

THE BOUNDARY BETWEEN DOMESTIC VIOLENCE IN LAW 15-19 AND THE RIGHT TO DISCIPLINE A WIFE IN ISLAMIC JURISPRUDENCE

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Abstract:

The disciplining of a disobedient wife in accordance with procedures established by the Qur'an and Sunnah is considered one of the most important legitimate methods for maintaining family stability and reducing divorce rates. However, the Algerian legislator's criminalization of violence against wives—whether psychological or physical—under Law 15-19, which amends the Penal Code, has created ambiguity in distinguishing between domestic violence and the right to discipline.

The study concludes that the Algerian legislator categorizes any act of striking a wife, regardless of motive, as domestic violence. Furthermore, the right to discipline a disobedient wife becomes classified as domestic violence under Sharia if the husband abuses this right. Given the importance of discipline within marital life, it is recommended to either decriminalize light or non-harmful physical correction or for the judiciary to take into account the motives behind such actions.

Keywords: Domestic Violence Against Wives; Disciplining Wives; Law 15-19; Islamic Jurisprudence.

INTRODUCTION:

The Algerian legislator has moved toward criminalizing domestic violence, which includes violence against wives, recognizing them as a vulnerable group that often suffers from such acts. This is enshrined in Law 15-19, amending the Penal Code, and is a positive and natural development since sound human instincts reject violence in general, particularly within the family environment. The family is meant to be a haven where individuals feel safe, a protective fortress that shields them from risks and ensures their needs are met.

Islamic law, as evident in its texts, unequivocally rejects all forms of violence—whether physical, psychological, or economic—and especially domestic violence, which predominantly targets wives. Islamic jurisprudence emphasizes family stability as a means of ensuring it fulfills its role effectively. At the core of this stability lies mutual kindness between spouses. Therefore, Islamic teachings urge both partners to adhere to their marital duties as prescribed by religion and dictated by the interests of their family. Islam encourages husbands to respect their wives, recognize their rightful status, uphold their dignity, and avoid belittling, insulting, or physically harming them.

At the same time, however, Islamic law explicitly grants husbands the right to discipline a disobedient wife through clearly outlined methods based on Qur'anic and Prophetic texts. This discipline includes verbal admonition, abandoning the marital bed, and physical correction.

The primary objective of these measures is to protect the family from disintegration and its consequent negative effects. Rather than resorting directly to divorce, the husband is encouraged first to attempt reconciliation and reform, hoping that the wife will abandon her disobedience.

Study Problem:

The problem of this study can be formulated in the following main question:

how can the line be drawn between criminalized violence against wives and the legitimate disciplinary measures sanctioned by Islamic law?

This distinction is crucial for two main reasons: first, to maintain the legitimacy of disciplinary measures, which are essential for safeguarding the family and yielding positive outcomes; and second, to protect wives from all forms of violence. Hence, this research aims to clarify the boundary between the Islamic concept of marital discipline and domestic violence to avoid the

latter while preserving lawful disciplinary actions within their prescribed religious framework. These divine regulations reflect the Creator's wisdom, knowing best what benefits His creation. Marital life is not always harmonious and can occasionally face challenges such as estrangement or disputes between spouses. To address this issue, this study employs inductive and descriptive methodologies to provide a comprehensive response to the outlined problem.

1. Definition of Domestic Violence Against Wives in the Algerian Penal Code:

1.1 The Crime of Intentional Assault and Battery Against Wives:

The Algerian legislator, in Law 15-19, did not use the term "physical violence against wives" but instead referred to "intentional assault and battery." This crime is categorized as an act of physical violence or an offense against an individual's bodily integrity. It is criminalized under **Article 266 bis** of the Penal Code. The crime is established upon the presence of the following two essential elements:

1.1.1 The Material Element:

This involves the husband's deliberate physical act against his wife, characterized by assault or battery, as these offenses are intentional crimes. For the act to be criminalized, the physical conduct must specifically target the wife, regardless of whether the marital relationship is ongoing. For example, if a former husband assaults his ex-wife for reasons linked to their previous marital relationship, this crime still applies.

- Definition of Assault (Battery): Assault refers to the exertion of force on a person's body—here, the wife's body—without causing tearing or cutting of the skin or tissues. It may result in visible effects such as bruising, redness, or discoloration, but it can also leave no visible marks. Assault can involve various methods, such as kicking, slapping, punching, using objects like sticks, pushing, or even pressing the victim's head against a wall. If the act results in cuts, fractures, or tears, it escalates to "wounding (*Al-Durra*, p. 186)."
- Definition of Wounding: Wounding involves causing cuts, burns, abrasions, fractures, or any form of bodily harm that leads to noticeable and tangible changes to the tissues, either externally or internally—such as injuries to organs like the kidneys, liver, spleen, or stomach—or internal bleeding. Wounding often results in permanent marks visible to the naked eye and may include the amputation of limbs or disabling their function (*Bouskeia*, 2018, pp. 50-51).

The law does not specify the tools or means used for assault and wounding. Any object or method—whether hands, nails, teeth, knives, daggers, stones, sticks, firearms, needles, chemicals, or radiation causing burns or abrasions—can constitute the act.

1.1.2 The Mental Element:

Since assault and wounding against wives are intentional crimes, their mental element requires the husband's intent to inflict physical harm and pain on his wife. The husband's intent must be legally valid, indicating that his actions are deliberate and conscious of their consequences on his wife's bodily integrity. Nonetheless, the Algerian legislator does not consider the outcome the husband intended to achieve through his actions.

This framework underscores the legislator's approach to criminalizing any form of deliberate physical harm inflicted by a husband on his wife, thereby ensuring her protection and addressing such acts as a violation of her bodily integrity.

1.1.3 Penalty:

The Algerian legislator does not provide exceptions for intentional assault against a wife, even if, for instance, it is carried out as disciplinary action for disobedience. Therefore, the motive for the assault, whether it is for reform, to demonstrate power and control, for revenge, or even as a joke, is not considered. Based on the provisions of the article, all assaults are punishable, whether minor (light)—referred to in Islamic jurisprudence as "non-severe beating"—or severe, even if it is the first instance. Furthermore, the means used for the assault and battery are not taken into account. The legislator also does not require the husband to reside with his wife in the same household for the crime to be established. Additionally, the Algerian legislator extends this to include the punishment of a former husband if it is proven that his assault and battery of his ex-wife were due to their previous marital relationship.

Referring back to the article, the penalty varies according to the extent of harm caused by the assault and battery. The crime is classified as a misdemeanor punishable by imprisonment from one to three years if the assault and battery do not result in illness or total incapacity to work exceeding fifteen days. However, if the assault and battery cause total incapacity to work exceeding fifteen days, the penalty ranges from two to five years of imprisonment.

The Algerian legislator ties the penalty for the act to the duration of the incapacity to work, which may be less or more than 15 days, with the forensic medical expert determining the period of incapacity. Incapacity to work does not refer to an inability to attend a job or professional incapacity but rather the inability to perform daily activities in a normal and typical manner.

If the assault and battery cause the wife to lose a body part, disable its function, lead to the loss of sight in one or both eyes, or result in a permanent disability, the crime is classified as a felony, punishable by temporary imprisonment ranging from ten to twenty years. Additionally, if the assault and battery lead to the wife's death without intent, the crime is classified as a felony, punishable by life imprisonment.

The husband does not benefit from reduced penalties in cases explicitly listed by the Algerian legislator, such as if the wife is pregnant, has a disability, if the act is committed in the presence of their minor children, or if the husband threatens her with a weapon. Forgiveness halts legal proceedings if the assault and battery do not result in illness or total incapacity to work exceeding fifteen days, or even if it does result in such incapacity. However, if the assault causes the loss of a body part, disables its function, leads to blindness, or causes a permanent disability, forgiveness results in a mitigation of the penalty.

1.2 The Crime of Verbal or Psychological Violence or Any Other Form of Abuse Against the Wife:

This crime falls under acts of moral violence and is criminalized by the Algerian legislator under Article 266 bis 1 of the Penal Code. In addition to the legal element, the crime requires the following two elements:

1.2.1 The Material Element:

The criminal behavior consists of the husband engaging in verbal or psychological violence and all forms of intentional harm against his wife, excluding repeated physical assault and battery. Verbal and psychological violence involves the husband exerting moral pressure on his wife, which can leave a profound impact on her mental well-being, emotional stability, and psychological balance. This may result in a loss of self-confidence and cause psychological or nervous disorders. Examples include insulting her, mocking her, slandering her, accusing her falsely, belittling her, threatening her, intimidating her, or instilling fear in her.

This includes all words, gestures, signs, or actions by the husband directed toward his wife that degrade her value, violate her dignity, or instill fear and terror in her. According to the Algerian legislator, such moral violence can affect the wife's physical well-being, potentially causing physical illnesses due to psychological abuse. However, it is practically difficult to prove the connection between physical illness and the moral violence inflicted on the wife.

The legislator added the phrase "any form of abuse" in the article, thereby criminalizing all types of intentional harm that could affect the wife's physical or mental well-being, excluding acts classified as assault and battery under a separate article. For instance, subjecting the wife to certain types of radiation that damage or disable her internal organs without leaving external marks on her body, transmitting infectious diseases, offering harmful substances, or performing actions that intimidate and terrify her, thereby affecting her physical and mental health, all fall within this scope (Al-Fadil, 1962, pp. 471-473).

The Algerian legislator requires that the crime, whether verbal or psychological violence, be repeated for it to be punishable. The act is not penalized if committed only once, but if repeated, the perpetrator is deemed guilty. It is not required that the husband reside in the same place as his wife for the crime to occur. The crime is also established if the perpetrator is the ex-husband of the victim and the act is linked to their previous marital relationship. The legislator does not consider the motive behind the act.

1.2.2 The Mental Element:

This is characterized by the husband's free will, legally recognized, to intentionally inflict psychological or physical harm on his wife, regardless of the severity of the harm caused. This is achieved by subjecting her to verbal or psychological abuse, such as insults, slander, belittling remarks, or actions that terrify or intimidate her. The husband is aware that his actions will disturb the victim and affect her mental, emotional, and physical well-being.

1.2.3 The Penalty:

The Algerian legislator classifies acts of moral violence against the wife as a misdemeanor, punishable by imprisonment from one to three years. The husband does not benefit from reduced penalties if:

- The wife is pregnant;
- The wife has a disability;
- The crime was committed in the presence of their minor children;
- The crime involved a threat with a weapon.

The victim's forgiveness halts criminal proceedings. Moral violence or abuse can be proven by all means of evidence.

2. The Transformation of the Right to Discipline a Wife into Domestic Violence:

2.1 The Concept of Disciplining a Wife in Islamic Jurisprudence:

Islamic law permits a husband to discipline his wife based on Qur'anic and Prophetic texts if she disobeys him in matters where obedience is religiously obligatory. Such behavior classifies her as disobedient (*nashiz*). It should be noted that the Algerian legislator does not explicitly address the right to discipline a disobedient wife in the Family Code. Furthermore, by repealing Article 39 of the Family Code, which previously granted the husband guardianship (*qiwamah*)—implicitly allowing the disciplining of a disobedient wife—the legislator has effectively abolished this right for the husband.

A wife eligible for discipline under Islamic law is one who is deemed disobedient (*nashiz*). However, if a husband beats, insults, slanders, or belittles her without valid or lawful justification, or for failing to obey him in matters contrary to Islamic teachings, such behavior is considered an unjustified transgression. This can be proven through evidence or confession. The Qur'anic verse, "If they obey you, do not seek a way against them" (An-Nisa: 34), serves as proof that such actions are prohibited.

According to the Maliki school of thought, a judge must first admonish the husband. If admonition proves ineffective, the judge may threaten him. If this also fails, the judge may permit physical discipline. However, if it is apparent that physical discipline will not yield positive results, the husband is prohibited from using it, as the intent of discipline is corrective. If the wife chooses to remain with him, she may request divorce on the grounds of abuse if proven, even if it is a first offense (Taher, 2005, p. 335) (Al-Majaji, 2010, p. 60).

The Shafi'i school holds that if a husband harms his wife through words or physical acts without justification, it is considered a transgression. The judge must forbid such behavior, and if the husband persists, he may face punitive measures (*ta'zir*). Additionally, if the husband denies his wife her right to maintenance or fair division without lawful reason, it is also deemed a transgression, and the judge must compel him to fulfill her rights (Al-Nawawi, 1991, p. 370).

Thus, any act of beating, insulting, belittling, or humiliating a wife without valid justification is considered domestic violence and is criminalized by both Islamic law and Law 15-19.

If the wife shows transgression toward her husband—by behaving coldly, frowning after previously being kind and cheerful, responding to him with harsh or inappropriate words, avoiding conversation with him after previously speaking kindly—she is considered disobedient (*nashiz*) (Al-Shirbini, 1997). Disobedience is a natural occurrence, as human relationships, including marital relationships, cannot always maintain a consistent and harmonious pattern. Conflicts and issues between spouses may arise, sometimes leading to animosity or resentment, which inevitably affects their behavior.

Disobedience may originate from the wife, the husband, or both. However, the discussion here is limited to the disobedience of the wife.

The term *nushuz* refers to a wife's disobedience to her husband in matters where she is obligated to obey him (Al-Jassas, 1992, p. 149), or her arrogance and defiance toward him, thereby neglecting the duties Allah has enjoined upon her to live with him in kindness (Al-Futouhi, 2008, p. 301). In general, *nushuz* manifests as a wife's display of aversion and hatred toward her husband, leading her to disobey him in matters where obedience is religiously mandated (Ashur, p. 41).

Acts that may indicate *nushuz* include:

- Refusing her husband's right to intimacy;
- Leaving the house without his permission to a place he disapproves of;
- Neglecting religious obligations such as purification and prayer;
- Betraying him, either with her body or by mismanaging his wealth;
- Denying him access to the house and locking the door against him (Taher, 2005, p. 333).

In such cases, Islamic law allows the husband to address the matter by following disciplinary measures outlined in the Qur'an and Sunnah, provided these actions adhere to the prescribed religious guidelines.

2.2 The Transformation of Disciplinary Measures into Domestic Violence:

2.2.1 The Transformation of Admonition into Domestic Violence:

Admonition (*wa'z*) is the first step mentioned in verse 34 of Surah An-Nisa. According to the Hanafi school, a husband first resorts to admonishing his disobedient wife with kindness and gentleness (Al-Kasani, 2003, p. 613). The Maliki and Shafi'i schools hold that admonition can be applied even if *nushuz* has not yet occurred, but only if there are signs suggesting its likelihood. There is no requirement for admonition to guarantee success (Al-Kashnawi, p. 131); it is a preventive measure that the husband may employ if he observes changes in his wife's behavior toward him.

Admonition involves reminding the wife of her obligations toward her husband as mandated by Allah and explaining the consequences of her shortcomings, such as losing her right to maintenance or marital division. The husband may invoke fear of Allah and reference the sayings of the Prophet Muhammad (peace be upon him), which highlight the seriousness of a wife disobeying her husband. For example, the Prophet said:

- "If a wife spends the night avoiding her husband's bed, the angels will curse her until morning."
- "Any woman who spends the night with her husband pleased with her will enter Paradise."

The admonition, as agreed upon by Islamic scholars, should be delivered with kindness, gentleness, and good words (Al-Shirbini, 1997, p. 342) (Al-Kasani, 2003, p. 613). Similarly, the Hanbali school emphasizes that admonition involves reminding the wife of her obligations, invoking fear of Allah, and warning her of the consequences of her disobedience, especially if signs of *nushuz* become apparent (Al-Mawardi, 1994, p. 598).

The Qur'anic verse that prescribes admonition (*wa'z*) as a disciplinary measure for a disobedient wife does not specify the method for doing so. Therefore, this matter has been left to the discretion of Islamic scholars, who agree on a guiding principle: admonition must be carried out with gentleness, kindness, and good words. Beyond this, the husband is granted discretionary authority, as he is most familiar with his wife's personality, mindset, and the type of advice that may influence her and deter her from her disobedience.

The husband may resort to persuasion if his wife is someone who responds well to encouragement, or he may use warnings and instill fear about the consequences of her disobedience and neglect of her marital obligations, both in this life and the hereafter, if she is more affected by fear. He may also seek to win her heart by any legitimate means.

Admonition, however, must not include insults, slander, defamation, ridicule, cursing, humiliation, or derogatory language, nor should it involve gestures or insinuations that degrade or belittle her dignity. The husband must not resort to intimidation, terrorization, or threats. If the husband engages in such actions, it is considered domestic violence, which is prohibited by Islamic law and criminalized under Article 266 bis 1 of Law 15-19 of the Algerian Penal Code. Notably, Islamic law does not require repeated occurrences for admonition to constitute violence. It is deemed violence

against the wife even if it occurs for the first time, as Islamic law prohibits causing harm to oneself and to others.

2.2.2 The Transformation of Avoidance in the Marital Bed into Domestic Violence:

If admonition proves effective and the wife abandons her disobedience, no further action is necessary. Otherwise, the husband may proceed to avoidance in the marital bed, as prescribed in the Qur'anic verse in Surah An-Nisa.

According to Al-Kasani, the husband first warns the wife about avoidance, refrains from intimacy with her, and ceases conjugal relations in hopes that this will influence her behavior. If she cannot endure it, she may reconsider her actions. Otherwise, he may continue avoiding her.

Scholars of Islamic jurisprudence differ regarding the meaning of avoidance mentioned in the verse. Some interpret it as refraining from marital relations, while others understand it as refraining from speaking to her while sharing the bed. Another opinion is that the husband should avoid her during times when she is most desirous of intimacy, not when he has such a desire, as the purpose is to reprimand her, not to discipline himself by depriving himself of intimacy. A final view holds that avoidance involves separating himself from her bed entirely (Al-Kasani, 2003, p. 613).

Avoidance in the marital bed, according to the Maliki school, means refraining from sleeping in the same bed with the wife or engaging in physical intimacy. It is recommended that the period of avoidance last a month, but it may extend beyond that, provided it does not exceed four months, as this is the limit set for *Ila'* (a vow of abstinence), beyond which harm may be caused to the wife (Taher, 2005, p. 333) (Alish, 1984, p. 545).

Ibn al-Arabi mentioned four views regarding avoidance in the marital bed:

- According to Ibn Abbas, the husband turns his back to his wife in bed and refrains from intimacy with her.
- According to Ikrimah and Abu al-Duha, the husband does not speak to her, even if he engages in physical intimacy.
- According to Ibrahim, al-Sha'bi, Qatadah, and al-Hasan al-Basri, avoidance means refraining from both sharing the bed and physical intimacy.
- According to Sufyan, the husband engages in physical intimacy and speaks to her, but with sternness and harshness (Al-Arabi, p. 533), which does not involve insults, cursing, or humiliation.

The Shafi'i school offers a more detailed approach. If *nushuz* does not occur repeatedly and it is the first instance, the husband is advised to admonish her. If admonition is ineffective, he may avoid her in the marital bed but must not resort to physical discipline. However, if *nushuz* becomes repetitive, indicating persistence, the husband may admonish her, and if that fails, avoid her in the marital bed. If avoidance proves ineffective, he may then resort to physical discipline.

The Shafi'i scholars further explain that avoidance in this context means refraining from sharing the bed or engaging in physical intimacy. Another view suggests that avoidance involves stern speech (Al-Shirazi, 1996, p. 248) (Al-Shirbini, 1997, p. 342), which does not mean vulgar or obscene language but entails refraining from speaking to her with the usual gentleness and affection.

Regarding speaking to the wife, the husband may avoid speaking to her for up to three days, in accordance with the hadith of the Prophet (peace be upon him): "It is not permissible for a Muslim to avoid his brother for more than three days (Al-Shirbini, 1997, p. 342)."

The Hanbali school holds that if admonition does not yield results, the husband may avoid the wife in the marital bed as long as she persists in her disobedience. They did not specify a maximum duration for such avoidance. However, the husband may refrain from speaking to her for only three days, as the Prophet (peace be upon him) prohibited a Muslim from avoiding his brother for more than three days (Al-Futouhi, 2008, p. 301).

Despite the differences among scholars regarding the meaning of avoidance in the marital bed, they agree that:

- If the husband avoids his wife without a legitimate reason;
- If he exceeds four months of avoidance, according to the Maliki school;
- If he continues to avoid her after she has repented from *nushuz*;

- Or if he refrains from speaking to her for more than three days, it is considered transgression and an abuse of the husband's right to discipline. This can also be classified as a form of moral violence against the wife due to its psychological effects. The Algerian legislator, however, does not address this act in Law 15-19.

2.2.3 The Transformation of Beating into Domestic Violence:

Islamic scholars agree on the permissibility of beating a wife if she persists in nushuz (disobedience) (Qasim, p. 93). The beating mentioned in the Qur'anic verse, as interpreted by scholars and exegetes, refers to non-severe beating, meaning light, mild, or simple beating that does not cause injury, fracture bones, leave bruises, redness, blue marks on the skin, or disfigurement. It must also avoid the face, heart, waist, and other areas that could result in fatal harm or the impairment of the function of internal or external organs, based on the Prophet's saying: "Strike women if they disobey you in what is right, but without severity (Al-Zamakhshari, 2009, p. 235) (Atiya, 2007, p. 543)."

The Hanafi school permits such beating if admonition and avoidance fail, provided it is neither degrading nor severe. If these measures prove ineffective, the husband must refer the matter to a judge who appoints arbitrators for the couple (Al-Kasani, 2003, p. 613).

The Maliki school also permits non-severe beating and provides examples such as a shove or a slap. The husband may only resort to beating if nushuz is established, and he must not resort to it if he knows with certainty or reasonably believes that it will not deter her disobedience. In this case, beating is considered a means to reform, not an act of revenge or malice, and thus cannot be used if it fails to achieve its intended purpose. Beating, according to the Maliki school, is conditioned upon the likelihood of its effectiveness. If the husband beats his wife knowing it will not help, he is considered a transgressor, and the wife has the right to seek divorce and retribution. Severe beating is prohibited, even if the husband is certain or reasonably believes that it will end her disobedience, as such an act constitutes transgression (Taher, 2005, p. 333) (Alish, 1984, p. 545) (Al-Kashnawi, p. 131).

The Shafi'i school presents two opinions regarding beating if nushuz is not repeated:

- It is prohibited.
- It is permissible, and this is the preferred view of the school. If nushuz becomes repeated, the husband may admonish, avoid, and beat her without dispute within the school. Beating must be light and non-severe and is permissible only if the husband believes it will effectively address her disobedience (Al-Nawawi, 1991, p. 369) (Al-Rafi'i, 2005, p. 320) (Al-Shirbini, 1997, p. 343).

The Hanbali school permits light beating if the wife persists in nushuz after admonition and avoidance. The husband must adhere to the prescribed sequence of disciplinary measures (Al-Rahibani, p. 287).

If the beating of a disobedient wife results in her death, even if the husband adhered to the prescribed religious guidelines, the following rulings apply:

- The Hanafi school holds that the husband is liable for diyah (blood money) because while he was permitted to discipline her, the resulting death transforms the act into a killing (Al-Kasani, 2003, p. 305).
- The Shafi'i school states that if the husband beats her in a manner typically fatal, he is subject to qisas (retribution) as it constitutes intentional murder. If the beating is not typically fatal but leads to her death, he must pay aggravated blood money (diyah mughallazah), as the act is considered quasi-intentional killing. In both cases, such beating is impermissible under Islamic law (Al-Mawardi, 1994, p. 599).
- The Maliki and Hanbali schools do not require retribution if the disciplinary beating unintentionally leads to death and the husband did not intend to kill her. However, he is still liable for diyah. If the husband exceeds the limits of permissible discipline, he is held accountable (Taher, 2005, p. 177) (Al-Bahuti, 1983, p. 16).

Thus, Islamic law aligns with Law 15-19 in considering wounding as an act of violence and aggression that warrants punishment, even if the motive is discipline. Regarding beating intended

to discipline a disobedient wife (nushuz), if it exceeds the jurisprudential conditions—such as being light, avoiding the face and areas that could cause fatal harm, disable a body part or organ, or lead to death—and if the husband fails to ensure its effectiveness, as stipulated by the Maliki and Shafi'i schools, it becomes classified as violence against the wife and is punishable under Islamic law.

Under Law 15-19, as explained earlier, all forms of beating are punishable, regardless of motive. Even if the husband adheres to the religious guidelines for discipline and the beating is specifically for nushuz, it is still considered violence against the wife and is subject to punishment.

It is worth noting that some Islamic scholars advocate for abandoning beating altogether. Ibn al-Arabi mentioned this perspective, citing Ata, who suggested that showing anger toward the wife if she disobeys suffices. This view is supported by hadiths discouraging beating, such as the Prophet's (peace be upon him) saying: "I dislike for a man to strike his female servant when he is angry, for he might sleep with her later that day." Similarly, it was narrated that the Prophet (peace be upon him) was asked about beating women and said: "Strike them, but the best among you will not strike." This indicates that while disciplining a disobedient wife through beating is permissible, abstaining from it is preferred as it reflects the highest form of etiquette (Al-Arabi, p. 536).

Ata once asked Ibn Abbas about the meaning of non-severe beating, to which he replied: "With a miswak (Al-Qurtubi, 2006, p. 287)." This likely implies a warning against using any instrument that could harm or endanger the wife and reinforces the principle that beating should be light and non-harmful.

The majority of scholars agree that the disciplinary measures for a disobedient wife, as outlined in the Qur'anic verse, are sequential: admonition, then avoidance, and finally, beating. The conjunction "and" in the verse indicates this order (Al-Kasani, 2003, p. 613) (Al-Kashnawi, p. 131). The Shafi'i school presents two additional opinions:

- Combining admonition, avoidance, and beating.
- Choosing between these measures.

Similarly, the Hanbali school allows beating at the onset of nushuz, meaning if its signs appear (Al-Nawawi, 1991, p. 369) (Qudamah, 1994, p. 93). Ibn al-Arabi emphasizes that disciplining a disobedient wife depends on the nature of each woman. For some, verbal admonition or gestures suffice, while for others, physical discipline may be necessary to correct behavior (Al-Arabi, p. 536).

The predominant opinion among scholars is the most valid, as a wife's change in behavior toward her husband or her mistreatment of him may stem from stress, illness, or exhaustion, rather than hatred or arrogance toward him. Therefore, it is preferable to approach disciplinary measures gradually. Moreover, the appearance of signs or indications of nushuz is not the same as nushuz itself, and repeated or persistent nushuz is not equivalent to its occurrence for the first time. Thus, employing disciplinary methods in a gradual manner, starting with the least severe, is more effective and more likely to achieve the intended purpose, as opposed to combining these methods or prioritizing one over the other.

Following a sequential order in disciplinary procedures is one of the conditions; if the husband does not adhere to this sequence, it is considered domestic violence. Additionally, the husband must cease further disciplinary measures if the wife abandons her nushuz. For instance, if admonition proves effective and the wife responds positively, abandoning her nushuz, the husband has no right to proceed to avoidance. Similarly, if avoidance proves effective, the husband has no right to resort to beating. Continuing with disciplinary measures despite the wife's compliance is deemed transgression and violence against her, as the purpose of discipline is to deter nushuz, and once this is achieved, there is no justification for continuing.

As for Law 15-19, it does not include such details, as it criminalizes beating unconditionally, without considering the motive behind it.

Study Findings:

- The Algerian legislator has criminalized acts of violence against wives, whether psychological—conditioned on repetition—or physical, including beating and wounding, even if the beating is minor, light, or what Islamic jurisprudence refers to as non-severe beating. It should be noted that

the Algerian legislator does not explicitly recognize the disciplining of a disobedient wife (nushuz) in the Family Code, as can be inferred from the repeal of Article 39, which previously established qiwamah (guardianship) and implicitly recognized the right to discipline a disobedient wife.

- Islamic law rejects all forms of violence—verbal, physical, or economic—against the wife without justification as a general principle, aligning with the position of the Algerian legislator. However, it permits disciplining a wife in the case of nushuz through Qur’anic and Prophetic texts for the benefit of the husband and the family. Islamic law, however, imposes strict conditions and guidelines that must not be exceeded, failing which the husband’s actions are deemed transgressive and violent. This nuance has not been adopted by the Algerian legislator.
- Under Law 15-19, admonition with kind and gentle words, as well as avoidance in the marital bed, is not considered violence against the wife.
- Disciplining a disobedient wife may exceed the bounds of reform or correction and become violence warranting punishment under Islamic law if the husband fails to observe the prescribed guidelines. Examples include:
 - Using obscene, offensive, or insulting language during admonition, even if it is the first instance;
 - Persisting in avoidance in the marital bed despite the wife abandoning her disobedience, or avoiding conversation with her for more than three days;
 - Inflicting severe beating that causes harm, using tools or objects likely to injure the wife’s body, or striking vulnerable areas such as the face, heart, or waist;
 - Administering non-severe beating despite reasonably believing it will not deter her nushuz;
 - Failing to follow the prescribed sequence of disciplinary measures, as agreed upon by the majority of scholars;
 - Continuing disciplinary actions despite the wife’s return to obedience;
 - Administering light beating that leads to the wife’s death, in which case retribution (qisas) is applied according to the Hanafi and Shafi’i schools.

Recommendations:

It is recommended that the Algerian legislator:

- Repeal the criminalization of light or minor beating that does not cause illness or total incapacity to work for more than 15 days.
- Reinstate the concept of qiwamah in the Family Code, enabling the judiciary to consider the motive behind non-severe or light beating.

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