



Settlement of the Nusyuz Case According to the Compilation of Islamic Law and Review of the Qur'an Interpretation

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Abstract

This study examines the settlement of nusyuz cases from the perspective of the Compilation of Islamic Law (KHI) and a review of the interpretation of the Qur'an. Nusyuz is a domestic issue that has juridical and theological implications, especially in the relationship of rights and obligations of husband and wife. KHI as a positive product of Islamic law in Indonesia provides normative formulations related to nusyuz, but in practice it often raises debates about its suitability with the principles of gender justice and the spirit of *maqāṣid al-syarī'ah*. This study aims to analyze the concept and mechanism of solving nusyuz according to KHI and compare it with the interpretation of relevant Qur'anic verses, especially QS. an-Nisā' verses 34 and 128, based on the views of classical and contemporary mufasir. The research method used is library research with a juridical-normative approach and thematic interpretation (tafsir maudū'i). The results of the study show that KHI tends to place nusyuz in a legal-formal framework that focuses on legal consequences, while the interpretation of the Qur'an emphasizes the settlement of nusyuz through persuasive, dialogical, and oriented stages of domestic welfare and harmony. This study concludes that it is necessary to reinterpret and strengthen the substantive approach in resolving nusyuz cases to be in harmony with the values of justice, equality, and the noble purpose of marriage in Islam.

Keywords: Compilation of Islamic Law; Tafsir of the Qur'an; Islamic Family Law

Abstrak

Penelitian ini mengkaji penyelesaian kasus nusyuz dalam perspektif Kompilasi Hukum Islam (KHI) dan tinjauan tafsir Al-Qur'an. Nusyuz merupakan persoalan rumah tangga yang memiliki implikasi yuridis dan teologis, terutama dalam relasi hak dan kewajiban suami-istri. KHI sebagai produk hukum positif Islam di Indonesia memberikan rumusan normatif terkait nusyuz, namun dalam praktiknya sering menimbulkan perdebatan mengenai kesesuaiannya dengan prinsip keadilan gender dan spirit *maqāṣid al-syarī'ah*. Penelitian ini bertujuan untuk menganalisis konsep dan mekanisme penyelesaian nusyuz menurut KHI serta membandingkannya dengan penafsiran ayat-ayat Al-Qur'an yang relevan, khususnya QS. an-Nisā' ayat 34 dan 128, berdasarkan pandangan mufasir klasik dan kontemporer. Metode penelitian yang digunakan adalah penelitian kepustakaan (library research) dengan pendekatan yuridis-normatif dan tafsir tematik (tafsir maudū'i). Hasil penelitian menunjukkan bahwa KHI cenderung menempatkan nusyuz dalam kerangka legal-formal yang berfokus pada konsekuensi hukum, sementara tafsir Al-Qur'an menekankan penyelesaian nusyuz melalui tahapan persuasif, dialogis, dan berorientasi pada kemaslahatan serta keharmonisan rumah tangga. Penelitian ini menyimpulkan bahwa diperlukan reinterpretasi dan penguatan pendekatan substantif dalam penyelesaian kasus nusyuz agar selaras dengan nilai keadilan, kesetaraan, dan tujuan luhur perkawinan dalam Islam.

Kata Kunci: Kompilasi Hukum Islam; Tafsir Al-Qur'an; Hukum Keluarga Islam

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Introduction

In the practice of the domestic life of Muslims in Indonesia, the nusyuz case often appears as a complex and sensitive problem, but its resolution in the field has not fully reflected the principles of justice and benefit as taught in the Qur'an.¹ Many married couples who face domestic conflicts tend to understand nusyuz narrowly as the wife's disobedience to her husband, thus triggering an unequal power relationship and leading to the justification of repressive actions, both psychologically, economically, and symbolically.² This understanding is often reinforced by textual social practices and religious interpretations, without considering the social, psychological, and ethical context of marital relationships.³ On the other hand, in the practice of religious justice, the Compilation of Islamic Law is often used as the main reference in assessing and deciding nusyuz cases.⁴ However, the implementation of nusyuz norms in KHI still faces various problems, such as the tendency of a legal-formal approach that focuses on the fulfillment of the wife's obligations and legal consequences in the form of the loss of alimony, without an adequate evaluation mechanism for the structural causes of domestic conflicts.⁵ As a result, nusyuz is more often positioned as an individual fault, rather than as a relational symptom that requires dialogical and restorative resolution.

Furthermore, there is a gap between the legal norms in the KHI and the normative message of the Qur'an as interpreted by mufasir, both classical and contemporary, who emphasize the stages of settlement of nusyuz in a persuasive, gradual, and peace-oriented manner (*ishlāḥ*).⁶ In social reality, the Qur'anic approach has not been fully internalized in the practice of resolving domestic conflicts, both at the level of family, religious institutions,

¹ Rahmat Gilang Ramadhan, "THE ULAMA'S PARADIGM ON NUSYUZ HUSBANDS: A CLASSICAL-CONTEMPORARY PERSPECTIVE IN REALIZING FAMILY HARMONY," *Moefty: Jurnal Perbandingan Mazhab dan Hukum* 15, no. 2 (2025): 53–63, <https://ejournal.uinib.ac.id/fasya/index.php/moefty/article/view/894>.

² Isaac Prilleltensky dan Lev Gonick, "Politics change, oppression remains: On the psychology and politics of oppression," *Political psychology*, JSTOR, 1996, 127–48, <https://www.jstor.org/stable/3791946>.

³ Mulki Al-Sharmani, "Marriage in Islamic interpretive tradition: Revisiting the legal and the ethical," *Journal of Islamic Ethics* 2, no. 1–2 (2018): 76–96, https://brill.com/view/journals/jie/2/1-2/article-p76_4.xml.

⁴ Alex Kusmardani dkk., "Nushūz In Islamic Family Law: A Critical Study of Hadith Exegesis and Religious Court Verdicts," *Mawaddah: Jurnal Hukum Keluarga Islam* 2, no. 1 (2024): 1–31, <https://pdfs.semanticscholar.org/7f91/f09ff9c2b573adeb659de29e9d72a4012bcd.pdf>.

⁵ Muhammad Shofi dan Mujiburohman Mujiburohman, "Women Protection Policy in the Concept of Syibhul 'iddah in Indonesian Marriage Law," *JOURNAL OF ISLAMIC AND LAW STUDIES* 9, no. 2 (2025): 153–76, <https://jurnal.uin-antasari.ac.id/index.php/jils/article/view/17817>.

⁶ Hamdan Arief Hanif dkk., "Nusyuz and Syiqaq in Islamic Law: Concept, Impact, and Methods of Settlement," *VRISPRAAK: International Journal of Law* 7, no. 2 (2023): 70–76, <http://ejournal.ijshs.org/index.php/vris/article/view/1150>.

and judicial institutions.⁷ This condition shows the existence of epistemological and practical problems in understanding and applying the concept of nusyuz, thus requiring a critical study that integrates the perspective of positive Islamic law and the interpretation of the Qur'an comprehensively.

A number of studies have examined the concept of nusyuz both from the perspective of classical fiqh, Islamic law in Indonesia, and interpretation of the Qur'an. However, these studies are generally still partially standing and have not fully integrated between the positive legal norms of Islam and the comprehensive approach to interpretation.⁸ Research conducted by several Islamic family law experts emphasizes the discussion of nusyuz within the framework of classical munakahat jurisprudence. These studies generally interpret nusyuz as the wife's disobedient attitude towards her husband which has implications for the loss of alimony.⁹ The approach used tends to be normative-doctrinal, with reference to the opinions of the schools of fiqh, especially the Shafi'i school. Although it provides a strong theoretical foundation, this type of research lacks a review of the contemporary social context and dynamics of husband-wife relationships in modern society.

Other research focuses on nusyuz from the perspective of the Compilation of Islamic Law (KHI), especially in relation to the practice of resolving cases in religious courts. These studies highlight the position of KHI as a source of positive Islamic law in Indonesia as well as the juridical implications of nusyuz, such as the loss of maintenance rights for wives. The general findings of this study show that the implementation of KHI still tends to be legal-formal and has the potential to cause gender inequality if it is not accompanied by contextual interpretation.¹⁰ However, some of these studies have not in-depth examined the theological foundation and interpretation of the Qur'an that underlie the concept of nusyuz in KHI.¹¹ On the other hand, research in the field of Qur'an interpretation examines nusyuz

⁷ Zainab Alwani, "The Qur'anic model for harmony in family relations," *Change from within: Diverse perspectives on domestic violence in Muslim communities*, 2007, 40–41, https://www.academia.edu/download/62465434/The_Quranic_model_for_Harmony_in_Family_Relation.pdf.

⁸ Sahin Husain dkk., "Legal pluralism in contemporary societies: Dynamics of interaction between islamic law and secular civil law," *SYARIAT: Akhwal Syaksyah, Jinayah, Siyasah and Muamalah* 1, no. 1 (2024): 1–17, <https://pdfs.semanticscholar.org/66ac/84abe66f5b03a5d30575809b147f609212e1.pdf>.

⁹ Fitri Rafianti dan M. Hary Angga Pratama Sinaga, "Nusyuz as the Cause of Domestic Violence: A Comparative Study of Islamic Law and Criminal Law," *International Journal of Law, Environment, and Natural Resources* 3, no. 1 (2023): 11–20, <https://www.academia.edu/download/102328878/50.pdf>.

¹⁰ Nur Akifah Janur, "Polygamy in Family Law: Gender Perspectives and Its Implications for Women's Rights," *HUMANISMA: Journal of Gender Studies* 9, no. 1 (2025): 95–110, <https://ejournal.uinbukittinggi.ac.id/index.php/psga/article/view/9367>.

¹¹ Dede Kurniawan dan Coauthor Sayehu, "Interpretation of Verses About Nusyuz, Syiqaq and Their Solution: Normative Psychological and Theological Approaches (An-Nisa 34-35 And 128)," *International Journal*

verses, especially QS. an-Nisā' verses 34 and 128, with a thematic and historical approach. Classical mufasir generally emphasizes the husband's leadership hierarchy and the stages of solving nusyuz, while contemporary mufasir emphasizes the principles of justice, equality, and protection of women's dignity.¹² These interpretive studies provide a strong ethical and moral perspective, but are often not directly linked to the implementation of positive Islamic law, particularly in the context of KHI and religious justice practices in Indonesia. Some recent research has begun to relate the issue of nusyuz to the perspective of gender justice and maqāṣid al-syarī'ah. These studies emphasize the importance of substantive and dialogical approaches in resolving domestic conflicts.¹³ However, the research is generally still conceptual and has not specifically mapped the suitability or tension between the provisions of KHI and the interpretation of the Qur'an in the practice of resolving nusyuz cases.

The novelty of this research lies in the integrative approach in analyzing the settlement of nusyuz cases by systematically linking the Compilation of Islamic Law (KHI) as a positive law of Islam in Indonesia and the interpretation of the Qur'an as the main normative-theological source. In contrast to previous research that tends to discuss nusyuz partially—either from the perspective of classical fiqh, interpretation, or juridical alone—this study presents a comparative analysis that places KHI and the interpretation of the Qur'an in one dialogical framework. Another novelty lies in the effort to reinterpret the concept of nusyuz not only as a violation of individual obligations, but as a relational phenomenon in the household that requires a gradual, persuasive, and restorative resolution mechanism. By examining the nusyuz verses through a thematic interpretation approach and comparing them with the normative provisions of the KHI, this study offers a new and more substantive and contextual understanding of the resolution of domestic conflicts. In addition, this study enriches the discourse of Islamic family law by highlighting the gap between the legal-formal approach of KHI and the spirit of maqāṣid al-syarī'ah as reflected in the interpretation of the Qur'an, especially the values of justice ('adl), benefit (maṣlaḥah), and peace (ishlāḥ). Thus, this research not only contributes to the development of Islamic legal theory, but also provides practical implications for the renewal of the pattern of solving nusyuz cases in religious justice practice and Muslim family development in Indonesia.

on *Advanced Science, Education, and Religion* 7, no. 4 (2024): 123–38, <http://ojs.staialfurqan.ac.id/IJoASER/article/view/731>.

¹² Ashraf Booley, "Unveiling Islamic Perspectives on Women's Rights in the Family: Duty, Honour, Equality and Human Dignity," *Manchester Journal of Transnational Islamic Law & Practice* 20, no. 2 (2024): 62–84, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/jispil20§ion=37.

¹³ Yevhen M. Sulima dkk., "Value component of the dialogical approach in international relations," *Journal of Community Positive Practices*, no. SI (2022): 126–40, <https://www.jpcc.ro/index.php/jppc/article/view/484>.

Method

This research is a library research with a qualitative approach. This approach was chosen because the object of the research focuses on normative texts, both in the form of Islamic laws and regulations and scientific sources of Qur'an interpretation, which are analyzed to understand the concept and mechanism of resolving nusyuz cases in depth and comprehensively.¹⁴ The approaches used in this study are the juridical-normative approach and the thematic interpretation approach (*tafsīr maudū'ī*).¹⁵ The juridical-normative approach is used to examine the provisions of nusyuz in the Compilation of Islamic Law, especially the articles that regulate the rights and obligations of husband and wife as well as the legal implications of nusyuz. Meanwhile, the thematic interpretation approach is used to study the verses of the Qur'an related to nusyuz, especially QS. an-Nisā' verses 34 and 128, by collecting and analyzing various interpretations of classical and contemporary mufasir.

The source of research data consists of primary data and secondary data. Primary data includes the text of the Compilation of Islamic Law and relevant books of Qur'anic interpretation. Secondary data is in the form of books, journal articles, previous research results, and supporting literature that discusses Islamic family law, nusyuz, and husband-wife relations from an Islamic perspective. The data collection technique is carried out through documentation studies, namely by inventorying, classifying, and critically examining literature that is relevant to the focus of the research. Furthermore, the data were analyzed using descriptive-analytical and comparative analysis methods. Descriptive analysis is used to explain the concept of nusyuz according to KHI and interpretation of the Qur'an, while comparative analysis is used to identify similarities, differences, and common points between the positive legal approach of Islam and the interpretation of the Qur'an. To maintain the validity and objectivity of the research, the researcher applied the source triangulation technique by comparing various views of mufasir and different Islamic legal literature. The results of the analysis are then synthesized to draw conceptual and normative conclusions regarding the nusyuz case resolution model that is more equitable and benefit-oriented.

Results and Discussion

¹⁴ Faisal Ananda Arfa dan Watni Marpaung, *Metodologi Penelitian Hukum Islam: Edisi Revisi* (Prenada Media, 2018), <https://books.google.com/books?hl=id&lr=&id=IN-2DwAAQBAJ&oi=fnd&pg=PA1&dq=metodologi+penelitian+hukum&ots=drLkL6Bi4a&sig=Hjf7P1kajMxjz0fnep8NG0thGPA>.

¹⁵ Chuzaimah Batubara, *Handbook Metodologi Studi Islam* (Prenada Media, 2018), https://books.google.com/books?hl=id&lr=&id=EJNeDwAAQBAJ&oi=fnd&pg=PA1&dq=metodologi+studi+islam&ots=5wvo2rZEdV&sig=EoJa_0e2QAkYPjVr3k-Qe7pejnA.

Settlement of Nusyuz Case in the Quran

The consequence of the bond between husband and wife is the emergence of rights and obligations between the two, namely the wife's right to be fulfilled by the husband and vice versa, as well as the joint rights that must be borne together. If the rights and obligations in the household are fulfilled according to their respective portions, a good and harmonious family will be created and vice versa if the rights and obligations are not carried out by the husband or wife, it will foster conflicts that can undermine the stability of the family.¹⁶ The Qur'an not only sets regulations to protect the family in the sense of ensuring safety and sustainability, but the Qur'an also applies other regulations that are solutions to solve problems completely from all life problems or conflicts in the family.

Conflict between husband and wife according to the explanation of the Qur'an is called *nusyuz* which in general has the meaning of a change in the attitude of one of the husbands and wives, *nusyuz* from the husband's side towards his wife is from those who have been gentle and friendly and have a sweet face change of attitude and are sour or opposed, from the wife's side usually in the form of abandoning obligations as a wife, In addition, it shows disobedient attitudes as already mentioned. If this attitude arises from the wife's side, then Allah has provided a good way out with His words in Surah An-Nisa/4:34.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَنِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

"Men (husbands) are protectors of women (wives) because Allah has given some of them (men) more than others (women) and they have provided for some of their wealth. So the women whose nusyuz you are worried about, then advise them and separate them in their beds, and beat them. then if they obey you, then do not look for a way to trouble them. Indeed, Allah is Exalted and Exalted.¹⁷

The meaning of the verse according to the opinion of the scholars of tafsir is that the women whose nusyuz you are worried about are abandoning the obligation of conjugation. nusyuz on the wife's side is like leaving the house without her husband's permission. So advise them and separate them in their beds, and beat them. The meaning of this verse is to teach a lesson to the wife who is worried about her disobedience must first be given advice, if the advice is not beneficial, then it is separated from their bed, if it is not useful, then it is permissible to hit them with a blow that does not leave a mark. If the first method

¹⁶ Adib Machrus dkk., *Fondasi Keluarga Sakinah*, ed. oleh Ahmad Anwar, Kasyful dan Triwibowo Santoso, Budi (Subdit Bina Keluarga Islam Direktorat Bina KUA dan Keluarga Sakinah Ditjen Bimas Islam Kemenag RI, 2021).

¹⁷ Al-Quranul Karim, Surat An-nisa. 34

has benefited, do not carry out the other way and so on.¹⁸ Indeed, Allah is Exalted and Exalted.

Imam Al-Qurtubi when interpreting Surah An-Nisa verse 34 explained that a husband is obliged to provide for his wife, as well as a protector and defender for his wife. When the husband is unable to carry out his duties, then at that time a husband has stopped being a dreamer for the woman (his wife). If the husband no longer carries out his functions and duties, the marriage contract will be void because the purpose of the marriage is no longer achieved. According to Imam Shafi'i and Imam Maliki, when a husband is no longer able to provide for his wife, then the wife is given the right to annul her marriage contract. This is in accordance with the word of Allah "wabima anfaqu min amwalihim" because this verse is clearly permissible to cancel the marriage act because there is no maintenance or clothing.¹⁹ The maintenance obligation imposed on men is a factor that causes men to be worthy of being leaders and of course can carry out their leadership for example providing for all family members, regulating and protecting the household or family. Men are able to provide sustenance, regulate and protect because of the perfection of the mind and body that Allah gives to men.

In one narration, it is stated that a priest had met the Prophet and complained about his story to the Prophet that the woman had been slapped by her husband. The Prophet PBUH said: "He must be in qisas". Another narration explains that a man Anshor and his wife came to see the Prophet, his wife said: "Yes Messenger of Allah, my husband has hit me in the face until he left a mark on my face". Then the Prophet (peace and blessings of Allaah be upon him) said: "He has no right to do so". So this verse comes down.²⁰ In every family, there is a need for a leader. A leader does not only deal with numbers such as in the office or in companies, but includes all matters such as meeting needs, attention, maintenance, defense and coaching in the household. Every attitude of the soul that is reflected in the cheerfulness of his face or frowns often results in the emergence of problems and inconsistencies in the household. Men in the family are appointed by Allah as leaders and women in their duties as the giver of peace and tranquility to their husbands and support his function in educating and raising his children.²¹

The wife's obedience to her husband is absolute in matters that do not conflict with religious teachings and the wife's personal rights. The wife's obedience to her husband is an obligation as long as the husband commands what is good according to the sharia and does not lead to vice. The obedience performed by the wife is not artificial obedience, nor

¹⁸ Hamka, Tafsir Al Azhar, (Surabaya: latimojong foundation, 1982), p.58.

¹⁹ Muhammad Al-Qurtubi, Al-Jami 'li Ahkam, (Beirut: Muhasasah al-RisalahAl, 2006)p.395.

²⁰ dkk Shaleh, Dahan, *Asbabun Nuzul latar Belakang Historis Turunnya Ayat-Ayat Alquran*, 2 ed., ed. oleh Emon Sonjaya Muhyi Supratman (Diponegoro, 2004). p. 34

²¹ Asrori, *Tafsir Al - Asrar*, 1 ed., ed. oleh Fatih Masrur (Kaukaba Dipantara, 2017).hlm .29

is it forced obedience, but the sincere obedience of a wife to serve and respect her husband. This obedience does not only stop at the husband, but obedience to Allah and His Messenger and ulilamri. The husband's order is not intended to legalize what is haram and it is not an order that prohibits what is halal, because the fact is that legalizing or forbidding it is not the husband's right. What is lawful and forbidden by Allah and His Messenger cannot be challenged by anyone, be it husband, father or others.²²

When this obedience is no longer the concern of a wife, nusyuz occurs, and in verse 34 of Surah An-Nisa it is explained that a wife when nusyuz has taken effect will be subject to legal sanctions. A wife who has acted nusyuz by abandoning the obligations imposed on her, will receive the first punishment with advice. A husband, when he has found signs of nusyuz in his wife, should give good advice, so that the wife can realize her mistakes and mistakes so that she can see the truth again, thus the wife changes her nusyuz attitude. It is obligatory for the husband to investigate and find out what causes his wife to act nusyuz or disobedient by frankly asking what causes her to feel angry, turn away and act disobedient. Give the wife the opportunity to speak and then the husband gives advice in a good way so that the wife is aware of the mistakes she has made. The husband warns his wife about the impact of all the nusyuz behaviors that he does, such as divorce which has a great impact on the rift in the existence of the household and the abandonment of children. Giving an explanation to his wife about the impact of his actions in the hereafter, and how the virtue of a wife who gets pleasure from her husband and Allah Ta'ala in the last yaumul is the same. This advice aims to make the wife aware of her ignorance and be the solution to all domestic problems.

The second sanction for a wife who commits nusyuz to her husband based on Surah An-Nisa verse 34 is to separate her bed. Separating the sleeping place is that the husband does not sleep with his wife, turns his back by taking care not to have intercourse. This bed separation aims to provide a lesson to the wife if she is aware of her mistakes. A wife will wonder in her heart when her husband is reluctant to sleep with her by choosing to sleep in another room. This bed separation is commonly referred to as bed separation. This method has a meaning as a psychological punishment for the wife, to be aware of the mistakes she has made so that in her solitude she will correct herself for the deeds and mistakes that have been made so far.²³

The first step is to overcome the nusyuz of a wife with advice, then the wife does not change, so the husband separates his bed from the wife. If both of these circumstances have been carried out and the situation of the wife still continues her nusyuz attitude, then then in Surah An-nisa verse 34 gives the last solution before divorce, namely by allowing a

²² Marhani Malik dan Andi Alda Khairul Ummah, "Ketaatan Istri Terhadap Suami Perspektif Nabi Saw. (Suatu Kajian Tahlili)," *Jurnal Ushuluddin: Media Dialog Pemikiran Islam* 23, no. 1 (2021): 94-104, <https://doi.org/10.24252/jumdpi.v23i1.19580>.

²³ Wati Rahmi Ria, *HUKUM KELUARGA ISLAM* (Bandar Lampung, 2017).hlm.28

husband to hit his wife with a blow that does not leave marks on the body and does not break bones, nor does it cause injury, because the purpose and purpose of this beating is only to repair and not others. who do this nusyuz with a gentle blow without hurting the wife.²⁴ Giving punishment by hitting but not on the face and not on the part of the body that is dangerous for the wife such as the calf part of the wife. It is permissible for a husband to give a blow to his wife when nusyuz is to show the firmness of a husband on the condition that he does not hurt and does not make physical marks.²⁵ This beating is not obligatory according to sharia and is also not good to do, it's just that this is the last way a husband does to subdue his wife again and is an effort to improve the wife's character so that there is no destruction of the household. This blow is also with the aim of protecting and protecting the household from division.²⁶

There was a woman facing the Prophet, it was stated that the woman complained to the Prophet that she had been slapped by her husband. The Prophet said, "He must be diqisas (recompensed)" this story is mentioned as asbabun nuzul from verse 34 of Surah An-nisa.²⁷ Meanwhile, if the *nusyuz* comes from the husband's side, then Allah gives an explanation with his words in QS An-Nisa/4: 128.

وَإِنْ أَمْرًا خَافَتْ مِنْ بَغْلِهَا نَشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ
الْأَنْفُسُ السُّخَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا

"And if a woman is worried about nusyuz or indifference from her husband, then it is okay for both of them to make true peace, and peace is better (for them) even if the man is miserly by nature. And if you get along well with your wife and take care of yourselves, then verily Allah is Aware of what you do."²⁸

Surah An-Nisa verse 128 explains the concern of a woman in fighting her husband's nusyuz , which is abandoning the obligation to be husband and wife. Nusyuz on the husband's side is to be harsh towards his wife, not wanting to associate with her and not wanting to give her rights or indifference from her husband, so it is okay for both of them to have a true peace like a wife willing to have some of her rights reduced as long as her husband wants to be good again, and peace is better for them even if the human being according to his nature is miserly. The human habit is not to give up some of his rights to others with all his sincerity, but if the wife gives up some of her rights, then it is permissible for the husband to accept it , and if you get along with your wife well and protect yourself from nusyuz and indifference, then verily Allah is Aware of what you do. Nusyuz behavior arising from the husband can be caused by the husband's lack of knowledge of religious

²⁴ Ria, *HUKUM KELUARGA ISLAM*.

²⁵ Asrori, *Tafsir Al - Asrar*.

²⁶ Muhammad Abduh dan Rasyid Ridha, *Tafsir al-Manar*, (Beirut : Dar al – Ma’rifah,1975).hlm.74

²⁷Shaleh, Dahan, *Asbabun Nuzul latar Belakang Historis Turunnya Ayat-Ayat Alquran*.p. 47

²⁸ Al-Quranul Karim, Surat An-nisa. 128

law, so that the husband does not understand and does not know about the rights and obligations of husband and wife in the household, for example, a husband who has more than one wife and one wife feels that there is a tendency to the husband's attitude and affection for one of his wives, For example, about the giving of birth and the mind of each wife. Nusyuz husband can also come because of infidelity from the husband so that negligence arises with the husband's responsibilities in the family.²⁹

There is a hadith from Aisyah Ummul Mukminin r.a regarding the above verse she said: "Regarding a woman who is bound by marriage to a man (husband) whose husband no longer looks much at her, and wants her mentally to marry another woman. Then the woman said to him: "Defend me, do not deceive me and marry a woman other than me and you may not give me sustenance and turns." (HR. Imam Al-Bukhori) While in another hadith from Aisha Ummul Mukminin she said: that Saudah bint Zam'ah when she was worried about being divorced by the Messenger of Allah, she said: "O Messenger of Allah, it is my turn for Aisha and she accepted it." (HR.Abu Dawud)

There is a difference in the settlement given by the Qur'an to *nusyuz* carried out by the husband and wife, if it arises from the wife's side, then they can be advised, separated by bed, and beaten with blows that are not torturous and do not make him injured, while if *the nusyuz* is from the husband's side, there is a tendency for the wife to tolerate the husband in giving up some of his rights that she should receive. For example, a wife is willing to have some of her rights reduced, as long as her husband is willing to be good again. The settlement of the husband's nusyuz case by means of deliberation means that there is no punitive action in the form of sanctions given to the husband as is the case if a wife commits an act of nusyuz. This explains that there is an excess of position between a husband compared to his wife.

Settlement of Nusyuz Case According to the Compilation of Islamic Law (KHI)

The difference in the settlement *of nusyuz* does not only lie in the perpetrator *of nusyuz*, as stated in the Qur'an, but there are also clear differences in the Compilation of Islamic Law about *nusyuz* and how to solve it. A wife has been classified as nusyuz behavior if she does not carry out her obligations in the household. Including the wife's obligations mentioned in article 83 of the Compilation of Islamic Law, namely: (1) the main obligation for a wife is to be devoted to her husband in what is prescribed by Islamic law. In the next article, it is stated that (2) the wife organizes and manages daily household needs as well as possible.³⁰

Broadly speaking, *the act of nusyuz* in KHI is only attributed to the wife, not to the husband, and the way to settle it is by not providing maintenance in the form of money or

²⁹Muhammad Thalib, 20 Perilaku Durhaka Suami Terhadap Isteri, (Bandung: Irsyad Baitus Salam, 1997) hlm.37.

³⁰ Compilation of Islamic Law

clothing as well as maintenance and medical expenses to the wife as in Article 84 paragraph (2) of the KHI, which reads "(1) The wife is considered nusyuz if she does not want to carry out the further obligations of the husband in Article 77 paragraph (5) and Article 149 letter (b) of the KHI has the right to make *nusyuz* carried out by the wife as a reason for applying for talaq at the Religious Court. Imam Jalaluddin Al-Mahalli and Imam Jalaluddin As-Suyuti in the book *Tafsir Jalalain* stated that the *nusyuz attitude* of the husband towards his wife is an indifferent attitude to the point of separating the bed from her and neglecting to provide for her, it happens sometimes because of anger or because his eyes are attracted to a woman who is more beautiful than his wife.⁸

Johari in his thesis on "*Nusyuz Verse: A Psychological Review of Pedagogik*" revealed that conflicts caused either by the wife or husband or simultaneously between the two, have *mauza'ah* (good advice) seen from the way of settlement where if the conflict arises from the wife's side who has the stages of solution to give *islah* which is analogous to the method of al-Qur'an "In eradicating *khamr* and usury, what the Qur'an offers in dealing with the husband's nusyuz is *islah* which is analogous to the method of dialogue and if the conflict arises simultaneously between the two, then the solution of the Qur'an is *tahkim* (arbitration) he took the principle of deliberation which is analogous to the method of discussion which has the implication of the need for Islamic guidance and counseling.

Conclusion

Based on the results of the analysis of the provisions of nusyuz in the Compilation of Islamic Law and the interpretation of relevant Qur'anic verses, this study concludes that the concept of nusyuz cannot be understood narrowly as a form of unilateral disobedience, but as a relational problem in the household influenced by the dynamics of the rights and obligations of husband and wife. KHI as a positive Islamic law in Indonesia provides normative certainty in regulating the implications of nusyuz law, especially related to the right to alimony, but the approach used still tends to be legal-formal and does not fully display the ethical and spiritual dimensions emphasized by the Qur'an. The interpretation of the Qur'an on the verses of nusyuz, especially QS. an-Nisā' verses 34 and 128, show that the resolution of domestic conflicts should be pursued through persuasive, dialogical, and *ishlāḥ* (peace-oriented) stages. Classical and contemporary interpretations of mufasir emphasize the importance of the principles of justice, benefit, and protection of the dignity of both parties in the marriage relationship. These principles have not been fully accommodated explicitly in the practice of implementing KHI in the field. Therefore, this study emphasizes the need for a reinterpreted and substantive approach in resolving nusyuz cases, by making the interpretation of the Qur'an an ethical framework in understanding and implementing the provisions of KHI. The integration between Islamic positive legal norms and the spirit of *maqāṣid al-syarī'ah* is expected to be able to encourage a more fair, humanistic, and contextual model of nusyuz settlement, while strengthening

the role of Islamic family law as an instrument for the protection and harmony of Muslim households in Indonesia.

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