- Auda, J. (2008). *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. International Institute of Islamic Thought (IIIT).
- Azkiyah, H. A., Samsudin, & Djumhur, A. (2025). Cyber Cheating sebagai Bentuk Pelanggaran Hak Pasangan Suami Istri dalam Hukum Keluarga Islam. *Bustanul Fuqaha: Jurnal Bidang Hukum Islam*, 6(2), 360–375. <https://doi.org/10.36701/bustanul.v6i2.2317>
- Baidowi, A. D. (2025). Perceraian Digital: Peran Media Sosial dalam Retaknya Rumah Tangga di Era Teknologi. *Jurnal Ilmu Hukum*, 3(2), 26–33.
- Clayton, R. B., Nagurney, A., & Smith, J. R. (2013). Cheating, Breakup, and Divorce: Is Facebook Use to Blame? *Cyberpsychology, Behavior, and Social Networking*, 16(10), 717–720. <https://doi.org/10.1089/cyber.2012.0424>
- Faqihuddin Abdul Kodir. (2019). *Qira'ah Mubadalah*. IRCiSoD.
- Hadi, B. K., Tatarisanto, O., Putra, A. D., Azizah, A. N., & Asnawi, M. N. (2024). Nusyuz Suami dalam Hukum Keluarga Islam, Serta Implikasi dan Penyelesaian dalam Normatif Yuridis. *Jurnal Review Pendidikan dan Pengajaran*, 7(3), 8837–8847.
- Hertlein, K. M., & Piercy, F. P. (2006). Internet Infidelity: A Critical Review of the Literature. *The Family Journal*, 14(4), 366–371. <https://doi.org/10.1177/1066480706290508>
- Ilhami, H. (2014). Interpretation of Syiqaq and Its Procedural Law at Religious Court in Yogyakarta. *Mimbar Hukum*, 26(1), 148–157. <https://doi.org/10.22146/jmh.16060>
- Iwan. (2022). Akta Nikah Sebagai Bukti Otentik Perkawinan di Indonesia; Analisis Maqashid Syariah Terhadap Pencatatan. *Al-Ushrah: Jurnal Al-Ahwal As-Syakhsyah*, 10(2), 73–86. <https://doi.org/10.30821/al-usrah.v10i2.14713>
- Izzah, I. (2021). Nusyuz and Its Solutions in Compilation of Islamic Law From The Perspective of The Al-Quran. *Jurnal Al-Dustur*, 4(1), 31–48. <https://doi.org/10.30863/jad.v4i1.1420>
- Kamali, M. H. (2020). Actualization (Taf'il) of the Higher Purposes (Maqasid) of Shariah. International Institute of Advanced Islamic Studies (IAIS).
- Kementerian Agama Republik Indonesia. (1991). Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam.
- Nasution, K. (2005). Women's Right in the Islamic Family Law of Indonesia. *Unisia*, 28(56), 192–204. <https://doi.org/10.20885/unisia.vol28.iss56.art10>
- Nasution, M. Y. (2024). Frekuensi Tingkat Pertengkarannya Terus Menerus (Syiqaq) Sebagai Alasan Perceraian di Pengadilan Agama. *Al-Syakhshiyah: Jurnal Hukum Keluarga Islam dan Kemanusiaan*, 6(1), 17–32. <https://doi.org/10.30863/as-hki.v6i1.5732>

- Nursyifa, A., & Hayati, E. (2020). Upaya Pencegahan Perceraian Akibat Media Sosial dalam Perspektif Sosiologis. *Jurnal Sosiologi Pendidikan Humanis*, 5(2), 144-158. <https://doi.org/10.17977/um021v5i2p144-158>
- Pramudita, A. P., Rohmat, & Hadaiyatullah, S. S. (2026). Analisis Hukum Keluarga Islam Terhadap Perceraian Akibat Perselingkuhan di Media Sosial. *Al-Ahwal Al-Syakhsiyyah: Jurnal Hukum Keluarga dan Peradilan Islam*, 7(1), 60-74. <https://doi.org/10.15575/as.v7i1.54658>
- Putra, M. H. A., & Sumbulah, U. (2020). Memaknai Kembali Konsep Nusyuz Dalam Kompilasi Hukum Islam Perspektif Gender & Maqashid Syariah Jasser Auda. *Egalita*, 15(1), 42-60. <https://doi.org/10.18860/egalita.v15i1.10179>
- Republik Indonesia. (1974). Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Republik Indonesia. (1975). Peraturan Pemerintah Nomor 9 Tahun 1975 tentang Pelaksanaan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Salsabila, A. P., & Hakim, M. A. (2025). Aksiologi Talak dan Rekonsiliasi dalam Perselingkuhan Digital pada Pasangan Muda Muslim. *Nalar: Jurnal Peradaban dan Pemikiran Islam*, 9(1), 192-217. <https://doi.org/10.23971/njppi.v9i2.11012>
- Smith, S. C. (2011). *Crowdsourcing Sharia: Digital Fiqh and Changing Discourses of Textual Authority, Individual Reason, and Social Coercion*. Georgetown University.
- Sukur, M., & Shobahah, N. (2021). Syiqaq Sebagai Alasan Perceraian Di Pengadilan Agama Tulungagung. *Ahkam: Jurnal Hukum Islam*, 9(1), 175-192. <https://doi.org/10.21274/ahkam.2021.9.1.175-192>
- Susylawati, E. (2018). Perselisihan dan Pertengkaran Sebagai Alasan Perceraian di Pengadilan Agama. *Al-Ihkam: Jurnal Hukum & Pranata Sosial*, 3(1), 81-94. <https://doi.org/10.19105/al-ihkam.v3i1.2598>
- Vossler, A. (2016). Internet Infidelity 10 Years On: A Critical Review of the Literature. *The Family Journal*, 24(4), 359-366.
- Whitty, M. T. (2003). Pushing the Wrong Buttons: Men's and Women's Attitudes Toward Online and Offline Infidelity. *CyberPsychology & Behavior*, 6(6), 569-579.
- Whitty, M. T., & Quigley, L. (2008). Emotional and Sexual Infidelity Offline and in Cyberspace. *Journal of Marital and Family Therapy*, 34(4), 461-468. <https://doi.org/10.1111/j.1752-0606.2008.00088.x>