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Reinterpretation Resolution of Nusyuz and Syiqaq in the Qur'an: A Gender Justice and Restorative Approach

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ABSTRACT :

This study discusses the perspective of the Qur'an in dealing with nusyuz and domestic disputes by highlighting its relevance to the increase in family conflicts and divorce. The study emphasizes the importance of reinterpreting religious texts to be in line with the principles of justice and gender equality. Using literature review and content analysis methods, data was collected from classical to contemporary literature discussing nusyuz and syiqaq. Descriptive-analytical analysis was conducted through an examination of the meaning of verses, historical context, and the views of classical and modern exegetes to explore the relevance of their application to contemporary family life. The results of the study show that the Qur'an offers a gradual, rational, and humanistic mechanism for conflict resolution through advice, separation of beds, and family mediation (tahkim). This approach is not only normative but also adaptive to modern social dynamics, especially regarding the values of justice, equality, and peace. The understanding of nusyuz has also evolved, no longer limited to the behavior of wives, but also including the negligence of husbands in carrying out their moral, spiritual, and emotional responsibilities. This research contributes to strengthening the principles of justice and benefit in Islamic family law and provides practical guidance for religious institutions such as the KUA and religious courts in handling domestic disputes more effectively.

Keywords: Nusyuz and Syiqaq, Settlement

INTRODUCTION

Marriage in Islam is a noble and sacred bond, which aims to strengthen the relationship between men and women as life partners. This bond is expected to unite both physically and spiritually as the foundation for forming a harmonious family full of love and affection, namely a family of sakinah, mawaddah, and warahmah that is pleasing to Allah SWT.¹ This is in accordance with the provisions contained in Law Number 1 of 1974 Article 1 concerning Marriage, which states that: "Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God. This view is in line with the opinion of Islamic scholars and hadith experts who emphasize that marriage is a bond between husband and wife that is carried out based on Islamic law, with the fulfillment of the requirements and pillars of marriage such as the presence of a guardian, the giving of a dowry, two fair witnesses, and the implementation of ijab and qabul as a sign of the validity of the contract."²

¹ Wahbah Az-zuhaili In Tafsir Al-Munir and Naeni Masitoh, "Syiqaq in the Qur'an, Surah An-Nisa, Verse 35 Dalam Tafsir Al-munir and Naeni Masitoh, (2024): 101–14.

² Ali Yusuf As-Subki, Family Fiqh Translated by Nur Khozin, Jakarta: Amzah, 2020.

Islam places great emphasis on the importance of forming a family through marriage, which is one of the basic human instincts and needs. However, it is equally important to pay attention to maintaining the quality of the marriage itself, including the relationship between husband and wife, as well as their social life after marriage. This is aimed at creating a prosperous family and ultimately contributing to the welfare of society as a whole.³ Every human being desires happiness in their family life. However, achieving a happy and lasting marriage is not an easy task. In the course of married life, various problems often arise that can disrupt the harmony of the husband and wife relationship. These problems often become obstacles to achieving the noble goals of marriage, and in some cases, can lead to divorce due to conflicts within the household itself.⁴ Harmony and family unity are the aspirations of every individual. No one enters into marriage wanting arguments, let alone divorce. However, in the course of married life, it is not uncommon for various issues to arise that can trigger domestic disputes.⁵

Although conflicts often arise in family life, rooted in deep-seated issues and even stemming from unstable mental conditions, such conflicts can essentially be prevented if husbands and wives adhere to a spirit of compromise and mutual understanding. In other words, any differences in views or opinions should be addressed by attempting to understand the partner's perspective and finding common ground that is acceptable to both parties. When both parties have different views on an issue, but each tries to understand the other's perspective, it is not impossible for these differences to find proportional agreement and truth.⁶

In general, arguments within a household arise because each party insists on maintaining their own views and rejects their partner's views without trying to understand or consider the truth from another perspective. In fact, almost every difference or personal desire can be resolved if both parties are willing to find a middle ground and compromise.⁷ Husbands and wives should not exaggerate minor issues that will eventually be forgotten over time, whether by the husband or the wife. By realizing this, many conflicts and misunderstandings can be prevented and resolved honestly and wisely. If people can be tolerant and respectful of each other outside of their family, then the same attitude should be even easier to apply in a husband-wife relationship.⁸

The Qur'an is the main reference for Muslims in regulating and directing various aspects of life, including family life. Ideally, households are built on the principles of mawaddah, rahmah, and sakinah, which are the objectives of marriage in Islam. However, in practice, various internal

³ Nor Salam, "Konsep Nusyuz In Perspective of the Qur'an (A Study of Maudhu'i's Tafsir)," *De Jure: Jurnal Hukum Dan Syar'iah* 7, no. 1 (2015): 47–56, <https://doi.org/10.18860/j-fsh.v7i1.3511>.

⁴ Abdul Hamid Kisyyik, *Islamic Guidance to Achieve a Sakinah Family*. Translated by Ida Nursida, Bandung: Al-Bayan, 2005.

⁵ Muhammad Habib Adi Putra and Umi Sumbulah. "Reinterpreting the Concept of Nusyuz in the Compilation of Islamic Law from a Gender Perspective & Maqashid Syariah Jasser Auda," *Egalita* 15, no. 1 (2020): 42–60, <https://doi.org/10.18860/egalita.v15i1.10179>.

⁶ Dede Kurniawan and Coauthor Sayehu, "Interpretation of Verses About Nusyuz, Syiqaq and Their Solution: Normative Psychological and Theological Approaches (An-Nisa 34-35 And 128)" 7, no. 4 (2024).

⁷ Abu al-Hasan. *Al-Nukat wa al-Uyun Al-Mawardi*, (*Tafsir Al-Mawardi*). Beirut: Dar Al- Kutub Al-Ilmiyyah, 1992, 1992.

⁸ Nurul Afifah And Asni Mulya Fitri, "Nusyuz in Islamic Law: Comparative Analysis Between Sanctions and Responsibilities of Women and Men". 8, no. 12 (2024): 176–87, <https://doi.org/10.30659/budai.1.1.13-23.6>.

problems often arise that can disrupt harmony, such as arguments, disobedience, and even the threat of divorce. One issue that has been widely studied in fiqh literature is nusyuz and syiqaq. Both issues are explicitly described in the Qur'an, Surah An-Nisa verses 34-35, providing normative guidelines on how to resolve domestic conflicts.⁹

The debate over the interpretation of these two verses has also developed in the discourse on gender and family justice. In classical thought, nusyuz is almost always associated with wives, while contemporary scholars emphasize that husbands can also commit nusyuz if they neglect their obligations, for example by not providing for their wives or treating them harshly.¹⁰ Thus, the concept of nusyuz should not be understood as something that only burdens one party, but rather as a relational problem that can be caused by both parties. In addition, the urgency of this study is even greater considering the high divorce rate in Indonesia, one of the causes of which is unresolved disputes. The Religious Court (Badan Peradilan Agama, in 2023) noted that ongoing disputes continue to be one of the dominant factors in divorce.¹¹ In this context, interpreting the mechanisms for resolving nusyuz and syiqaq based on the teachings of the Qur'an is relevant to inspire more humane, fair, and effective solutions in dealing with family conflicts.

The study of nusyuz and syiqaq is one of the central themes in Islamic family law, but to date it still leaves a number of academic issues unresolved. First, classical interpretations of nusyuz often show a tendency toward gender bias by focusing more on women as the party considered to be in violation. In contemporary discourse, this understanding has been questioned because nusyuz can actually occur on both sides, thus requiring a more proportional and contextual perspective. Second, the methods of resolving domestic conflicts implied in the Qur'an are often understood literally, giving rise to theoretical debates between traditional fiqh approaches, hermeneutics, gender justice, and restorative justice. Third, scientifically, there is still limited research that combines the analysis of Qur'anic verses with gender theory and restorative justice, even though both frameworks are highly relevant to addressing the dynamics of modern family problems.¹²

In academic discourse, classical exegetes such as Al-Qurṭubi and Ibn Katsir understood QS. An-Nisa' 34–35 within a patriarchal social framework. On the other hand, contemporary interpretations (Quraish Shihab, Auda, Rohman, and others) emphasize the need for reinterpretation based on maqāṣid al-syarī'ah and the value of equality. This debate reveals an academic gap: between textual norms, historical context, and modern social reality.¹³

⁹ Masri, "Exploring the Concept of Nusyuz and Shiqaq in the Perspective of Islamic Law: Causes, Impacts and Solutions," *Jurnal Tahqiq* 17, no. 2 (2023): 72–48.

¹⁰ Muhammad Nasrulloh and Mohamad Zakky Ubaid Ermawan, "'Husband's Nusyuz and its Resolution Mechanism from Munākahāt Jurisprudence Perspective,'" *Syariah: Journal of Fiqh Studies*, 2024, <https://doi.org/10.61570/syariah.v2i2.83>.

¹¹ Masri, "Exploring the Concept of Nusyuz and Shiqaq in the Perspective of Islamic Law: Causes, Impacts and Solutions."

¹² Rahman, "Nusyuz Suami Dan Keadilan Gender: Membaca Ulang QS 4:128 Dan KHI 83–84 Dengan Pendekatan Relativisme Budaya," *Jurnal Tabqqa*, 6, no. 1 (2025): 68–97.

¹³ M. Q. Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an. Cipta: Lentera Hati*, 2000.

The significance of this study lies in its attempt to fill this gap by reinterpreting the concepts of nusyuz and syiqaq through a gender justice and restorative justice approach, thereby offering a more proportional, humanistic, and applicable understanding. This reinterpretation is important because the high divorce rate in Indonesia indicates that domestic conflicts have not been handled with the appropriate approach. Based on this problem, this study has a clear focus, namely: first, to reinterpret the verses on nusyuz and syiqaq (QS. 4:34–35 and 4:128) based on the values of gender and restorative justice; second, to examine the resolution of domestic conflicts offered by the Qur'an and its relevance to the context of modern Islamic family law, including practices in the KUA and Religious Courts. With this focus, this study is not only normative but also analytical and contextual, thereby providing scientific and practical contributions to the development of Islamic family law in Indonesia.

The novelty of this research lies in its attempt to reinterpret the concepts of nusyuz and syiqaq by placing them in the context of gender justice and the principles of restorative justice. This study offers a new interpretation, in which nusyuz is no longer understood in a biased manner that only applies to wives, but rather as an action that can be applied by both parties concerned, husbands and wives, thus demonstrating the importance of harmony between rights and obligations in domestic relationships. In addition, this study also presents an integrative perspective between normative interpretation and modern social reality, which places the tahkim (family mediation) mechanism as a relevant solution for justice in today's society. Thus, through this research, it is hoped that it will contribute scientifically to the development of Islamic family law and become a conceptual basis for religious institutions and society in realizing fair, adaptive, and welfare-oriented resolution of domestic conflicts.

Methods

The research approach is an approach or step used to achieve a resolution to the various challenges being studied. In this study, the researcher applied a library research model, which is a series of activities related to collecting data from various literature sources.¹⁴ All data in this study were collected from various written sources such as journals, books, manuscripts, documents, photographs, and so on. Each type of research method can be chosen by researchers according to the objectives and orientation of their research. In this study, researchers sought to manage data optimally through an objective analytical interpretation approach, by analyzing the data collected to obtain meaningful insights based on specific topics in the Qur'an¹⁵ The main data sources in this study were obtained from classical Islamic literature (turaṣ) and contemporary works that specifically discuss nusyuz and Syiqaq. Secondary data sources included various references related to the topic.

¹⁴ Alvian Bhakti Pamungkas and Nabila Thyra Tanitra, "Analysis of the Affirmative Action on Domestic Violence in Islam: A Study of Surah An-Nisa' Verses 34, 35, and 128" *Al-Afkar: Journal for Islamic Studies* 7, no. 4 (2024): 426–39, <https://doi.org/10.31943/afkarjournal.v7i4.1225.Analysis>.

¹⁵ Umami Khairiah. Zainuddin, "Nusyuz Dalam Al-Qur'an." *Tafser: Journal of Qur'anic Studies* 2, no. 1 (2017): 63–73.

The analysis method applied was content analysis, in which the researcher attempted to describe the phenomena of nusyuz and Syiqaq.¹⁶

By analyzing various findings collected from a variety of reviewed references, researchers seek to develop a broad and deep understanding of the issues under study. This analysis is not limited to examining relevant theories, but also considers previous research results, expert opinions, and supporting empirical data. In this study, the literature analysis not only describes the concepts of nusyuz and syiqaq, but also relates them to contemporary theories, particularly gender justice theory, restorative justice, and maqāṣid al-syari'ah. Classical and contemporary interpretive data are analyzed using a content analysis approach that allows researchers to reveal shifts in meaning and the social constructs underlying differences in interpretation. Thus, this method not only collects data but also interprets data within a specific theoretical framework, resulting in a more critical and academic analysis.

Result

The analysis of the concepts of nusyuz and syiqaq in this study is based on three theoretical frameworks: (1) gender justice theory to examine power relations in classical interpretations, (2) restorative justice theory to examine the conflict resolution mechanism in QS 4:34–35 as a model for family mediation, and (3) maqāṣid al-syari'ah to assess the compatibility of interpretations with the principles of protection of life and honor.¹⁷ These three theories are used as analytical tools in reinterpreting textual data, interpretations, and modern regulations. When interpreted through the lens of gender justice theory, articles 83–84 of the KHI appear to only regulate nusyuz by wives. However, QS 4:128 shows that husbands can also be perpetrators of nusyuz. This indicates the existence of structural inequality in modern regulations.

A. Definition of Nusyuz and Syiqaq

Etymologically, nusyuz means “to rise” or “to stand out.” In terminology, nusyuz has various definitions. According to Al-Qurṭubi, nusyuz is defined as hatred or rejection that arises from one party towards their spouse. Ibn Muflih, in his research Naslullah, also expressed a similar opinion, that nusyuz is a form of discomfort or displeasure felt by either the husband or wife towards their spouse. Al Maki, more specifically, states that this form of reluctance is manifested through the refusal to share a bed with one's spouse.¹⁸

Based on the various descriptions of nusyuz above, it can be concluded that there are two tendencies in understanding its meaning. First, nusyuz is understood as a decrease in interest or affection towards one's spouse. Second, nusyuz is interpreted as a form of neglecting one's spouse's rights.

¹⁶ Nasrulloh and Ubaid Ermawan, “Nusyūz Suami Serta Mekanisme Penyelesaiannya Perspektif Fikih Munākahāt.”

¹⁷ Jasser. Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. IIT, 2008.

¹⁸ Al- Maki, “Al-Hidayah Ila Bulughin Nihayah Fi Ilmi Ma'anil Quran,” *Beirut: Darul Kutub Ilmiah* 1, no. 2 (n.d.): 210.

Meanwhile, *syiqaq* refers to a conflict or dispute that arises between a husband and wife. It is also a form of dissolution of marriage that can be pursued by a husband and wife as a way to end their divorce. According to the language, *syiqaq* means broken or cracked, while in Sharia legal terminology, it is defined as the emergence of domestic conflicts that are difficult to resolve peacefully.¹⁹

Another definition of *syiqaq* is a form of conflict or dispute that arises in domestic life, which can be caused by one party, both parties, or other external factors. If the conflict cannot be resolved peacefully, it is recommended that two mediators be appointed from each family. Their role is to mediate, provide advice, and try to resolve the source of the conflict in a wise manner.²⁰

Thus, from the perspective of gender justice theory, the construction of the definition of *nusyuz* in classical *fiqh* literature cannot be separated from the patriarchal social context that places men as the dominant authority in the family structure. This causes women to often be positioned as subjects who must be disciplined if they are considered to have deviated from the standards of obedience set by the scholars of their time. This bias is evident in the tendency of classical exegetes and *fuqaha* to interpret *nusyuz* almost exclusively as a violation committed by wives, while similar behavior on the part of husbands did not receive proportional attention in classical legal discourse.

B. Legal Basis for Nusyuz and Syiqaq

The *maqāṣid al-syarī'ah* approach requires that every instruction in the Qur'an must be interpreted with consideration of the basic objectives of sharia, especially the protection of life (*ḥifẓ al-nafs*), human honor and dignity (*ḥifẓ al-'ird*), and the preservation of family integrity (*ḥifẓ al-usrah*). Within this framework, the command *wadribūhunna* in QS. al-Nisa '4:34 cannot be understood literally as legitimizing physical violence against wives, because such an interpretation contradicts the objectives of Sharia law, which emphasizes the prevention of harm (*daf 'al-mafāsid*), the enforcement of compassion, and the protection of vulnerable parties.²¹

There are two legal bases regarding *nusyuz* in the Qur'an, which describe the disobedience of husbands and wives to their household responsibilities. The verse of the Qur'an that discusses *nusyuz* by wives is QS. An-Nisa (4): 34.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَنِينَاتٌ حَفِظْنَ لِنَفْسِهِنَّ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلاً إِنَّ اللَّهَ كَانَ عَلِيماً كَبِيراً ﴿٣٤﴾

Meaning: *Men (husbands) are responsible for women (wives) because Allah has made some of them (men) superior to others (women) and because they (men) spend some of their wealth. Righteous women are those who are obedient (to Allah) and guard themselves when (their husbands) are absent because Allah has guarded (them). As for*

¹⁹ Jamaluddin dan Nanda Amalia, *Buku Ajar Hukum Perkawinan*, 2016.

²⁰ Taufik Hidayat and Pascasarjana UIN Sultan Maulana Hasanuddin Banten, "Resolution of Nusyuz and Syiqaq Disputes in Perspective Al-Qur'an," *Jurnal Ilmiah Abwal Syakhshiyah (JAS)* 5 (2023), <http://riset.unisma.ac.id/index.php/fai/index>.

²¹ Ibn 'Ashur, *Muhammad Al-Tabir. Maqasid Al-Shariah Al-Islamiyyah. Amman: Dar Al-Nafa'is*, 2001.

those women from whom you fear disobedience, admonish them, leave them alone in bed, and (if necessary) beat them (in a way that does not cause pain). However, if they obey you, do not seek ways to harm them. Indeed, Allah is Exalted and Great. (Q.S. An-Nisa: 34)

Surah An-Nisa verse 34 explains the gradual mechanism if a wife shows signs of nusyuz. The husband's actions are directed in three stages: giving advice (maw'izhah), separating beds, and if she still disobeys, it is permissible to “hit” her, provided that she is not injured. The understanding of the word “beat” (wadribuhunna) has been a serious debate among classical and contemporary scholars. Some scholars emphasize that this action is merely symbolic or a light blow that does not hurt, while contemporary scholars try to reinterpret it by emphasizing the moral and psychological aspects rather than the physical ones.²²

The reason for the revelation of this verse, as narrated by the Prophet's companion, Ali r.a., is as follows:

“It is narrated from Ali R.A.: "A man from the Ansar came to the Messenger of Allah with his wife. His wife said, ‘O Messenger of Allah, indeed her husband, so-and-so, struck her, leaving a mark on her face.’ The Messenger of Allah, peace be upon him, said, ‘Her husband should not have done that.’ Then the verse was revealed stating that ‘men are the protectors and maintainers of women,’ meaning in the context of education. After that, the Messenger of Allah (peace be upon him) emphasized, ‘I intended one thing, but Allah (the Exalted and Glorious) intended another’.”²³

There is also a verse that explains the behavior of nusyuz committed by husbands, as found in QS. An-Nisa (4) verse 128.

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ
وَأُخْضِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا ﴿١٢٨﴾

Meaning: *If a woman fears that her husband will be unfaithful or indifferent, the two of them can make a real peace. Peace is better for them, even though humans are naturally stingy. If you do good and guard yourselves (from neglect and indifference), Allah is All-Aware of what you do. (Q.S. An-Nisa: 128)*

The above verse is often used as a normative basis for understanding the concept of nusyūz, whether it occurs in the husband or wife in domestic life. In the tradition of Islamic thought, the above verse is an important starting point in discussions about husband-wife relationships, the moral responsibilities of each party, and the mechanisms for resolving conflicts that arise between them. Islamic legal scholars (fuqahā) from various periods show significant differences in their interpretation of the term nusyūz. These differences are not only semantic, but also concern the sociological and juridical dimensions of the application of Islamic law. Classical scholars generally interpreted nusyuz as a form of defiance or violation of the authority and rights of husbands and wives as established by sharia. They largely drew from the context of the patriarchal Arab society of that time, where the social structure made men the leaders of the family with greater authority in managing household life. Therefore, the meaning of QS. al-Nisa '(4): 34 tends to emphasize discipline towards wives who are considered to be nusyuz. Meanwhile, contemporary Islamic scholars and thinkers have attempted to reinterpret this verse by considering the principles of gender equality and

²² Muhammad Diah, “Penyelesaian Syiqaq Menurut Al-Qur’an Surat Al-Nisa’ Ayat 34-35 (Studi Terhadap Pemikiran Al-Qurthubiy),” *Al-Mabbats : Jurnal Penelitian Sosial Agama* 3, no. 2 (2018): 241–60.

²³ Ala al-Uddin al-Muttāqī Bin Hisamuddin al-Hindi, *Kanzul „Umal Fi Sunani Aqwali Wal Af’al. Juz I*, 1986.

norms of justice that are the spirit of Islamic values. They emphasize that nusyuz is not only committed by wives, but also by husbands who neglect their moral and emotional obligations to their spouses, as explained in QS. al-Nisa '(4): 128. This contemporary interpretation stems from modern social realities that demand a balance of rights and obligations between men and women in the household.²⁴

These differences in opinion cannot be separated from the social, cultural, and historical contexts of the scholars who interpreted the verse. The context of their lives and times helped shape their mindset, methods of legal deduction, and hermeneutic approaches. Therefore, differences in interpreting the concept of nusyuz reflect the dynamics of Islamic thought, which continues to evolve and adapt to social changes throughout history. Thus, understanding nusyuz is not limited to the textual dimension of the verse, but also requires a contextual understanding that takes into account the values of humanity, justice, and balance in husband-wife relationships as intended by Islamic teachings.²⁵

The verse of the Qur'an that discusses syiqaq is Q.S An-Nisa verse 35,

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿٣٥﴾

Meaning: *If you (guardians) fear a dispute between them, send an arbitrator from the husband's family and an arbitrator from the wife's family. If they both intend to reconcile, Allah will surely grant them success. Indeed, Allah is All-Knowing and All-Aware. (Q.S An-Nisa verse 35)*

In pre-Islamic Arab society, divorce was often carried out very easily without careful consideration. This verse was revealed as guidance from Allah in resolving domestic disputes through mediation. The purpose of this verse is to prevent hasty divorces and encourage the resolution of conflicts in a peaceful and wise manner. By involving arbitrators from both sides, this verse provides a fair and peaceful solution for married couples facing serious conflicts (syiqaq).²⁶

Surah An-Nisa verse 35 provides instructions for resolving conflicts within the household that have reached the stage of syiqaq. In such circumstances, Allah commands that a hakam (mediator) from both families be appointed to seek a peaceful solution. This hakam mechanism demonstrates the importance of mediation and family deliberation in resolving domestic conflicts, so that divorce can be avoided. This is in line with the spirit of Islam, which prioritizes Ishlah (peace) and minimizes harm to both parties.²⁷

Thus, Surah An-Nisa verse 35 essentially emphasizes that the resolution of domestic conflicts should not be rushed through divorce, but rather pursued through family consultation and mediation mechanisms. The appointment of arbitrators from both sides is not merely a formality, but a

²⁴ Hidayat and UIN Sultan Maulana Hasanuddin Banten, "Resolution of Nusyuz and Syiqaq Disputes in Perspective Al-Qur'an."

²⁵ Maki, "Al-Hidayah Ila Bulughin Nihayah Fi Ilmi Ma'anil Quran."

²⁶ Al-Munir and Masitoh, "Syiqaq in the Al- Qur ' an Surah An -Nisa Ayat 35."

²⁷ Al-Munir and Masitoh, "Syiqaq in the Al- Qur ' an Surah An -Nisa Ayat 35."

manifestation of the principles of justice, wisdom, and compassion that form the basis of marital relations in Islam. This verse shows that Islam places the family institution as one that must be maintained with great care and moral responsibility. The approach of reconciliation (peace) emphasized in this verse has a deep philosophical meaning, namely restoring harmony in ways that avoid harm and prioritize the common good. Thus, mediation through a hakem does not merely serve as a means of dispute resolution, but also as a restorative effort that upholds the values of compassion, justice, and balance in the household. Conceptually, this verse shows that Islam offers preventive and humanistic solutions to family conflicts, while also serving as a guideline for social institutions, including the KUA, in applying the principles of mediation and reconciliation in the practice of modern family life.

C. Forms of Nusyuz Acts

Classically, scholars define nusyuz by a wife as an act of “rebellion against her husband in matters that are ma'ruf (good and proper)”. However, this interpretation needs to be reviewed through the theory of power relations in gender, because classical fiqh was developed in the context of a patriarchal society that placed husbands as having full authority over their wives. Therefore, every form of nusyuz by a wife must be analyzed not only as a moral violation, but also whether it truly disrupts the *maslahah* (public interest) of the family, violates the principle of *mu'āsyarah bi al-ma'ruf* (living together in a proper manner), or is merely a social construct of patriarchy. With a gender and *maqāṣid* theory approach, forms of nusyuz by a wife can be understood more proportionally.²⁸

From the definition of nusyuz as explained above, it is clear that acts of nusyuz committed within the household apply to both husbands and wives. The following points will explain the forms of nusyuz, both in terms of actions and words.

1. Wife's disobedience

Disobedience committed by a wife can take the form of words, actions, or both simultaneously, including the following.²⁹ *First*, if the wife refuses to move into the house that has been provided without a valid reason according to Islamic law. *Second*, leaving the house without her husband's permission. If the wife leaves due to her husband's needs, it is not considered disobedience, but if she leaves without her husband's needs, it is considered disobedience. *Third*, if the wife refuses to have sexual relations with her husband without a valid religious reason. *Fourth*, refusing to live with her husband and preferring to live elsewhere rather than with her husband. *Fifth*, committing sins such as adultery.³⁰

2. Husband's Disobedience

Nusyuz behavior is not only committed by wives; nusyuz actions committed by husbands are even more serious and have the potential to cause negative impacts that are detrimental to

²⁸ Siti Ruhaini Dzuhayatin, *Rekonstruksi Metodologis Wacana Kesetaraan Gender Dalam Islam*, 2012.

²⁹ Wahbah Az-Zuhaili, *Tafsir Munir Jüid 3*, n.d.

³⁰ Kamil al-Hayali, *Solusi Islam Dalam Konflik Rumah Tangga*, 2005.

women. These include the following:³¹ *First*, not talking to your wife or always using harsh words that hurt her when you do talk. *Second*, criticizing your wife. *Third*, telling your wife to commit sin or do things that are forbidden by Allah. *Fourth*, abusing your wife. *Fifth*, taking back the dowry without your wife's consent. *Sixth*, burdening your wife with all the responsibilities. *Seventh*, comparing his wife to others. *Eighth*, failing to maintain his dignity and that of his family, such as by cheating. *Ninth*, refusing to provide for his family. *Tenth*, being arrogant, tyrannical, quick to anger, abusive, and harsh. *Eleventh*, not treating the wife fairly in a polygamous marriage. *Twelfth*, not treating the wife well. As a result of the husband's nusyuz behavior, the husband's obligations to his wife and children may be neglected, and the couple's relationship may potentially break down. If the wife feels unable to tolerate her husband's behavior, she has the right to file a lawsuit.³²

D. Resolution of Nusyuz and Syiqaq

The three stages of resolving domestic conflicts described in QS. al-Nisa '4:34–35, namely advice (al-maw'izhah), separation of beds (al-hajr fi al-madhāji '), and tahkim (family mediation) can be understood as a form of restorative justice in the perspective of modern law. This approach is in line with Howard Zehr's idea that emphasizes that the main objective of dispute resolution is not retributive justice, but the restoration of relationships, the fulfillment of the emotional needs of the injured parties, and the creation of a fair and sustainable mutual agreement.³³ Within the framework of restorative justice theory, conflict is understood as a relational rift that requires dialogue, acknowledgment of wrongdoing, and restoration of relationships. The arbitration mechanism as mandated by the Qur'an involves mediators from both families who understand the social, psychological, and moral context of the couple, reflecting this restorative character. This approach not only emphasizes humanistic and non-punitive solutions, but also upholds the principle of maslahah and prevents the destructive effects of divorce. Thus, the three stages of resolution offered by the Qur'an can be read as a model for conflict resolution that prioritizes reconciliation, community involvement, and restoration of family integrity, in line with the modern restorative justice paradigm.

To deal with conflicts within the family, experts suggest several approaches that can be taken by both parties, namely the familial approach, the socio-cultural approach, and the legal approach.

1). Family Approach

Family disputes can be resolved in several ways. *First*, giving advice to wives by reminding them of their rights and obligations according to the provisions of the Holy Book is the first step that must be taken by a leader or head of the household. This action is a form of education that is his responsibility in every aspect of married life. Giving advice is the main step in resolving domestic conflicts. However, sometimes this advice does not work because the wife is overwhelmed by lust,

³¹ Hidayat and UIN Sultan Maulana HasanuddinBanten, "Resolution of Nusyuz and Syiqaq Disputes in Perspective Al-Qur'an."

³² Baeti Rohman, "Husband's Nusyūz and Gender Justice: Rereading QS 4: 128 and KHI 83-4 with a Cultural Relativism Approach" 6, no. 1 (2025): 68–97.

³³Howard. Zehr, *The Little Book of Restorative Justice*. New York: Good Books, n.d.}, {"properties":{"noteIndex":33}, "schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"};Howard. Zehr, *The Little Book of Restorative Justice*. New York: Good Books, n.d.

emotions, feelings of superiority, or arrogance due to her beauty, wealth, social status, or other advantages. She forgets that she is her husband's partner in building a household, not an opponent to be argued with or a platform to show off her arrogance.³⁴

Second, separate beds and refrain from marital relations. Distancing oneself from one's wife in bed is a form of education that is done privately, not openly outside their shared space. Separation should not be done in front of children, as it can have a negative impact on them. In addition, husbands are also not allowed to move out while belittling or disparaging their wives, as this will only exacerbate the conflict. The main purpose of this separation is to correct nusyuz behavior, not to demean the wife's dignity or destroy family harmony.³⁵

Third, hitting. Imam al-Qurthubi argues that if a wife shows nusyuz behavior, the husband can take steps to distance himself from her in bed until she returns to obedience. If this method does not work, the husband is allowed to give light, educational blows that do not cause injury or leave marks on her body.

Efforts to resolve the situation through these steps are taken while the level of nusyuz is still relatively minor and can still be remedied. However, if the situation has reached a serious level, these steps are considered ineffective and will not produce the desired results. In such circumstances, the wise teachings of Islam provide guidance on the final step that can be taken to maintain unity and prevent the destruction of the household, namely, bringing in a mediator in accordance with the words of Allah in Surah An-Nisa verse 35.³⁶ Because sending envoys is one way to resolve disputes within the household. The envoys sent must come from both parties, namely from the husband and wife. Both parties are people who understand the circumstances of the husband and wife, are fair, and have knowledge of fiqh laws. The purpose of their involvement is to hold discussions in order to find a peaceful solution and resolve conflicts in domestic life.

Thus, Q.S. An-Nisa verses 34–35 not only provide normative guidance, but also offer strategic steps in addressing and resolving domestic conflicts. These verses guide the disputing parties to change their mindset and approach to domestic problems in a more prudent and just manner. In addition, these verses also contain legal principles that are universal, relevant, and adaptable to social developments and changes over time, so that they can still be used as guidelines in the context of modern life without losing the basic values of Islamic law.

2). Approach from a socio-cultural perspective

Humans essentially always live in an environment that has social institutions. This means that every human action and behavior is governed by certain rules that have been mutually agreed upon. When a person enters married life, they will be subject to and receive services from a set of rules called family institutions. In addition to family institutions, there are also various other

³⁴ Sayyid Quthb, *Tafsir Fi Zhilalil Qur'an; Dibawah Naungan Al-Qur'an*, Terj. As'ad Yasin, 2001.

³⁵ Sayyid Quthb.

³⁶ Sayyid Quthb.

institutions that have similar functions in regulating the behavior of society to meet their needs, such as economic, educational, political, and religious institutions.³⁷

In principle, the definition of social institutions is not much different from the terms social organizations or community institutions, because basically all three terms contain elements that serve to regulate the behavior of each member of society. The most basic social structure begins with the family organization, then continues to the village, sub-district, and so on. The village administration, led by the village head and his staff, has the authority to resolve various issues that arise in the village community, both criminal and civil, as long as they are within the limits of their authority.

Based on M. Quraish Shihab's interpretation of Surah An-Nisa 'verse 35, if disputes within the household are difficult to resolve through family means, then anyone who is aware of the conflict, whether neighbors, community leaders, or trusted parties in family welfare matters, should refer to the guidance in this verse as a guideline for resolution.³⁸ Human nature is essentially to live in an orderly environment, where every behavior is regulated in accordance with mutual agreements. The appointment of two peacemakers is the responsibility of leaders to bring about tranquility and peace in the households of their community members.

Thus, the above explanation indicates that the government has both the responsibility and authority to resolve various issues that arise in rural communities. In this context, the tahkim institution, which was established at the village level and has obtained formal legal status from the government, plays an important role as the authority responsible for handling and mediating various forms of family disputes within the community. This institution not only functions as a forum for conflict resolution, but also as a means of maintaining social harmony and strengthening the values of deliberation at the grassroots level. Thus, the existence of tahkim in villages is an integral part of the village government system in creating order, justice, and social welfare for all citizens.

3). Legal Approach

Nusyuz in Indonesian Islamic family law is an important concept that describes the attitude of defiance or disobedience of one spouse in carrying out household obligations. This concept is strongly based on Islamic jurisprudence and the Qur'an, which emphasize that nusyuz behavior can occur on both sides, whether from the husband or wife. Syiqaq refers to ongoing disputes between husband and wife that are difficult to resolve without the involvement of a third party. In this context, the Compilation of Islamic Law (KHI) establishes a resolution mechanism through two mediators from the husband's and wife's families, with the aim of finding the best solution to preserve the marriage or, if necessary, end it peacefully. This approach aims to minimize the negative impact of domestic conflicts, especially on children and extended families, by emphasizing mediation

³⁷ Muhammad Diah, "Penyelesaian Syiqaq Menurut Al-Qur'an Surat Al-Nisa' Ayat 34-35 (Studi Terhadap Pemikiran Al-Qurthubiy)."

³⁸ Shihab, M.Quraish, *Tafsir Al-Misbah: Pesan, Kesan, Dan Keserasian Al-Qur'an*, Vol, 2, Ciputat: Lentera Hati, 2000.

based on religious and moral values. The KHI provides a legal framework that is not only legal in nature but also adheres to sharia principles to achieve justice and balance in the household.³⁹

The Compilation of Islamic Law (KHI) Articles 83 and 84 explicitly stipulate provisions regarding nusyuz by wives by outlining the obligations that must be fulfilled by a wife towards her husband, such as obedience in matters that are ma'ruf, maintaining the honor of herself and the household, and carrying out domestic roles in accordance with the principle of shared responsibility in the family. If these obligations are violated, then such actions are categorized as nusyuz, which is a form of disobedience by the wife towards her husband that results in the loss of her financial rights, such as nafkah, nafkah iddah, and even the possible loss of her right to nafkah madhiyah. This provision is in line with the views of classical fuqaha such as Ibn Qudamah in al-Mughnī and al-Nawawī in al-Majmū', who emphasize that nusyuz is an attitude of opposition to the husband in matters that are justified by sharia, thereby preventing the husband's obligation to provide maintenance.⁴⁰

However, the KHI does not explicitly regulate nusyuz by husbands, even though the Qur'an has provided conceptual indications regarding this matter. In QS. al-Nisā 'verse 128, Allah explains the possibility of nusyuz occurring on the part of the husband, namely when the husband is indifferent, rude, or does not fulfill his obligations to his wife. Contemporary scholars, such as Wahbah al-Zuhaili in al-Fiqh al-Islami wa Adillatuh, interpret this verse as the basis for legitimizing that nusyuz can also be committed by husbands, in the form of unfair treatment, neglect of financial support, or emotional and physical abuse of their wives. Therefore, nusyuz is not a concept limited to wives, but also reflects moral deviation and irresponsibility in the marital relationship on the part of the husband.⁴¹

The absence of provisions regarding a husband's nusyuz in the KHI was subsequently accommodated through jurisprudence, one example being Supreme Court Decision No. 278 K/AG/1997, which affirmed that the obligation to provide financial support does not lapse as long as the wife is not proven to have committed nusyuz. This decision implicitly indicates that if the husband commits a violation, he remains obligated to fulfill his financial responsibilities. In religious court practice, this is also reinforced by various court decisions that recognize that a husband's nusyuz can be grounds for a wife to seek divorce (fasakh) or economic rights after divorce.⁴²

In addition, the husband's nusyuz behavior is often the main factor behind domestic conflicts and divorce, as reflected in Article 19 letter (f) of Government Regulation No. 9 of 1975 and Article

³⁹ Angki Aulia Muhammad, *Kesadaran Hukum Masyarakat Kampung Mahmud Untuk Memiliki Sertifikat Atas Hak Ulayat*, (Universitas Pendidikan Indonesia, 2013) [Http://Repository.Upi.Edu/406/6/S_PKN_0907327_CHAPTER3.Pdf](http://Repository.Upi.Edu/406/6/S_PKN_0907327_CHAPTER3.Pdf) 26 Sugiyono, *Metodologi Penelitian Pendidikan*, (Bandung, n.d.

⁴⁰ Rohman, "Husband's Nusyuz and Gender Justice: Rereading QS 4: 128 and KHI 83-4 with a Cultural Relativism Approach."

⁴¹ Afifah and Fitri, "Nushuz in Islamic Law: Comparative Analysis Between Sanctions and Responsibilities of Women and Men."

⁴² Rohman, "Nusyuz Husband and Gender Justice: Rereading QS 4: 128 and KHI 83-4 with a Cultural Relativism Approach."

116 letter (f) of the KHI, which states that ongoing disputes and arguments are valid reasons for filing for divorce. Thus, although the formal regulations of the KHI place more emphasis on the nusyuz of the wife, normatively and practically, Islamic law still demands a balance of rights and obligations between husband and wife. This shows that Islamic law is adaptive, oriented towards justice, and upholds the principle of al-musawah (equality) in domestic life.⁴³

While the Indonesian Criminal Code does not explicitly use the term nusyuz, Law No. 23 of 2004 on the Elimination of Domestic Violence (PKDRT) provides a more comprehensive and modern legal framework for dealing with various forms of domestic conflict, including violence that may arise as a consequence of nusyuz behavior. This law not only contains criminal sanctions against perpetrators of domestic violence, but also establishes mechanisms for resolution through protection, recovery, and rehabilitation for victims. Articles 5 to 10 of the PKDRT Law detail the four main forms of violence regulated by national law, namely: first, physical violence, which is an act that causes pain, injury, or physical suffering to a family member (Article 6); second, psychological violence, which is an act that causes fear, loss of self-confidence, or mental suffering (Article 7); third, sexual violence, which includes forced sexual relations or unreasonable exploitation of a partner's body (Article 8); and fourth, domestic neglect, which is the failure to provide a decent life or support to a partner and children, both economically and emotionally (Article 9).⁴⁴

Through these provisions, the PKDRT Law functions not only as a repressive legal instrument, but also as a preventive and curative measure in resolving domestic conflicts. This law opens up opportunities for resolution through two channels, namely criminal law enforcement for perpetrators of violence and non-litigation approaches in the form of mediation, family counseling, and social rehabilitation for victims and perpetrators. In addition, the PKDRT Law also emphasizes the state's responsibility to provide legal protection and integrated services, including legal, psychological, and medical assistance, as stipulated in Articles 10 and 26.⁴⁵

In this context, the Criminal Code serves as a complementary legal instrument that provides the basis for the enforcement of criminal sanctions against acts of violence, neglect, or violation of responsibilities within the family. Meanwhile, the PKDRT Law broadens the scope by emphasizing aspects of humanity, victim protection, and gender justice. Thus, although the term nusyuz is not legally recognized in the Criminal Code, the spirit of protection and enforcement of justice contained in the PKDRT Law has in fact accommodated the substance of the values of justice and balance as taught in Islamic law.

4). Gender Justice and Restorative Approaches

⁴³ Rohman. "Nusyuz Husband and Gender Justice: Rereading QS 4: 128 and KHI 83-4 with a Cultural Relativism Approach."

⁴⁴ Rizka Ayu Febri, "Reformation Of Islamic Family Law In Indonesia : The Nusyuz Resolvation Process," *Alhurriyah : Jurnal Hukum Islam* 06, no. 2 (2021): 196.

⁴⁵ Rizka Ayu Febri. "Reformation Of Islamic Family Law In Indonesia : The Nusyuz Resolvation Process," *Alhurriyah : Jurnal Hukum Islam* 06, no. 2 (2021): 196.i .

The gender justice and restorative approaches offer a new paradigm in resolving domestic conflicts, including cases of *nusyuz* and *syiqaq*, with an emphasis on restoring relationships, equal rights, and protecting human dignity. In this context, justice is no longer interpreted as merely legal sanctions or punishment for one of the parties, but as a process of moral, emotional, and social healing that upholds the values of *rahmah* (compassion) and *'adl* (justice) as taught in the Qur'an.⁴⁶

This approach rejects the patriarchal mindset that has dominated classical interpretations of *nusyuz*, which tend to view women as the guilty party who must be disciplined. Instead, the gender justice approach stems from the awareness that the husband-wife relationship is an equal partnership (*zaujiyyah musawahiyah*), in which both parties are equally entitled to justice, respect, and affection. This principle is explicitly stated in QS. al-Taubah (9): 71, “And the believers, men and women, are allies of one another.” This verse emphasizes that the relationship between husband and wife must be based on cooperation, not domination.⁴⁷

In addition, the principle of restorative justice emphasizes that the resolution of domestic conflicts should be directed toward restoring relationships, not revenge or judgment. In the context of QS. al-Nisa' (4): 35, the *tahkim* (family mediation) mechanism is an early form of the restorative justice system in Islam. It embodies the values of *ishlah* (reconciliation), *musyawarah* (deliberation), and *silaturahmi* (social bonding), all of which are oriented toward social healing and family harmony. This approach is in line with the views of Howard Zehr (2015), the pioneer of restorative justice theory, who emphasizes that true justice focuses on restoring relationships and shared responsibility, not just imposing sanctions on perpetrators.⁴⁸

In the context of Islamic family law in Indonesia, restorative justice values are also reflected in mediation policies in Religious Courts and KUA institutions. This approach seeks to facilitate couples in finding fair and balanced agreements, emphasizing empathetic dialogue, acknowledgment of mistakes, and restoration of trust. M. Quraish Shihab (2000) interprets the principle of *ishlah* in QS. al-Nisa' (4): 35 as a call to resolve conflicts with a clear heart and a sincere intention to improve the situation, not to create new wounds. Meanwhile, Rohman (2025) asserts that a reinterpretation of the concepts of *nusyuz* and *syiqaq* is necessary within the framework of gender justice so that they are no longer biased against women. By placing both as relational issues, rather than unilateral moral issues, Islamic family law can be more contextual and in line with universal human values. This principle is also in line with *maqāṣid al-syarī'ah*, especially *ḥifẓ al-naḥs* (protection of life), *ḥifẓ al-'ird* (protection of honor), and *ḥifẓ al-'usrah* (protection of family).⁴⁹

Thus, the gender justice and restorative approach is not only relevant to academic and legal contexts, but also has high spiritual value. It restores the spirit of Islamic teachings as *rahmatan lil-*

⁴⁶ Jasser. Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: IIT, 2008.

⁴⁷ Bacti. Rohman, “Nusyuz Suami Dan Keadilan Gender: Membaca Ulang QS 4:128 Dan KHI 83–84 Dengan Pendekatan Relativisme Budaya,” *Jurnal Tabqqa*, 6, no. 1 (2025): 121.

⁴⁸ Howard. Zehr, *The Little Book of Restorative Justice*. New York: Good Books, 2015.

⁴⁹ Rohman, “Nusyuz Suami Dan Keadilan Gender: Membaca Ulang QS 4:128 Dan KHI 83–84 Dengan Pendekatan Relativisme Budaya.”

‘alamin, which views every conflict not as an occasion for punishment, but as an opportunity to repair relationships, foster compassion, and restore balance in family life.

Conclusion

Based on an analysis of the Qur'an, it can be concluded that the resolution of nusyuz and syiqaq in Islam is essentially based on the principles of justice, compassion, and peace. The Qur'an not only regulates the normative procedures for resolving domestic conflicts, but also instills universal human values through a gradual mechanism: advice, separation of beds, and family mediation (tahkim). This approach reflects the rational, humanistic, and flexible nature of Islamic law in response to social change.

The understanding of the concept of nusyuz has also evolved from patriarchal classical interpretations to more gender-fair contextual interpretations. Nusyuz is no longer interpreted solely as a wife's defiance of her husband, but rather as negligence on the part of both parties that can disrupt household harmony. Meanwhile, syiqaq is understood as a conflict that requires resolution through a dialogical and participatory approach involving arbitrators from both families.

In the context of Indonesian law, these values are in line with the spirit of Law No. 23 of 2004 on the Elimination of Domestic Violence (PKDRT) and the mediation mechanisms in the Religious Court and the KUA, which emphasize peaceful resolution, protection of victims, and justice for all parties. Thus, Islam offers a conflict resolution system that is not only legal-formal, but also ethical, moral, and social, oriented towards the welfare and harmony of the family. The novelty of this research lies in the reinterpretation of the concepts of nusyuz and syiqaq by integrating gender justice and restorative justice approaches as a new paradigm in understanding Islamic family law. This renewal emphasizes that the resolution of domestic conflicts is not solely oriented towards discipline and punishment, but rather towards the restoration of relationships, equality of rights, and moral-spiritual reconciliation. With this approach, the research presents a conceptual contribution that enriches thematic interpretation studies while providing practical direction for religious institutions such as the KUA in realizing justice and family harmony in accordance with the values of rahmatan lil-‘alamin.

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