NUSHÛZ IN ISLAMIC FAMILY LAW: A Critical Study of Hadith Exegesis and Religious Court Verdicts

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ABSTRACT
The ongoing family conflicts cannot be separated from the neglect of the position of the husband and wife in Islamic family law, known as nusūz. The purpose of this study is to understand Mufassireen's interpretation of nusyūz. This study is a qualitative research, a literature survey with an interdisciplinary approach - philosophical, Historical, psychological, sociological, and Islamic law approach - and a descriptive analysis from various sources such as tafsir, hadith, Islamic Yurisprudence, legal maxim and legislation. The meaning of nusyūz in al-Nisa 4:34 according to Mufassireen is similar. The difference between classical mufassirs and contemporary mufassirs is that classics allow and contemporary ones reject wife beating. There is also an interpretation of verse al-Nisa 128, where commentators argue that the husband's nusūz means relinquishing rights and obligations due to polygamy and unequal living, and the form of resolving the husband's nusūz is through advice and mediation. The judge's decision in resolving husband and wife nusūz problems was the judge's reference to al-Baqarah paragraph 241, School Al-Dzahiriyah Article 39 paragraph 2 of Law Number 1 of 1974 concerning Marriage, Articles 149 and 241 Compilation of Islamic Law of 1991 as the implementation of takhsis al-qada is based on benefit which refers to the Islamic legal maxim Hukm al-Hakim Yarfa al-Khillaf, Tassaruf al-Imam Ra'iyah Ala Manut bi al-Maslahah.

Keywords: Nusuz, Tafsir, Hadith, Islamic Family Law, Judge's Decision.

ABSTRAK
INTRODUCTION

The Qur’an is the kalamullah revealed against the Prophet Muhammad (peace be upon him) in Arabic lafdz, which is a miracle as well as a revelation. The Quran has timeless content that can help solve problems faced by humans. Hadith is the second most important source after the Qur’an and serves as an interpretation of the Qur’an. Husband and wife receive each other's guidance and advice (mauidzah hasanah) in life to maintain family relationships by working hand in hand to build a harmonious and happy family. The family is an important social institution in Islam.

But often tensions arise between husband and wife because they do not carry out the obligations laid down by the Qur'an and Hadith. Thus causing nusyuz behavior that has a bad impact on the family. Therefore, it is necessary to clearly understand the rights and obligations of both in order to establish a harmonious relationship.

The factors that cause nusyuz for husband and wife are conflict, economy, education, family and social intervention, politics, law, religion and unpreparedness in marriage, polygamy by means of sirri marriage, infidelity, polyandry of loveless marriage, dissatisfaction in marriage (kafaah) Allah says:

3 Achmad Mubarok, Family Psychology (Unfortunate: Madani, 2016).10
"Men are protectors over women because Allah favors some (men) over others women and some (men) spend some of their property, therefore, a chaste woman is a woman who obeys Allah and protects herself when her husband is not there. Also for the woman you fear is a traitor, until he rebukes him to pull her out of bed, and ignore him. God recognizes what you do." (Al-Nisa 4:34).

In understanding the content of Qur'anic verses that are understood textually and legally formally, it often brings extreme attitudes and exceeds limits. Like the understanding of nushūz in the Qur'an Sura Al-Nisa 4:34 which is over understood (guluw) which results in husbands committing acts of abuse against wives as some cases in the world mentioned in the table as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage</th>
<th>Cases of Violence Against Wives</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>69 %</td>
<td>Physical Violence</td>
</tr>
<tr>
<td>Francs</td>
<td>92 %</td>
<td>Physical Violence</td>
</tr>
<tr>
<td>Germany</td>
<td>1000 %</td>
<td>Physical and psychological abuse</td>
</tr>
<tr>
<td>English</td>
<td>70 %</td>
<td>Physical Violence</td>
</tr>
<tr>
<td>Canada</td>
<td>150 %</td>
<td>Physical Violence</td>
</tr>
<tr>
<td>Middle East</td>
<td>50 %</td>
<td>Physical Violence</td>
</tr>
<tr>
<td>Indonesia</td>
<td>792 %</td>
<td>Physical, sexual, and economic violence</td>
</tr>
</tbody>
</table>

The data above shows the lack of understanding of husbands in understanding QS Al-Nisa 4:34 is still very weak even though in

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4 Said Agil Siroj, Tasawuf as a social critic, (Bandung: Mizan, 2006).32
5 Mu'tasham Abdurahaman Muhammad Mansur, “Provisions of Wifes Mushuz In Islamic Sharia” (Najah al-Wathaniyyah University, 2007).299
principle *nusyuz* is applied to husband and wife as stated in QS Al-Nisa 4:128.\(^8\)

> And if a woman is afraid of her husband's indifference or indigence, even though her husband is stingy, it is normal for the two to be reconciled, and this peace will be better according to him and if you protect your wife and protect yourself (from lethargy and indifference), until in fact Allah knows all that you do." (Al-Nisa 128).


Contemporary commentators face different challenges from the classics as they pertain to Islam and human rights. So they reconstructed some interpretations of the Qur’an to answer the social changes (*al-Taghayyur al-Ijtima’i*) that occurred in society.\(^9\) Several methods of interpretation such as the method *of al-Ma’tsur, bi al Ra’y, bi al-Isyari*, have been used by scholars to study the historical aspects of the Qur’an. The Qur’anic interpretation of *nusyuz* is interesting to examine considering the changing times that continue to develop by paying attention to relevance to current conditions. Like the role of the wife who becomes a career woman who doubles as the backbone of the family because the husband is unable to carry out his obligations in the economy. The legal consequences of the wife’s *nusyuz* are, the loss of

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\(^8\) Jayusman Jayusman et al., “Maslahah Perspective on Husband Nusyuz in Islamic Law and Positive Law In Indonesia,” *Muqaranah* 6, no. 1 (2022): 69–84,

the husband's income to the wife while the husband's nusyuz is divorce as in some cases that occur in the Religious Court as follows:

Table 2

<table>
<thead>
<tr>
<th>No</th>
<th>High Court of Religion</th>
<th>Verdict Number</th>
<th>Case</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bengkulu</td>
<td>9/pdt.G/2017/PT.Bn</td>
<td>Perselingkuhan</td>
<td>2017</td>
</tr>
<tr>
<td>2</td>
<td>Palembang</td>
<td>21/Pdt, G/2018/PTA.Plg</td>
<td>KDRT</td>
<td>2018</td>
</tr>
</tbody>
</table>

The two rulings mentioned show that husband and wife nusyuz can be the cause of divorce. According to the majority of Ulama (Ijma' al Ilm) Hanafi, Maliki, Hanbal Shafii', Sharif, al-Sha'bi, Hasan, and Abi Sauli, and the Compilation of Islamic Law it is stated that if the wife commits nushūz then her loss of income is very different from the Judge's Decision in deciding the case of nusyuz the husband's wife is required to provide iddah for the wife who is nushūz Therefore, based on the above problems, the author is interested in linking this research with Nusyuz in Family Law: A Critical Study of Hadith Interpretation and Court Decisions

RESEARCH METHODS

This research is a qualitative research involving descriptive analysis, focusing on interpretive, historical, sociological, philosophical, psychological, juridical approaches. Interpretive methods are used to interpret the texts of the Quran and Hadith, while philosophical approaches are based on the rules of Islamic law, psychology deals with problems, and Juridical is the legal approach. The data used in this study include primary, secondary, and tertiary sources, with comparative analysis techniques used to complement this study.

RESULTS AND DISCUSSION

Nusyūz a term used in various languages, including Indonesian which means insubordination. In Arabic grammar Nusyuz, taken and rooted from the word Nasaza-yansuzu-nusyuzan read fatah nun sin has the meaning al-Irtifa' iniquity. Etymologically, the word nusyuz put forward by linguists connotes iniquity committed by wives against husbands. A husband is a husband who exalts himself and neglects

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10 Syafii, "Interpretation of the Meaning of Sulhu in the Completion of the Nusyuz Case of the Husband of the Interpretation Perspective" (Postgraduate UIN Sultan Syarif Kasim, 2023).
sexual relations. Meanwhile, according to experts from among Tafsir and Islamic jurists have a terminological definition as the table below:

<table>
<thead>
<tr>
<th>No</th>
<th>Nusyuz In Mufassirin Perspective</th>
<th>Nusyuz in the Perspective of Islamic Law Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Al-Qurtubi &quot;the woman of lawlessness&quot; (al-Mar'ah al-Nasyiz) i.e. who hated her husband by carrying out evil.</td>
<td>The Hanafiyah Madhhab says nusyuz is the exit of the wife from the house without her husband's permission and closing herself to her husband, while actually not having the right to do so.</td>
</tr>
<tr>
<td>2</td>
<td>Ibn Kathir defines &quot;Ungodly Woman&quot; as belief in one's own beliefs, which aims to prevent or overcome one's own beliefs. On her husband.</td>
<td>Maliki madhhab defines a person as someone who commits sexual acts, without relationship with others, without seeking relationships, or acknowledging the Rights of Allah Almighty.</td>
</tr>
<tr>
<td>3</td>
<td>Al-Tabahari defines &quot;Immorality&quot; as exalting wives to their husbands, and defying them from their imitation.</td>
<td>The Madhab of Al-Shafiiyyah defines with al-Mar'ah al-Nasyiz the woman who commits iniquity to her husband.</td>
</tr>
<tr>
<td></td>
<td>Mahmud Al-Alusi defines it as the defiance of a wife who obeys her husband who does not obey his orders.</td>
<td>The Hanabiye Madhhab defines a husband's obedience to what is commanded by Allah that a husband must obey all the commandments of Allah.</td>
</tr>
<tr>
<td></td>
<td>Muhammad Mutawallli Al-Sha'rawi by quoting from Al-Thabari is Al-Irtifa' Wa Al-Isti'la, exalting the</td>
<td>Madhhab al-Dhahiriyyah defines &quot;it is obligatory for women or slaves and free women not to prevent their master and husband from having</td>
</tr>
</tbody>
</table>

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14 Abi al-Barakat Ahmad bin Muhammad al-Dardiri, *Al-Syarh Al-Shagir Ala Aqrab Ila Al-Masalik Ila Madzhab Malik*, n.d. 5/343
<table>
<thead>
<tr>
<th>treatment in family interactions at home, consisting of nysuz itself.</th>
<th>sexual relations whenever he invites them.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abdul Karim Amrullah, <em>nushūz</em> is a wife's disobedience to what Allah teaches her husband.</td>
<td>Abu Hamid al-Ghazali, What is meant by <em>nushūz</em>: Does not empower and enable a husband and disobeys him in a way that is beyond the limits of the Law.</td>
</tr>
<tr>
<td>Muhammad Quraish Shihab <em>Nushūz</em> is pride, with the wife's view of her husband, which aims to fulfill the betrayal of the family.</td>
<td>Wahbah Zuhayli The Contemporary Islamic Lawmaker from the University of Damascus submitted <em>nusyūz</em> is the disobedience of the wife (<em>Ma'siyah al-Mar'ah</em>) to the husband in ordering him, which is obligatory in the marriage akad.</td>
</tr>
</tbody>
</table>

From all the definitions expressed by scholars, there is a common understanding between the Tafsir (*Mufasirin*) and the Islamic Jurisprudians (*Fuqaha*) which connotes the iniquity of the wife. The author defines *nushūz* as the iniquity of the sins of husband and wife from neglect to carry out the rights and obligations mandated by Allah, resulting in the collapse of the family with various causes, disproportionality (*kafaah*) In terms of fate, economy, social, education, religious understanding, the absence of love of couples when married so that there is defiance between the two. From the definition that the author defines it is inseparable from the dynamics of family institution life which is often faced with conflict (*syiqaq*) so that the essence of family life is to achieve *mardhatillah* on Allah's trust to the couple. The *nusyūz*
in the Perspective of Laws and Regulations in the Islamic State is as follows:

**Tabel 4**

<table>
<thead>
<tr>
<th>Country</th>
<th>Legal Basis</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al-Jaza’ir</td>
<td>al-Jazair Family Law Articles 55-56 of 2007</td>
<td>When a married couple <em>nusyuz</em>, then it is the Judge who decides the divorce with compensation to the aggrieved party.</td>
</tr>
<tr>
<td>Arab Republic of Egypt</td>
<td>Egyptian Family Law Act of 1920, Year 1929, Year 1985 Year 2000</td>
<td>A wife who has <em>nusyuz</em> against her husband, then a wife does not have the right to provide and shelter.24</td>
</tr>
<tr>
<td>Jordan</td>
<td>Jordan Family Law Law Article 69 of 2005</td>
<td>A wife who leaves her husband's legitimate home, where a wife has left her husband whom the husband may have the right to divorce.</td>
</tr>
<tr>
<td>Suria</td>
<td>Suria Family Law Article 145</td>
<td>Al-Nasyiz is a person who enlarges or moves his body to a certain place before trying to impose other conditions.</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Compilation of Islamic Law Article 84</td>
<td>A wife is considered <em>nusyuz</em> if she does not carry out the obligations as article 83 paragraph 1 except, the husband's obligations to his wife article 80 paragraph 4 letters a and b do not apply matters for the benefit of their children.</td>
</tr>
</tbody>
</table>

Among the laws in the Islamic State only provide an explanation of the provisions *nusyuz* only applied to wives. Similarly, with the Compilation of Islamic Law in Article 83 which applies *nusyuz* only to wives,25 the author considers that the definition of *nusyūz* written in the Laws and Regulations should have provisions for the husband's *nusyūz* written in the Law in Muslim Countries because all regulations

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24 Ta'lulat Salwa, "Nusyuz's Study on the Comparison Between Fiqh and Al-Jaza'ir Family Law and Arab Islamic Law" (University of Béja’a, 2015).7
contained in the Law are patriarchal in nature that have no relevance to the development of the times that are changing every time. Abdurahman Wahid argues that the principle is that men and women have equal rights, while the difference between the two is only biological, so equal rights between men are part of Islamic values. As stated in Ali Imran 3:195, Al-Nahl 16:97, Al-Nur 24:30-31, al-Ahzab 33:35, which places men and women placed egalitarian.

**NUSYUZ AND MUFASSIRIN INTERETATION IN THE QUR'AN**

The term nushūz contains four verses in the Qur'an can be seen in QS Al-Baqarah 2:237 QS Al-Mujadallah 58: 11, then QS Al-Nisa, 4:34 and 4:128 which are specific related to nusyuz in detail.

"Men are protectors over women because Allah favors some (men) over others women and some (men) spend some of their property, therefore, a chaste woman is a woman who obeys Allah and protects herself when her husband is not around. and ignore him, God recognizes what you do." (QS al-Nisa 34).

Because of the Descent of this Verse (Ashab al-Nuzul) Qurtubi, Ibn Kasir, Wahbah Juhayli Muhammad Sayyid Thantawi, Muhammad Ali Sayyis based on the case of Habibah Saad bin Rabi' who had committed nusyuz for refusing sexual relations with her husband Saad bin Rabi' who then Saad slapped him then Habibah Bintu Jayyid bin Kharijah bin Abi Zahir bin Abu Hurairah reported the incident to his father then his father reported to Prophet Muhammad (peace be upon him) said his father Habibah to Prophet Muhammad then come back because Jibril will come to me to send down this verse. The Prophet also said with his words: "We want a commandment and Allah wants a

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commandment, and what Allah wants his command is better" and from this the abolition of the punishment of qisas for Saad.29

From the description above, it can be understood that the reason for the descent of this verse is based on a case of domestic violence that has been experienced by Saad Bin Rab' against Habibah Bint Jayyid bin Kharijah bin Abu Hurairah when Habibah at that time refused to have sexual relations with her husband, after that her husband slapped his wife, not only that, this verse became one of the foundations of the argument that hygistically gave know her husband's behavior to her father and they faced to: The Prophet at that time served as a Judge (Qhadi) and prescribed the punishment of Qisas for Saad for physical violence, but the punishment of Qisas for Saad was canceled with the descent of QS al-Nisa 4:34. And one of the foundations for the cancellation of this provision of qisas is based on the Qur'an Surat Thaha:114.

Interpretation of commentators such as Imam Shafi' Ibn Kathir, al-Thabari, Qurtubi, Ali Sayyis, Wahbah Juhali, Muhammad Mutawali Sha'rawi' Sayyid Thantawi In this verse Allah Almighty has given glory to men and made them protectors for women because Allah has commanded humans to have responsibility for guardianship (wilaya) which is dominated by men because they have been given the excess of body and soul to fight and have advantages over dowry and income for the wife in meeting the needs of the wife. Ibn Arabi, Al-Jasas, al-Razi, al-Zamakhsari suggest that a man (rijal) is a protector (ria'yah) and leader with the first three privileges (fada'il), perfection of mind (kamal al-aql). The second is perfection in religion (kamal al-Din) in performing jihad as an implementation of amr bi al-Ma'ruf wa Nahyu an al-Munkar The third husband has advantages over dowry and the income that Allah has promised.30

Fazlur Rahman, views al-Nisa 4:34 must be understood first in terms of the cause of the descent of the verse which is then adjusted to the context in cases that occur in the contemporary era so that it is understood as a whole so that there is no multiinterpretation and has accuracy in the use of the verse.31 Asgar Ali Enginer interprets Al-Nisa

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4:34 to be viewed contextually and not only theologically considering the Qur'an's highly contextual teachings.\(^{32}\)

Barbara Freyer Stowasser argues that Ali Enginer changed a new paradigm in determining the interpretation of the Qur'an. Amina Wadud reveals that Annisa 4:34 does not oblige women to obey their husbands but a good wife is a wife who obeys her husband. Amina Wadud gives her interpretation that a wife's obedience only applies to a truly harmonious family where there is no interference from anyone by referring to the femenical theory and it is the young who take care of each other emotionally, economically, intellectually as well as spiritually.\(^{33}\)

From the above interpretation, it can be seen from the aspect of interpretation of the exegetes that a wife has an obligation to serve her husband with the argument that Allah is the one who makes protectors for his wife and grandchildren. While the perspective of Amina Wadud and Ali Enginer Fazlurahman has a view of progressive thinking that is different from the Tafsir and the method used, meaning that Amina Wadud and Ali Enginer revealed that a wife is not obliged to obey her husband because obedience is only applied to couples who have harmony in the family, but in the understanding understood by Ali Enginer and Amina Wadud that men and women have equality in rights and obligations.

The psychological and historical perspectives of the author see from the aspect of the cause of the descent of this verse as the basis of reproductive function only, but the intervention of parents carried out by Habibah's parents who did not accept because their children were slapped by their daughter-in-law. While the sosological aspect of this verse as a foundation in the elimination of the Practice of Physical Violence committed by husbands against their wives which has become the custom of the Arabs in the pre-Islamic era in the Arabian Peninsula 15 centuries ago.

The author considers that QS Al-Nisa 4:34 in terms of interpretation that a husband is a protector (\textit{qawamah}), educator (\textit{murabbi}) for women has an obligation in food clothing, for his wife and children so that a husband has a very large role and responsibility in protecting women but the role of \textit{qiwaam} for husbands over wives is not absolute which has no limitations, but in its implementation of this verse

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\(^{33}\) Amina Wadud, \textit{Al-Qur’an And Woman Rereading The Sacred Text From a Woman’s Perspective} (New York Oxford: Oxford University Press, 1999).62
in this contemporary era, husband and wife can work together in sharing roles between one another, such as women are allowed to carry out activities as seekers of economic needs in order to help their husbands to meet the needs of family life. Although social and psychological reality does not run smoothly because couples will get trials and obstacles that trigger conflict, thus influencing both to commit iniquity.

Nusyūz wife as a manifestation of the wife's inability to lead family life in conforming to the rights and obligations set by Allah. The negligence of a wife in carrying out duties of obligation is inseparable from social associations outside the home that trigger conflicts of married couples such as nusyūz wife refuses to live in the same house with her husband, leaves her husband without permission, insults her husband and family, refuses sexual relations without udzur sar'i, often asks for divorce if husband and wife are involved in conflicts, intimacy with men other than her husband digitally on social media, Judges face with the husband, allowing parents and in-laws to intervene in the household. killing the husband, loving people's husbands, otherwise nushūz husbands i.e. not providing for the wife's economic needs, abandoning obligations to Allah, cyber and real affairs with other women, marrying serially without the wife's permission, beating the wife, insulting the wife and her family, exposing the wife's disgrace to others allowing parents and in-laws to intervene in the household. Love other people's wives. Nusyuz husband is stated and mentioned in QS Al-Nisa 4:128 which reads:34

وَإِنَّ أَمَّةً حَافَّتْ مِنْ بَعْلِهَا حَفَاّةً أَوْ إِبْرَاقًا فَلَا جَناحٌ عَلَيْهِمَا أَنْ يُصِلَّحَا بَيْنَهُمَا صُلُحًا وَيَصْلُحُ حَجْرٌ

"And if a wife fears iniquity or indifference from her husband, then it is sufficient for both to bring about true peace, and that peace is better (for them), though men are miserly in nature. Furthermore, if you behave well and take care of yourself (by not overeating and drinking), Allah will undoubtedly understand what you do at work (QS Al-Nisa 4:128)."

34 Ibnu Izzah, “Nusyuz and Its Solutions in Compilation of Islamic Law From the Perspective of the Al-Quran,” Jurnal Al-Dustur 4, no. 1 (2021): 31–48,
The Tafsir (Mufassirin) mentions several reasons for the descent of the verse, which are as follows: The First narrated by Saeed bin Jubayr narrated from Ibn Abbas revealed this verse Ibn Abi Al-Sa'bi who had a wife and children from him, when he was old he intended to break off his wife, then his wife said "do not divorce me. Let me take care of my children, and I'm ready to share the night in every night. Then Saad Bin Jubayr told his wife if so it was better for me. And divide a few nights each month. Her husband said: If so, then it's better for me.

The second reason for the derivation of this verse in the story of Sawda Bint Zam'a, who was about to be divorced by the Prophet Muhammad, And Sawdah prevented this intention by persuading the Prophet that the rights and duties of Saudah be transferred to Aisha\textsuperscript{35} The third: narrated from Aisha about a woman who was with a man who wanted to change partners with another, she said: Wait, I was married to someone else, and you are free from the keeping of vows.

Al-Tabari quotes Abu Ja'far in his commentary on male nushūz as follows: a woman who fears her husband doing nushūz (ma'siyat) will consider herself superior to his own wife. A husband who hates his wife is an arrogance that respects others more than his wife so that the husband will turn away in his own way so by making peace it is not sinful for the wife if a husband will turn away from her.\textsuperscript{36}

Al-Qurtubi understood this verse as a response to those ignorant (juhala) who had the view of a man taking by marrying the young and then abandoning the old. Ibn Kathir states that if a husband commits iniquity, a wife has the right to relinquish the rights and obligations of her husband such as bread, shelter or something that is due to her husband. Muhammad Madhi Abu al-Aza'im interprets this verse, "If a wife is worried about her husband committing disobedience, abandonment, then there is nothing wrong for them to make peace (al-Sulh) between them, even if one of the two gives up his marital rights in favor of divorce and separation, because what is true in many things is good and remains secret. If the wife is not suitable for men because of her old age, illness, or there are obstacles that prevent her from carrying out her duties.\textsuperscript{37}

\textsuperscript{35} Abū Dāwud Sulaiman ibn al-Asy'as as-Sajastānī al-Azdi, \textit{Sunan Abi Dāwud} (Cairo: Dar al-Hadis, 1999), Jils 2,915
\textsuperscript{36} Muhammad IBN Jarir al-Thabari, \textit{Jami' al-Bayan fi Ta'wil al-Thabari}.Gilead 9,268
\textsuperscript{37} Muhammad Madam Abu al-'Aza'am, \textit{Insist al-Qur'an} (Kiru: Dar-ul-Kutub al-Shufiyah, n.d.).Volume 5,1452
Wahbah Juhayli interprets this verse as a decree of Allah for an old woman, whose husband has remarried into a polygamous marriage so that the wife does not accept her husband's marriage, but the wife has the right to stay with her husband in order to protect the sacred bond of marriage that she has gone through for many years as a deterrent from divorce which is a matter that God hates so that the husband enact justice in the provision of his two wives.

From the Interpretations of Commentators such as al-Tabari, al-Qurtubi, Ibn Kathir Muhammad Madhi Abu al-Azaim, Wahbah Juhali in An-Nisa 4:128 is the problem of polygamy carried out by Ibn Abi Al-Sa'bi, Saad bin Rabi with a younger and more beautiful girl. and from this marriage resulted in prolonged conflict. Historically, the case of polygamy contained in Annisa 4:128 is not based on justice such as justice in reproduction (al-wat'u), economics (nafaqa) which is the obligation of the husband to his wife who makes losses unilaterally.

Al-Shafii and Abu Al-Aza'im stated that in principle, a husband cannot do justice to his wife, especially matters of the heart, which means that this is a matter that is very impossible for a husband who practices polygamy to do. Besides polygamy was the divorce that the Prophet was going to do with Sawda Bint Zam'a at that time but Sawdah did not want the Prophet to divorce her. So the method of resolving the polygamous conflict carried out at that time was to mediate on the basis of pleasure between the two if both were pleased then the polygamous marriage would be the intercession of the afterlife world as happened to the Prophet Muhammad, Ibn Al-Sabi and the couple Khaulah Bintu Muhammad Bin Salamah and Saad bin Rabi. However, if mediation is unsuccessful, then a wife is allowed to file for divorce. As in court decision 2240/pdt.g/2021/PA. Kab.Mlg with successful mediation and several cases of salabritis ustadz who failed in undergoing polygamous marriages.

In principle, the Qur'an commands a wife to respect her nature as a woman. Because in the Qur'an Allah has warned to always keep the marriage intact because in marriage there is a holy covenant mitsa'qan ghalizan, this is so as not to occur divorce which results in the loss of the family, especially children who need complete parental love. This means that two verses in Annisa 4:128 and 34 explain that husband and wife should be aware of the nusyuz behavior between the two. The commitment and covenant of marriage for married couples must be held...
tight because of the empirical fact that marriage will undergo several phases, namely the phase in the first five years of marriage in which the married couple experiences economic difficulties and continuous conflicts for various reasons can be due to excessive jealousy of the wife towards the spouse and vice versa. Likewise, the disadvantages and advantages of property owned by the family, then the phase of each couple enters the second puberty era, one of which feels bored in carrying out routines in raising a family. Whereas in other verses referring to the purpose of the Qur’an is the protection of family harominas as the table below:

<table>
<thead>
<tr>
<th>No</th>
<th>Basis Qur’an</th>
<th>The Duties of Husband and Wife in the Qur’an</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>An-Nisa 4: 19</td>
<td>Connectivity in intercourse sexual fulfillment</td>
</tr>
<tr>
<td>2</td>
<td>Al-Baqarah 2:147</td>
<td>Interplay in the Protection of Family Honor</td>
</tr>
<tr>
<td>3</td>
<td>Al-Thalaq 65: 6</td>
<td>Interplay in Protection from Violence</td>
</tr>
<tr>
<td>4</td>
<td>Al- Tahrim 66:6</td>
<td>Interplay in Mutual Property Protection with Spouse</td>
</tr>
<tr>
<td>5</td>
<td>Al-Nisa 4:32</td>
<td>Continuity in the Voluntary foundation in sexual relations in a good way.</td>
</tr>
</tbody>
</table>

From the table shows that the Qur’an gives news that for every couple must watch out for the nushūz behavior carried out for both husband and wife as an effort to prevent calamity and reinforcements of divorce. Because in Al-Nisa 4:34 it is a khabariyah verse which is historically the responsibility of husband and wife in the marriage bond while Anisa 4: 128 as the principle of fidelity in the household is monogamy and if the husband practices polygamy then it is prescribed to mediate.

NUSYUZ IN FAMILY LAW HADITH

Among several hadiths related to Nusyuz is more about the rights of husband and wife who have functions as well as family functions, namely reproductive functions, economics, among several hadiths as follows.

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Hadith: Muhammad ibn Bashār narrated to us from Ibn Abī Uday of Shu‘ā’īn, Solomon, Abū Hazem and Abū Hurayrah that he said: When a man calls his wife to bed for sexual intercourse she refuses, the angels keep cursing her until she falls (morning). (HR Al-
Bukhārī. 39

Ibn Hajar al-Asqālānī, in Fath al-Bārī, says that the word Firas in the expression Ida Da’a al-Rajulu Imra’atuhu is a kind of satire (kinayah) of the word Jima’, or copulation. (Sexual Intercourse), and the word ma’na (al-Malaikah Laanatuha Hatta Tusbiha) Ibn Jamrah explains that anathema here is the rejection of nighttime intercourse and also daytime copulation. Hatta Tusbiha. Copulation is usually carried out at night, in other words, the refusal of the wife during the day is also considered nusyuz. 40

Al-Nawawī said this hadith shows that the prohibition of a wife to refuse a man's desire to have biological relations without reason (udzur al-Shar’ī) and a wife who is menstruating (menstruation) is not an excuse because it can still be done by a husband to his wife covered with clothes. The meaning of the hadith is that the curse will continue to fall on him until the end of his wife's refusal only in the morning, and the wife will be freed from the curse, by her repentance and return to serve her husband. 41 The hadith mentioned the command from the Prophet to the wife to obey her husband under any circumstances and no matter how busy, even when the wife is busy, a task is very difficult to leave shows that it is obligatory unless it is done. There is a presumption which suggests that in that state it can be transferred to another, and there is no

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presumption here, but that presumption affirms her obligation, and therefore abandoning her obedience to her husband is obedience to him.\textsuperscript{42}

The author views the attitude of a wife who refuses the sexual relationship desired by the husband then included in the category of nusyüz wife towards the husband is very logical between the two having a mutualism symbiosis relationship that is opposite to symbiotic parathym because Islam, Medicine, Psychology, Anthropology, and Sociology emphasize the importance of sexual relations in marriage as a basic human need that provides peace of life psychologically, physically, and socially.\textsuperscript{43} Medical experts (al-Tiba) identify two types of hunger, abdominal and sexual. Abdominal hunger is done as a means of maintaining a healthy lifestyle, while sexual hunger can only be done as a means of endurance by establishing sexual relations with the aim of achieving offspring.

Couple marriage is very dependent on the intimacy of conjugal sexual relations, so if there is no disobedience of a wife regarding sexual intercourse desired by the husband triggers the husband to commit adultery with another woman which is done secretly. The impact on couples' marital satisfaction becomes low, closed partner communication, husbands become pornography addicts, and glance more at other women on social media who are more beautiful than their partners.\textsuperscript{45}

Such phenomena often occur in the socio-psychological reality in society. Given the legality of family ties bound by marriage with the main purpose of good marriage between husband and wife to unite the hearts between the two as stated in QS al-Nisa 4:31.\textsuperscript{46} The Khitab contained in this verse and hadith is violated, so in the social and psychological aspects a married couple will look for cheating friends for

\textsuperscript{42} Mu'tasham Abdurahaman Muhammad Mansur, “Provisions of Wifes Mushuz In Islamic Sharia.”\textsuperscript{61}

\textsuperscript{43} Endy Muhammad Astiwara, Contemporary Medical Jurisprudence (Jakarta: Pustaka al-Kautsar, 2018).146-147

\textsuperscript{44} A. Octamaya Tenri Awaru, Family Sociology, Media Science Indonesia, vol. 1, 2021, 125


\textsuperscript{46} Muhammad Ali Sais Ma'hmud Sialkot, Muqrna al-Maddhab fi al-Fiqh (Dar-ul-Ma'arif, 1986).71
each of them.47 In Islamic Family Law, the denial of sexual relations by a wife against a husband, or a husband against a wife is a violation of the law that Allah has established. Whereas in Islamic Sufism Al-Ghazali a wife who obeys her piety will prevent anger that triggers family conflicts.48

Kamal Sayyid Salim stated that a wife's obedience to her husband is not absolute but has conditions with something that does not contain sin in Allah, so that the husband's commands are not obliged to be obeyed, such as removing the hijab, or stopping praying, or telling the wife to become a prostitute, or a husband fucking his wife during menstruation, during the obligatory fasting month of Ramadan.49 "La Ma' shiyah al-Creature Fi Ma'siyah al-Khaliq" No Obedience of a creature to obedience to the creator Ali Jum'ah suggests a wife may disobey her husband on the subject of problems 50 Sociological, psychological and juridical perspectives of the behavior of a husband who forces his wife to have sexual relations as a form of Sexual Violence based on the results of research have shown that many among women do not get and feel sexual pleasure with his handlers and this happens a lot in urban and rural areas.51 In Law Number 1 of 1974 regulates the obligations of husband and wife as a result of marriage, realizing a harmonious family 52 Law Number 8 of 2022 concerning Sexual Violence, men commit intercourse with the intention of humiliating their wives, threatened with a long prison sentence of nine months.

The author views from various aspects of hadith, sociology, psychology, juridical, medical a man who wants to marry should be carefully prepared from various aspects, especially from economic asepek which is the most important handle, then religious, social, educational because men have obligations that are not light as well as women who will marry must prepare mentally, especially in having

47 Muhammad Iqbal, Psychology of Marriage Dives into the Secrets of Marriage (Depok: Gema Insani, 2018).109
49 Kamal Sayyid Salim, Shahiyya al-Kitab wa al-Sunnah wa Adeelah wa Ta’dih Madzahab al-Aymah (Kiru: Maktaba Tawfiqiyya, n.d.).3/193
50 Ali Muhammad Jam'ah, Al-Kaleem al-Tayyab Fataawa Ushriyah, A (Cairo: Dar-ul-Salam, 2006).355
51 Ulfiah, Family Psychology Understanding the Nature of Family and Handling Household Problems (Bogor: Ghalia Indonesia, 2002).110
52 Rizki Pangestu Rizqa Febry Ayu, "Nusyuz Modernity: Between Rights and Obligations," Yudisia : Journal of Legal Thought and Islamic Law 12, no. 1 (2021): 73,
sexual relations because for married couples sexual relations become a staple food for husbands and wives who have legality towards an inner birth bond that will strengthen family institutions that generate economic power and prevent physical and digital infidelity that is increasingly rife in today's social culture, marriage agreements and commitments are still held by selein, men are entrusted by God as breadwinners who should not be wasted because of the husband's negligence in providing. will only trigger a wife to look at a more economically established man the negligence of men in economic livelihood other than the share of Nusyuz for men and will not be styled by the wife and even then it is permissible according to Ali Jum'ah, Judah Kamal Sayyid if the husband is nusyuz like the Hindun Bint Utbah hadith on Abu Sufyan.

 حدثنا محمد بن المثنى حدثنا يحيى بن هشام قال قال أخبرني أبي عن عائشة أن هن بنت
عنبي مكثت رسول الله إن أيا سفيان رجل شحيح وليس بيعلمني ما يكفيني ولا يلدي إلا
ما أخذت منه وهو لا يعلم فقال خذي ما يكفيك وودك بالمعروف

Muhammad ibn al-Muthanna gave us know Yahya gave us about Hisham. He said My father told me about Aisha that they were Utbah girls. He said the Messenger of Allah, that Abu Sufyan was a very shakhih man did not provide for me and my son except what I took from him that he did not know. So he said take what is enough for you and your son in a good way. (HR Bukhari) 53

The hadith in explaining Abu Sufyan who committed nusyuz because of his negligence in providing for his wife and children who then conveyed the laws that applied to the Prophet so that the Prophet allowed Hindun to take the money owned by Abu Sufyan. In principle, a husband providing for his wife is an obligation, both outwardly and mentally, if the husband cannot provide for the living, then including from the husband's nusyuz. According to the author, looking at the historical aspect between the hadiths above, actually nusyuz here applies to both because first, Hindun took the husband's property without permission, while Abu Sufyan disobeyed Allah for his wife's rights because he forgot not to provide birth support. According to Judah Abdul Ghani, a husband

53 Muhammad bin Ismā'il-Kahlānī is-Ṣan‘ānī, Subūl is-Salām sa'dh balg al-marm mein jamī’ Adeella al-Ahkām (Keru: Dar al-Hadith, 2007).294
who is negligent in providing for his wife then the wife has two choices, namely divorce and bread.

SETTLEMENT OF NUSYUZ HUSBAND AND WIFE IN THE QUR'AN AND HADIST

Scholars of Islamic Exegesis and Law have agreed that the completion of the wife's nusyuz by three methods namely advice, separation of beds and beating while the husband is advice and mediation. From this method is a very substantial principle as an offer of a humanistic solution to the family problem of couples who often experience conflicts in order to avoid divorce. Editor of Wadribuhunna QS Annisa 4: 34 The Scribes (mufassirin) and Islamic Jurists (fuqaha) have different interpretations, as the author compiles in this table.

Table 6

<table>
<thead>
<tr>
<th>No</th>
<th>Ahl Tafsir</th>
<th>Ahl-e-Islam</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>al-Zamakhsari is of the opinion that the beating is forbidden to the face and that is also an exception.</td>
<td>Imam Shafii views related to the word Dharb (beating) in his view there is a prohibition from the Prophet Muhammad related to beating women.</td>
</tr>
<tr>
<td>2</td>
<td>Fakhruddin Al-Raji argued that it was appropriate to beat it with a handkerchief and not allowed with a whip and stick.</td>
<td>Ibn Qudamah is that hitting will avoid face and place sensitive and frightening, because the purpose of beating is education to destroy.</td>
</tr>
<tr>
<td>3</td>
<td>Al-Qhurtubi is an educational force that does not hurt which means it does not hurt and shame men, but which is a truth that nothing else.</td>
<td>Shihabuddin Ramli also causes bleeding wounds, which are clearly forbidden, because customs and pain also help pain also helps haram.</td>
</tr>
<tr>
<td></td>
<td>Muhammad Rashid that legality against women who</td>
<td>Abdul Karim Zaidan suggested that abandoning beatings is preferable if</td>
</tr>
</tbody>
</table>

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56 Abi 'Abd Allah Muhammad bin Idris As-Syawafi'y, Ahkam al-Qur'an, n.d.598

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are nusyuz is a mandatory commandment, consisting of broken customs and morality, but forbidden in case of damage.\(^{58}\) it can be done by peaceful means to wives without beatings.

<table>
<thead>
<tr>
<th>Muhammad Quraish Shihab disagreed with beatings in both family and education.</th>
<th>Huzaimah T Yanggo in the Qur'an beating is permissible by not grieving by educating but in the Law beating is forbidden.</th>
</tr>
</thead>
</table>

Although some scholars allow the beating of wives, as expressed by the Mufassirin Muqaddimin al-Thabari, al-Zamaksari, al-Raji‘, al-Alusi, Ibn Kathir the author agrees more with Shafii, Abdul Karim Zaidan, Shihabddin Ramlí, Rashid Ridha, Muhammad Quraish Shihab, who forbade the beating of nusuz wives.\(^{59}\) Because there is no relevance to beating in any form, the beating done by the husband does not solve the problem but adds to bigger and bigger problems such as the wife becomes traumatized, the mentality of the wife and children will be disrupted, the communication of the husband and wife is cut off, the wife is increasingly disobedient to the husband and in-laws, loses passion, becomes forgetful, and loses confidence.\(^{60}\)

In Law No. 23 of 2004 on domestic violence in Article 1, it is stated that every act against a person, especially a woman, which results in physical, psychological, sexual suffering, domestic abuse, then including unlawful acts in the Perspective of Criminal Law, contained in Article 351 of the Criminal Code, it is stated that something that causes serious injury, the victim can file a civil lawsuit to seek compensation for losses caused by Domestic Violence

\[\text{حدثنا محمد بن يوسف: حدثنا سفيان عن هشام عن أبيه عن عبد الله بن زمعة عن النبي صلى الله عليه وسلم قال: لا يجعل أحدكم إمرأته جلد العبد ثم يجامعها في آخر اليوم رواه البخاري.}\]


\(^{59}\) Rosma Alimi and Nunung Nurwati, "Factors Causing Domestic Violence Against Women," Journal of Research and Community Service (JPPM) 2, no. 2 (2021): 211

\(^{60}\) Nurzakia, "Community Understanding of Nusyuz and Its Impact on Domestic Violence in the Household." 47-56
Muhammad ibn Yusuf has told us Suffyan of Hisham from his father from 'Abdullah ibn Zam'ah of the Prophet said: None of you should whip his wife and then have sexual intercourse at the end of the day (HR Bukhari) ⁶¹

The word la yajlid redactionally has shigat al-Nahyi, which means the prohibition of hitting the word al-dharb, understood by Ibn Hajar al-Asqalani, a gesture that is not absolutely permissible, but as makruh tanzihan or makruh tahriman. Based on the Hadith above, beating in ma'na'i is absolutely haram while the most victims in this case are women, and one solution in solving this case is mediation carried out in a non-litigation family manner if it cannot be resolved by non-litigation, then the wife is allowed to make a lawsuit (khulu) in the religious court.⁶² Although legally permissible, a wife who has the heart and cannot maintain her family, including a wife who does not have readiness to live the ark of the household. According to the author, the husband who beat his wife was a weak man because he could not control himself and belonged to Nusyuz. While the wife who incites her husband to beat him belongs to the category of nusyuz women and kufr ni'mat given by Allah; Despite the global socioeconomic crisis sweeping the world, God will give them the opportunity to live a family life.

THE NUSYUZ LAW OF HUSBAND AND WIFE AND THE CONSEQUENCES OF NUSYUZ ATTITUDE

Nushūz is ma'siyat wife to husband and husband to wife as Allah has commanded an obedience as Allah the Exalted has revealed the Verse about the obedience of a wife to husband nushūz by consensus (Ijma) The Ulema is Haram either in word (qauli) or deed (fi'li) or both simultaneously whether it is wife against husband or husband against wife simultaneously, al-Dhabi argues that nushūz as one of the great sins, nushūz wife against husband is therefore two virtues and it becomes a violation of a wife's obedience to her husband and this is based on nusus al-Shari' besides that it is based on the Proposal of Fiqh and the Rules of Fiqhiyyah: al-Asl fi al-Nahyi li al-Tahrim, philosophically the law of disobedience to the husband is haram. Including a husband who commits

⁶¹ Shihābud-dīn abul-fa. l aŶmad ibn nūrud-dīn alī ibn muøammad ibn ajar al--LAsqalānī, f at, al-Bārī fī sharī fi ṣaAī, al-Bukhārī.2571
iniquity to Allah by neglecting obligations to his wife is absolutely haram.

Al-Dhararu Yuzalu\textsuperscript{63}, A dangerous thing must be eliminated al-Dharar la Yuazalu bi al-Dharar,\textsuperscript{64} a thing that creates danger cannot be eliminated by another dangerous matter, "ma adaa ila al-Haram fahua haram". What has been determined to be haram is forbidden. Al-Asl Baqā\textsuperscript{\textprime}un Mākana alā Mākana, While the wife's obedience to an inviolable obligation as well as the husband's obedience to Allah and the Messenger and the teachings of Islam is an obligation "Ma la Yatim al-Wajib illa bihi fahuwa obligatory,\textsuperscript{65} a matter that becomes a necessity cannot achieve perfection unless it is lived with the obligation of al-Wajib la yutraku illa biobligin.\textsuperscript{66}

Obligatory matters are not abandoned except with obligations. Then al-Taqit La Yaud Kama anna al-Ma\textacuteacute;dum la yaud. The result of wife nushūz is the loss of naqfa, but there are some differences between Ulama: according to the majority of Hanafi, Maliki, Hanbali Shafi'i, Sharif, al-Sha'bi, Hasan, and Abi Sauli (Ijma' al Ilm) scholars, wives who perform nushūz do not earn a living and no place to live, no right to subsistence and shelter. Whereas according to al-Hakim ibn Uthayba, Abu Muhammad Ali ibn Hazim al-Zahiri, and Ibn Abu Qasim (Maliki school), wives who perform nushūz are entitled to livelihood and shelter, and according to Sayyid Sabeek and Judah Abdul Ghani The consequences for husbands who perform Nushūz It is the wife's step to file for divorce to the religious court. Broadly speaking, when viewed from two perspectives between Islamic Law and Criminal Law between nusyūz and Family Violence that both have something in common, namely that the act is prohibited The provisions of Islamic Law against nusyūz are, paying fines, atoning for sins and mediation with the victim, while in the Criminal Law is the Criminal Code Articles 351-358 that perpetrators of violence are subject to imprisonment or fines depending on the level of violence. Therefore, from the behavior of nusyūz it can be

\textsuperscript{63} Alaawi bin Ahmad bin 'Abd al-Rahmaan al-Muqaddaf, Fuwa'ad al-Makia fima yathjoha thalaba al-siafi'i main problems and dhobat wa'l-qawa' ad al-qalia, d. 3 (Egypt: Dar al-Faruq, 2015).44-45
\textsuperscript{64} Jalal al-Din \textquoteleft Abd al-Rahman al-Siyuti, al-Asba wa al-Nadza'ar, 2nd ed. (Beirut: Dar-ul-Kutub al-Ilmiyyah, 2012).135
\textsuperscript{65} Rachmat Syafe'i, Ilmu Ushul Fiqh (Bandung: Pustaka Setia, 2007).251
\textsuperscript{66} Muhammad Abū Zayyid al-Amir, Adwā' Ala Qawā'id Al-Fiqh Al-Kulliyāh, V (Kairo, 2018).40
concluded from various legal perspectives that it is haram absolutely, which indicates that family defense is very weak.

**NUSYUZ SETTLEMENT IN JUDGE'S DECREE**

In contrast to the views of mufassirin and fuqaha in the settlement of nusyuz in Indonesia, the completion of *nusyuz* is carried out in the Pengdilan Agama which performs the function of analyzing, and solving cases of several cases that are proven with authentic evidence and the basis of sharia so as to produce legal provisions despite the fact between the basis of decisions based on written regulations (*law in book*) and empirical facts (*law in action*) is very different as in the Verdict of *Nusyuz* husband and wife in the Religious Court.

<table>
<thead>
<tr>
<th>No</th>
<th>High Court of Religion</th>
<th>Nomor Putusan</th>
<th>Case</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bengkulu</td>
<td>9/pdt.G/2017/PT.Bn</td>
<td>Infidelity</td>
<td>2017</td>
</tr>
<tr>
<td>2</td>
<td>Palembang</td>
<td>21/Pdt, G/2018/PTA.Plg</td>
<td>Domestic Violence (KDRT)</td>
<td>2018</td>
</tr>
</tbody>
</table>

Of the two cases in the two verdicts, the case of *nusyuz* women for having an affair, while the case of *nusyuz* husband in Palembang beating the husband on his wife. Both cases were taken to the Religious Court for trial. Because the married couple in the two cases committed *nusyuz*, the judge decided to separate them by divorce. Philosophical, jurisprudence, and social considerations became the basis for the judge's decision, namely the philosophical aspects of Al-Baqarah 2:41, juridical aspects, laws and regulations, in Article 39 paragraph (2) of Law no. 1 of 1974, Article 70 paragraph (1) of Law no. 7 of 1989, Government Regulation no. 9 of 1975 and Article of the Compilation of Islamic Law became a reference for the High Religious Courts of Bengkulu and Palembang in their decisions on talak raj'i. Decision of the Supreme Court of the Republic of Indonesia Number 276K / AG / 2010, Number 379 K / Ag / 1995; Number 137 K / AG / 2007, Number 276 K / AG / 2010, Number 296 K / Ag / 2017, Number 657 K / Ag / 2017. And Sociological Divorce of wives is not considered nusyuz because of

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domestic violence and physical and psychological suffering so as to require hospital treatment.

Based on the description above, the judge decides the nusyuz case with divorce and the ex-husband is required to provide iddah and mut'ah to the ex-wife, therefore the judge does not use the legal basis of QS Al-Nisa 4:34 and 4:128 but al-Baqarah 2:41, Legal Maxim Tassaruf al-Imam ala Raiyah manut bi al-Maslaha, Hukum Al-Hakim Yarfa' al-Khilaf, Dar’u al-Mafasid Muqaddamun ala Jalb al-Mashalih and Al-Hakim Bin Utaibah School, Abu Muhammad Ali Bin Hajm al-Dzahiri, Article 39 paragraph (2) of Law no. 1 of 1974, Compilation of Islamic Law Article 149, in the event of breaking up due to talaq, the ex-husband is obliged to give mut'ah, pay dowry, and hadhanah fees before the child turns 21 years old.68

In the judge's decision number 21/Pdt, G/2018/PTA. PLG is in accordance with Islamic Law while in the judgment 9/pdt. G/2017/PT.Bn is very controversial and not in accordance with Article 84 of the Compilation of Islamic Law, so the ex-husband must comply with the provisions of Article 149 of the Compilation of Islamic Law which is actually a burden for the ex-husband to fulfill the provisions decided by the judge. And the judge uses the talfiq method using Madzhab al-Dhzhahiri, Takhsis al-Qadha and superstition69 translated in article 10 paragraph 1 of Law Number 48 of 2009 so that for wives who perform nusyuz and are resolved in religious courts, the husband is required to pay iddah, mut'ah and child maintenance costs. And this is based on the rules of fiqh Hukm al-Hakim Yarfa' al-Khilaf, al-Tabiu Tabiun, Tagayyur al-Ahkam bi tahayyur al-Amkan wa al-Amkan wa al-Awa'id so that the judge decides for the benefit.

CONCLUSION

Nusyuz in Islam is the Obedience of Husband and Wife in Exercising Rights and Obligations in the Qur'an Al-Nisa 4:34 is the basis of Nusyuz carried out by wives for Nushuz, and tafsir al-Nisa surah al-Nisa verse 128 explains that this is related to the husband's negligence in


fulfilling his obligations towards his wife. Al-Nisa's commentary on 3:128 gives an explanation of the husband's nusyuz, revealing that the verse relates to the husband's tyranny in conducting polygamous marriages that are not fair regarding bread. While in the Hadith it is more about the obligations of married couples in sexual relations. Legally nusyuz husband and wife are haram. The settlement of Nusyuz husband and wife in Indonesia is settled in religious courts and if there is no peace then the judge decides the case with a divorce case between the two on the basis of QS Al-Baqarah 2:241, Madzhab al-Dzahiri, UUP Article 149, KHI Article 142 as the basis for the implementation of takhsis al-qadha and the rules of Hukm al-Hakim Yarfa'u al-Khilaf, Tassaruf al-Imam Raiyah Manut bi al-Maslahah namely for the benefit.
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Fauzan, Fauzan. “Progressive Law Paradigm in Islamic Family Law


Kusmardani, Alex, Abdulah Syafe’i, Usep Saifulah, and Nurrohman Syarif. “Faktor-Faktor Penyebab Perceraian Dalam Perspektif Hukum Keluarga Antar Madzhab Islam Dan Realita Sosial.”


Shihābud-Dīn Abul-Faḍl Aḥmad ibn Nūrūd-Dīn ʿAlī ibn Muḥammad


