

THE ULAMA'S PARADIGM ON *NUSYUZ* HUSBANDS: A CLASSICAL-CONTEMPORARY PERSPECTIVE IN REALIZING FAMILY HARMONY

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ABSTRACT This study examines the evolving paradigm of *nusyuz* committed by husbands, comparing the perspectives of classical and contemporary Islamic scholars in the context of promoting marital harmony. Using a normative legal approach combined with a comprehensive literature review, this study aims to: identify and compare classical and modern definitions of *nusyuz* by husbands; analyze the shift from patriarchal interpretations towards a more reciprocal and egalitarian understanding; and formulate an Islamic framework that reinforces justice, mutual respect, and well-being in marital relationships. Findings show that classical scholars such as Ibn Qudamah and Imam Nawawi defined *nusyuz* husband as actions that cause *ḍarar* (harm) or *idṛār* (violence or neglect), emphasizing legal mechanisms to protect wives from injustice. In contrast, contemporary scholars such as *Faqihuddin* Abdul Kodir and Siti Musdah Mulia reinterpret *nusyuz* through the framework of *mubadalah*, highlighting shared responsibility, emotional well-being, and gender-balanced ethics. This paradigm shift reflects a broader movement in Islamic family law towards inclusivity and gender justice, in line with modern human rights principles and contemporary socio-cultural realities. The study concludes that gender-sensitive reforms rooted in Islamic values particularly *maṣlaḥah*, justice, and human dignity are essential for fostering harmonious, respectful, and violence-free marital relationships. Such reforms ensure that the interpretation of *nusyuz* remains adaptive and relevant to the evolving needs of Muslim families today.

KEYWORDS *husband's nusyuz, mubadalah, gender justice, Islamic family law, marital harmony*

INTRODUCTION

Marriage is a social and religious institution that forms the foundation for the establishment of families and communities. (Syamsulbahri & MH, 2020). In Indonesia, ideally, marriage embodies the values of love, responsibility, and fairness between husband and wife. (Q.S. Ar-Rum [30]: 21: "Wa Ja'ala Bainakum Mawaddatan Wa Raḥmah., n.d.). However, in practice, this relationship is not always balanced. One form of inequality that is often overlooked is *nusyuz* by the husband, which is when the husband deliberately neglects, abandons, or fails to fulfill his obligations to his wife. (Nawawi al-Jawi. (t.t.), n.d.). This phenomenon is often overshadowed by interpretations that emphasize

the wife's *nusyuz*, resulting in injustice in viewing and handling domestic issues. In fact, the relationship between husband and wife in an ideal marriage should be built on the basis of *mu'āsyarah bil ma'rūf* treat each other well and fairly. However, in the context of *nusyuz* by the husband, this provision requires further study because the classical interpretation of the husband's obligations is often considered gender biased and no longer relevant to modern family relationships that demand equality, mutual respect, and reciprocal responsibility. In classical *fiqh*, scholars such as Ibn Qudamah explain that *nusyuz* by the husband occurs when a husband neglects his obligations to his wife, causing harm (*ḍarar*) or even abuse (*idṛār*). (Ibnu Qudamah, 1998) In his work *Al-Mughni*, Ibn Qudamah

emphasizes the importance of justice on the part of the husband in maintaining a lasting marital relationship. Similarly, Imam Nawawi in *Al-Majmū' Sharḥ al-Muhadhdhab states that nusyuz also includes harsh behavior, emotional neglect, and failure to provide adequate financial support and attention.*

Meanwhile, contemporary thinkers such as Faqihuddin Abdul Kodir, through the *mubadalah* (reciprocity) approach, emphasize that the husband-wife relationship in Islam should be built on the principles of mutuality and emotional justice. In his book *Qira'ah Mubadalah*, he explains that *nusyuz* does not only apply to wives, but can also be experienced by wives as a result of husbands' behavior that deviates from the principles of love and shared responsibility. (Faqihuddin Abdul Kodir, 2019) A similar view was expressed by Siti Musdah Mulia, who highlighted the importance of reinterpreting classical *fiqh* texts to bring them into line with the context of modern family relations and gender equality value. (Siti Musdah Mulia, 2020) Studies on *nusyuz* by husbands in the context of classical and contemporary *fiqh* are still very limited, especially in the Indonesian context. Most of the literature emphasizes *nusyuz* by wives, while the dimension of injustice or unfairness committed by husbands has not been systematically studied. In fact, the extent to which the state and religious institutions understand and record forms of inequality in husband-wife relationships remains an important question. As in other cases, such as the legal handling of *nusyuz* by husbands, although it often occurs in the reality of household life, it has not touched on the root of the conflict between two opposing normative systems, namely patriarchal *fiqh* law, which dominates classical interpretations, and the principle of relational justice in state law and women's social experiences. Furthermore, positive law approaches often only highlight external symptoms without exposing the structural inequality in husband-wife relationships, which is the root of the problem. Therefore, this research is important because it offers a more equitable and comprehensive alternative reading of the concept of *nusyuz* in the context of husband-wife relations. This study makes an innovative scientific contribution through the integration of the classical *fiqh* approach with contemporary gender-sensitive social discourse. This kind of interdisciplinary approach is still rare in academic literature, especially one that systematically links aspects of

Islamic law with the principles of justice and equality in domestic relations. Thus, this study not only enriches the discourse on Islamic family law, but also opens up a space for dialogue between religious values and the challenges of contemporary Muslim families, with the hope of realizing families that are *sakinah, mawaddah, wa rahmah*.

METHODS

This study applies a qualitative approach using library research, a method that relies on in-depth analysis of existing written sources, both classical and contemporary literature. The main focus is on classical texts, such as *Al-Mughni* by him. (Ibnu Qudamah, 1998) and *Al-Majmū'* by Imam Nawawi, as the main reference in exploring the concept of *nusyuz* by husbands in the perspective of classical *fiqh*. (Imam Nawawi, 2000). In addition, this study also enriches its analysis through contemporary literature, such as *Qirā'ah Mubādalāh* by him. (Faqihuddin Abdul Kodir, 2019), as well as his works. (Siti Musdah Mulia, 2020). As well as recent scientific journal articles discussing husband-wife relationships, gender equality, and the dynamics of Islamic family law in the current context. (Fitriyani, Nina, 2021)

A qualitative approach was chosen because it is capable of revealing the meaning of a text in a deep, contextual, and interpretive manner, as explained by John W. Creswell, who states that qualitative research is very suitable for understanding social realities and the values behind religious and cultural texts. (Creswell, John W., 2016). The method used in this study is limited to normative analysis that does not involve direct field data collection, but rather relies on critical examination of authoritative sources available in the form of documents, books, fatwas, and academic journals. To maintain validity and reliability, this study uses source triangulation techniques by comparing information from various sources, both from diverse schools of jurisprudence and from contextual socio-cultural approaches. The analysis techniques used include content analysis to explore the meaning of the text, as well as comparative legal analysis in examining the differences in views between classical scholars and contemporary thinkers. This method is in line with the literature study research model in Islamic studies described by Nurdin & Hartati in their journal. (Nurdin, Deden & Hartati, Sri., n.d.).

This method helps researchers compile comprehensive and relevant studies, while providing new scientific insights into understanding the issue of *nusyuz* husbands (husbands who do not fulfill their obligations or behave badly towards their wives). By combining the views of classical scholars and modern ideas, this interdisciplinary approach provides answers to the challenges facing Muslim families today. The goal is to create a household that is *sakinah* (peaceful) and *mawaddah* (full of love).

DISCUSSION

1. Understanding the Concept of Husband's *Nusyuz* in the Perspective of Classical *Fiqh*

In classical *fiqh*, the term *nusyuz* (نُسُوز) has historically been more closely associated with wives who are considered rebellious towards their husbands. However, several prominent scholars such as Ibn Qudamah and Imam Nawawi provide a broader and fairer understanding of this concept, namely that husbands can also commit *nusyuz* when they deliberately and continuously neglect or abandon their wives' rights. Ibn Qudamah in *al-Mughni* emphasizes:

فَإِنْ ضَرَبَهَا أَوْ شَتَمَهَا أَوْ ضَيَّعَ نَفَقَتَهَا، فَهُوَ ضَرَرٌ يَبِيحُ لَهَا
"يُطَلَّبُ الْفُرْقَةُ"

"If a husband beats his wife, insults her, or neglects to provide for her, then this constitutes harm (*darar*) that allows the wife to seek separation." (Ibnu Qudamah, 1998)

Similarly, Imam Nawawi in *al-Majmū' Sharh al-Muhadhdhab* states:

إِذَا أَصَرَ الزَّوْجُ بِزَوْجَتِهِ بِضَرْبٍ أَوْ مَنَعَ نَفَقَةٍ أَوْ تَقْصِيرٍ فِي
"حُقُوقِهَا، جَازَ لَهَا طَلَبُ الطَّلَاقِ"

"If a husband hurts his wife by hitting her, withholding financial support, or neglecting her rights, then she is permitted to ask for a divorce." (Imam Nawawi, 2000)

Both formulations emphasize that *nusyuz* by husbands is not a new concept, but rather part of classical *fiqh* construction that places justice (*al-'adālah*), kindness (*al-ihsān*), and *ma'rūf* (معروف) behavior as the main foundations of family relations. The findings of this study show that classical scholars did

not focus on one-way obedience, but emphasized a balance of rights and obligations, and prohibited all forms of *darar* (harm) and *idrār* (torture) in the household. This view is in line with the principles of the Qur'an, which emphasizes that marriage is a relationship of tranquility, compassion, and mutual respect.

Allah says in Surah an-Nisa [4]:19:

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ"

"And live with them (your wives) in a *ma'rūf* manner (in a proper and kind manner)."

This verse does not limit the meaning of *ma'rūf* as the obligation of the wife, but as a universal ethical principle that requires both spouses to treat each other fairly and with respect. The Prophet's hadith also emphasizes the need for reciprocity and the prohibition of violence in the household. The Messenger of Nabi SAW said:

"خَيْرُكُمْ خَيْرُكُمْ لِأَهْلِهِ"

"The best among you are those who are best to their families." (HR. Tirmidzi).

This hadith serves as a moral foundation that shows that a husband's abusive, negligent, or hurtful behavior towards his wife clearly contradicts the character of a good believer. In terms of *maqāsid al-syarī'ah*, the concept of *nusyuz* by the husband is relevant to the protection of life (*ḥifẓ al-nafs*), the protection of honor (*ḥifẓ al-'irdh*), and the protection of the family (*ḥifẓ al-nasl*). When a husband commits physical, psychological, or economic violence, or neglect, he has violated the fundamental objectives of Sharia law. The findings of this study show that classical *fiqh* has a strong foundation for protecting women from domestic violence while also providing legal legitimacy for wives to seek justice through religious courts or administrative mechanisms. More broadly, this study also finds that narrowing the concept of *nusyuz* to only apply to wives is the result of patriarchal social and cultural processes in the history of Muslims, not purely a construction of Sharia law. A direct reading of the *fiqh* texts shows that classical scholars provided space for wives to obtain legal protection when their rights were ignored. This is evidence that classical *fiqh*

is far more progressive and fair than the general assumption that has developed in patriarchal societies. Thus, the understanding of *nusyuz* by husbands in classical *fiqh* opens an important foundation for the reformulation and contextualization of Islamic family law in the modern era.

Classical *fiqh* provides normative principles that can be developed into a more egalitarian, responsive, and protective legal system for all parties. This interpretation also corrects the misconception that Sharia law only favors men, when in fact medieval *fiqh* texts already accommodated the ideas of relational justice, anti-violence, and balance of rights in the household. The findings of this study confirm that the concept of *nusyuz* by husbands is not only part of contemporary discourse, but has deep historical roots in Islamic tradition.

2. The Mubādalāh Approach and Relational Ethics in Handling Husband's *Nusyuz*

The mubādalāh approach and relational ethics offer a solution to the handling of cases of *nusyuz* husbands, which have so far failed to address the root cause of power relations in the household. Many regulations and classical *fiqh* interpretations focus only on outward behavior such as violence or neglect without examining the structural inequalities that shape husband-wife relationships. This is where this research becomes important: it presents a new perspective that views marriage as a reciprocal relationship, not a hierarchy. The mubādalāh approach, as introduced by Faqihuddin Abdul Kodir, is a method of interpretation that emphasizes that all ethics and moral principles in the Qur'an and hadith apply reciprocally to men and women, unless there is evidence that clearly distinguishes between them. It emphasizes that marriage is built on the basis of mutual respect, responsibility, and ma'ruf treatment. Faqihuddin asserts, "In a marital relationship, it is not only the wife who is obliged to obey her husband, but the husband is also obliged to respect and treat his wife in a ma'ruf manner." (Faqihuddin Abdul Kodir, 2019).

The concept of ma'rūf refers to goodness, justice, social propriety, and humane treatment. The Qur'an, through QS. An-Nisā' [4]: 19, affirms that

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ

"And live with them in a good manner."

In Quraish Shihab's interpretation (2002), ma'ruf does not only mean normative goodness, but also includes social, psychological, and spiritual aspects that are in harmony with the development of societal values.

Thus, this verse can be used as a basis for evaluating the behavior of husbands who commit physical, psychological, or verbal abuse, or neglect, so that they can be categorized as committing *nusyuz*. This view converges with the contextual Islamic feminism approach introduced by Musdah Mulia. She asserts that religious interpretation should not place women in a position of obedience without equal rights. Musdah writes that gender-biased interpretations must be critically re-read, as they were born out of a patriarchal social context (Musdah Mulia, 2007). The mubādalāh approach and contextual reading help to position women as full subjects in marital relationships. From this perspective, *nusyuz* by husbands must be understood as a violation of the values of mutuality and the principle of ma'rūf. Physical violence, psychological domination, economic neglect, or emotional manipulation are concrete manifestations of *nusyuz* by husbands that need to be explicitly recognized in family law.

So far, positive law has been more reactive dealing with cases after violence has occurred without dismantling the roots of unequal relationships. The mubādalāh approach encourages the law to shift from a paradigm of "victim protection" to a paradigm of "relationship reconstruction." The state, therefore, must introduce gender-neutral regulations. The husband's obligation to care for, respect, and treat his wife well needs to be emphasized in regulations, including the inclusion of a definition of *nusyuz* by the husband and its consequences. The law also serves as moral education for society so that it does not tolerate violence in any form. Legal changes need to be accompanied by cultural changes. Society still considers divorce due to domestic violence to be a disgrace, so women are often forced to endure it. Psychological and verbal violence are often ignored and considered insignificant, even though their impact is very damaging. The mubādalāh approach helps society understand that patience does not mean accepting violence, and loyalty does not mean allowing oneself to be hurt. Cultural transformation requires the involvement of religious educational institutions, religious leaders, and family counselors. Preaching, premarital education, and counseling materials need to incorporate the mubādalāh perspective. Religious language must also shift from narratives of male ownership of

women to narratives of mutuality and shared responsibility.

In the realm of public policy, the state needs to provide safe, non-judgmental, and supportive environments for women to escape the cycle of violence. The *mubādalāh* approach is also relevant in economic empowerment programs, as economic inequality is often a factor in women remaining in violent situations. In the logic of *mubādalāh*, women's empowerment is not a threat, but part of a mutuality that strengthens the family. Ultimately, the *mubādalāh* approach does not aim to eliminate the role of men, but to correct the understanding that this role is an ethical responsibility, not a position of superiority. Husbands still have an important position, but their position must be understood as that of a nurturer and dialogical partner. Love cannot grow in hierarchical relationships; it requires humility, space for dialogue, and a willingness to change. This is the essence of the transformation offered by *mubādalāh*: making the family a safe and humane space for all its members.

3. The Urgency of Legal Reconstruction and Structural Justice

In the context of Islamic law in Indonesia, the Compilation of Islamic Law (KHI), which was legalized through Presidential Instruction No. 1 of 1991, only defines *nusyuz* in the context of wives. Article 84 states that a wife is considered *nusyuz* if she does not fulfill her obligations to her husband without a valid reason. There is no legal recognition or terminology for the possibility of *nusyuz* committed by husbands. This raises a number of serious issues: Women do not have a strong legal basis to sue husbands who hurt or neglect them. The legal system is unresponsive to structural inequalities in husband-wife relationships. The burden of proof is entirely borne by women, who are often economically, socially, and legally disadvantaged. As Isnawati asserts in her article:

"Islamic family law must be based on relational justice and gender equality, not just a reproduction of old interpretations." (Isnawati, 2020).

To that end, the reconstruction of family law needs to be carried out with reference to the *maqāṣid al-syarī'ah* framework, which prioritizes the substantial values of Islam, including: *ḥifẓ al-nafs* (حِفْظُ النَّفْس), which means protection of the soul from violence and neglect; *al-'adālah* (الْعَدَالَةُ), which

means relational and structural justice in the household, and *ṣiyānat al-usrah* (صَيَانَةُ الْأُسْرَةِ), which means the protection and sustainability of the family as a whole.

This reconstruction not only concerns normative law, but also targets the social structures that surround it. Furthermore, the reconstruction of family law based on *maqāṣid al-syarī'ah* is not merely a technical effort to improve regulations, but an epistemological movement and socio-cultural change that aims to restore family law to the basic values of Islam: justice, benefit, reciprocity, and protection. When concepts such as *ḥifẓ al-nafs*, *al-'adālah*, and *ṣiyānat al-usrah* are used as a foundation, the structure of family law can no longer be maintained in its formalistic form, which has tended to be gender biased and often ignores women's experiences. In the principle of *ḥifẓ al-nafs*, for example, Islam pays great attention to the physical and psychological safety of every human being, including wives who are vulnerable to verbal abuse, neglect, emotional manipulation, and economic abandonment. If a wife's soul and psychological health are under threat, then the objectives of Sharia law have been violated, regardless of the excuses or justifications used.

Thus, legal reconstruction is not only about articles and verses, but also about building a social system that prevents violence and encourages families to care for each other, not hurt each other. The second principle, *al-'adālah*, affirms that justice is at the core of all Islamic teachings. However, the justice referred to is not only normative justice as written in the text of the law, but also relational justice that is present in daily interactions, in the division of roles, in decision-making, and in emotional management within the household. A husband who demands his wife to be "unconditionally obedient," while he himself neglects his moral and emotional responsibilities, has violated this principle of justice. Likewise, a wife who is constantly forced to bear the emotional burden of the family without any space to voice her needs or pain. Relational justice means that husbands and wives treat each other humanely, not just submit to textual rules. The final principle, *ṣiyānat al-usrah*, emphasizes that the family should not be understood solely as a formal or administrative structure, but as a living social unit.

Maintaining the family does not mean preserving relationships regardless of the circumstances, but rather creating a safe, healthy, loving, and violence-free household. In this context, efforts to maintain a household without considering the safety and dignity of family

members will only prolong suffering and undermine the fundamental purpose of marriage itself. A strong family is not one that “endures suffering,” but one that maintains balance, affection, and the dignity of all members.

When *maqāṣid* is used as the main reference, the reconstruction of family law no longer stops at the normative realm, but moves towards social structural change. This means that family law must be able to respond to the realities of modern society: changing gender roles, economic pressures, increased awareness of human rights, and more complex psychosocial dynamics compared to past societies. Therefore, family law cannot be static. The law must be adaptive to the times and remain in line with the basic values of Islam. This reconstruction must also involve a reinterpretation of religious texts that have been used as a basis for strengthening the dominance of husbands in the household. Many verses and hadiths actually have a specific historical context, but are often understood rigidly, leaving no room for a more equitable interpretation. For example, the verse about *qiwamah* is often interpreted to mean that the husband must always be the absolute leader, even though the social context at that time placed men as the main breadwinners. If the social context changes, then the meaning of *qiwamah* also needs to be updated so that it does not become a tool for legitimizing injustice. In contemporary interpretations, *qiwamah* is understood as a shared responsibility to strengthen each other, not a hierarchical relationship that places wives as inferior.

In addition to reinterpreting the text, reconstruction must also target social structures. The household is often an arena of symbolic violence, where women are forced to bear emotional, domestic, and relational burdens without being recognized as work. Violence is not always physical; it can manifest as punitive silence, criticism that destroys self-esteem, financial threats, or manipulation that makes wives doubt their own reality. Therefore, family law must include more explicit criminalization of psychological violence such as gaslighting, financial control, and verbal intimidation. All these forms of violence are violations of *maqāṣid*, even though they are not textually found in classical *fiqh* books. Legal reconstruction also needs to involve policymakers, scholars, academics, and civil society. The state must establish responsive legal mechanisms, such as units. Integrated services, Islamic-based counseling, and training for judges to enable them

to apply *maqāṣid* practically in court decisions. Scholars need to produce progressive fatwas affirming that *nusyuz* is not only the prerogative of wives, but can also be committed by husbands when they violate their wives' basic rights.

Academics need to conduct critical studies of *fiqh* texts and develop theories of family law that are relevant to the modern world. Civil society institutions must create safe spaces for women to receive psychological and legal assistance without stigma. This paradigm shift is not easy to achieve. It requires intellectual courage and moral commitment. Many groups reject reform because they feel that patriarchal family structures are part of religious teachings. However, Islamic history shows that law has always evolved according to context. Scholars such as Ibn al-Qayyim emphasized that the essence of Sharia is justice, benefit, and wisdom. If a rule results in injustice, then that rule must be reviewed. (Ibn al-Qayyim al-Jawziyyah., 1991, p. Hal. 3–4.).

In other words, maintaining oppressive rules is not part of Sharia law, but rather a human interpretation that needs to be revised. Reconstructing family law based on *maqāṣid* is a strategic step to bring Islamic law back to its original ideals: upholding justice, empowering people, and protecting the dignity of the family. When the law is able to protect vulnerable people, especially women and children, then the household can become a safe space, not a place of hurt. When husbands and wives understand each other, rather than distancing themselves from each other, then marriage can become a place of growth, not a place of sinking. And when the value of justice is brought to life in every household decision, then marriage is no longer a burden, but a form of worship that brings peace. The social change expected from this kind of legal reconstruction is not instantaneous. It requires a long time, habituation, education, and exemplary behavior. However, every small step towards justice is part of the great struggle to create harmonious and dignified families. A just society begins with a just family. If families are able to internalize the values of *ḥifẓ al-naḥs*, *al-'adālah*, and *ṣiyānat al-usrah*, then future generations will grow up in a culture of mutual respect, not a culture of domination. They will learn that love is not about who is in control, but about who is able to protect with love. Thus, the reconstruction of family law based on *maqāṣid* is not only a normative reform, but a moral movement to restore the family to its Islamic nature: a space for servitude, a space for nurturing, and a space for

growth. In such a family, there is no place for violence, neglect, or emotional tyranny. There is only mutuality, understanding, and compassion that bring benefit, not harm; strength, not wounds; blessings, not oppression.

4. Social-Religious Relevance: From Interpretations of Justice to Social Practice

The phenomenon of *nusyuz* husbands cannot be separated from broader structural issues. It is not only a private issue within the household, but also a reflection of: Patriarchal religious interpretations, gender-biased legal systems, and social norms that unfairly burden women. This issue shares common roots with other issues such as polygamy, child marriage, and domestic violence. Therefore, addressing it requires more than just theory or legal documents; it requires concrete steps and practical transformation. Steps that can be taken include: Revising the KHI to include an explicit and operational definition of *nusyuz* by husbands. Encouraging progressive fatwas from scholars that use the *maqāṣid al-syarī'ah* and gender justice approaches. Integrating Islamic family law education based on the principles of *'adl wa ihsān* into the curriculum of Islamic boarding schools, universities, and Islamic institutions. Establishing advocacy and assistance spaces for victims of *nusyuz* by husbands, involving collaboration between the state, Islamic organizations, and legal aid institutions.

As stated in the noble message from KH. Hasyim Asy'ari:

فَلْيَكُنْ كُلُّ وَاحِدٍ مِنْهُمَا يَتَصَرَّفُ مَعَ صَاحِبِهِ بِالْعَدْلِ وَالْإِحْسَانِ

“Each partner should treat the other fairly and kindly.”

(KH. Hasyim Asy'ari, n.d.)

This message is not only moral in nature, but can also serve as a normative basis for reconstructing a more equitable family law system. The phenomenon of *nusyuz* by husbands, as explained above, cannot be understood solely within the confines of the private sphere of the household, but is part of a complex socio-religious structure. Religious interpretations, legal structures, and social norms interact to create a reality of gender inequality experienced by women. At this point, it is important to note that the problem of *nusyuz* husband does not

arise in a vacuum: it grows from a legacy of *fiqh* interpretations that at a certain time were heavily influenced by patriarchal social structures. In traditional societies, power relations within the family are built on an unequal division of roles, in which the husband is considered the absolute authority.

This framework of interpretation, despite its historical context, is often reintroduced literally in modern life without considering social changes, the need for justice, and developments in contemporary Islamic thought. In the socio-religious context, this interpretive bias is perpetuated by a legal system that is not yet fully responsive to women's experiences. The Compilation of Islamic Law (KHI), despite being an important milestone, still leaves a void regarding the definition of *nusyuz* by the husband, so that practices of injustice in the household are not always understood as violations of the law. This is exacerbated by social norms that still place women as the party who “must be patient” and “must accept,” so that a husband's actions that hurt, neglect, or humiliate his wife are often not seen as moral or legal violations. This is where the importance of a new narrative comes in, one that emphasizes that *nusyuz* can also be committed by husbands and has serious consequences for the harmony, justice, and sustainability of the household.

This transformation of understanding requires not only a change in legal doctrine, but also a broader religious paradigm shift. The *maqāṣid al-syarī'ah* approach provides a very important middle ground in reconciling contemporary demands for justice with universal Islamic values. Principles such as *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of dignity), and *hifz al-nasl* (protection of family) emphasize that any form of action by a husband that causes physical, psychological, emotional, or economic suffering is a violation of *maqāṣid*. Thus, the redefinition of *nusyuz* by husbands is not a “Western” agenda or the influence of liberal feminism, but rather an urgent need to preserve the basic objectives of Sharia itself. The transformation of the understanding of *nusyuz* by husbands clearly cannot be achieved simply by changing legal doctrine technically, but requires a much broader and deeper religious paradigm shift. In the grand framework of Islamic family law reform, *maqāṣid al-syarī'ah* serves as a conceptual bridge that can unite the demands of

contemporary justice. With the timeless universal values of Islam. Through *maqāṣid*, we understand that the purpose of sharia is not merely to regulate the formal relationship between husband and wife, but to create a social structure that protects the soul, honor, dignity, and continuity of the family. Basic principles such as *ḥifẓ al-nafs* (protection of the soul), *ḥifẓ al-ʿird* (protection of dignity), and *ḥifẓ al-nasl* (protection of the family), are strong arguments that all actions of the husband that cause physical, psychological, economic, or emotional suffering are a violation of the objectives of Sharia itself. Thus, the redefinition of *nusyuz* by husbands cannot be called a “Western” agenda, nor is it the result of liberal feminism, but rather an urgent need to maintain the integrity and basic ideals of Sharia, which from the outset aimed to bring about benefit and justice. (Jasser Auda, 2008, pp. 25–28).

The *maqāṣid* approach has proven relevant in many contemporary studies on family law. A number of studies show that domestic violence occurring in various regions of Indonesia is often rooted in religious misconceptions, particularly a misunderstanding of *maqāṣid* as a framework for protection. Research at the Sungguminasa Court, for example, revealed that many cases of domestic violence occurred because husbands understood the concept of “leadership” in a dominant rather than ethical sense. In this context, *maqāṣid* offers a perspective that emphasizes that leadership in the family is never intended to oppress, but rather to protect the safety and welfare of all family members. (Jasser Auda, 2008). This understanding confirms that all forms of domination that harm wives, whether through neglect, physical violence, financial control, or verbal abuse, are not only morally wrong but also contrary to the objectives of Sharia law. Furthermore, *maqāṣid* can serve as a framework for national legal reform. In unregistered marriages, for example, many victims of domestic violence are unprotected because of their weak legal status. Through the integration of *maqāṣid*, legal experts assert that the state still has an obligation to provide protection, because the objectives of Sharia require the state to protect the lives and dignity of its citizens regardless of the administrative status of their marriage. (Mohammad Hashim Kamali, 2012). This approach shows that *maqāṣid* is not only a theoretical concept but also has real implications in public policy. In religious court

practice, the *maqāṣid* approach has also begun to be used to make decisions on divorce due to violence. Judges who use this approach are usually more sensitive to the suffering of women and children. Instead of adhering to rigid *fiqh* texts, they prioritize the protection of life, honor, and family continuity.

This change shows that *maqāṣid* is moving from mere academic discourse to more progressive legal practices that favor substantive justice. The *maqāṣid*-based paradigm shift not only affects the legal sphere, but also religious education. Changing society’s view of husband-wife relations must begin in religious educational institutions, from Islamic boarding schools and madrasas to Islamic colleges and majelis ta’lim (religious study groups). Until now, much of the religious education material has been taught textually and does not consider the social context or moral objectives of sharia. Some material even reinforces a hierarchical understanding that places the husband as a figure who can control and discipline his wife. When *maqāṣid* is included in the curriculum, all religious relationships can be reinterpreted through the lens of protection, reciprocity, and justice. Religious leaders also need to receive intensive training so that they can provide household advice and guidance that is in line with *maqāṣid* values, rather than simply repeating patriarchal mindsets. In addition to education, advocacy and public policy play an important role in strengthening the *maqāṣid* paradigm. Victims of *nusyuz* husbands often do not have access to legal assistance, psychological support, or a safe space to report violence. Many women choose to remain silent due to social pressure, shame, economic dependence, or fear of being considered a disobedient wife. In situations like this, community institutions, Muslim women’s organizations, and government service units must build comprehensive assistance systems. The *maqāṣid* approach can be the foundation for designing public services that are not only legalistic but also humanistic, such as religious value-based counseling, gender-sensitive mediation, and legal protection that prioritizes the safety of victims. (Fatimah, 2020, pp. 95–118.).

Maqāṣid-based reform efforts are also supported by various studies that affirm that gender equality and the protection of women are not foreign values in Islam. These studies show that *maqāṣid*, when used creatively and

innovatively, can support fairer inheritance distribution, gender-responsive family policies, and legal protection for women and children. (Amina Wadud, 2010, pp. 13–31.).

Thus, *maqāṣid* can serve as a bridge between traditional Islamic values and modern social realities that demand equality, participation, and protection. However, this transformation is certainly not without challenges. Resistance from conservative groups remains a major obstacle. Some groups consider the redefinition of *nusyuz* by husbands as a threat to the traditional family structure. In fact, the orientation of *maqāṣid* actually preserves the family structure so that it remains healthy, fair, and harmonious. On the other hand, the limited understanding of legal officials and religious counselors regarding *maqāṣid* has prevented its optimal implementation. The general public also still has a low understanding of concepts such as *ḍarar*, *ma'rūf*, and *mubādalāh*, so that paradigm shifts often proceed slowly. Nevertheless, it is important to continue to emphasize that *maqāṣid al-syarī'ah* is not just a set of theories, but also a moral energy for creating social change. The use of *maqāṣid* in family law reform shows that Islamic law is essentially a living law that can evolve with the times without losing its basic principles. When *maqāṣid* is placed as the foundation, the relationship between husband and wife can be understood as an ethical relationship that demands moral responsibility, not one-sided domination. Husbands and wives will be encouraged to bring reciprocity into their daily lives, listen to each other, share roles, and strengthen each other. Ultimately, families built on the principle of equality are not only more just, but also closer to the true purpose of marriage in Islam: to bring about peace, love, and blessings. Through this understanding, *nusyuz* husbands are no longer seen as a taboo or marginal issue, but as part of a structural problem that needs to be addressed seriously.

Legal reform, religious education, public policy, and social advocacy must work together to create a society that is more aware of *maqāṣid*, more sensitive to gender injustice, and better able to provide protection for all its members. With *maqāṣid* as the foundation, change towards a humane, equal, and compassionate household is not only possible, but also a moral and religious obligation. The *mubadalāh* approach enriches the *maqāṣid* framework by emphasizing that

reciprocity is not only a moral principle, but also the basic logic of the husband-wife relationship. If both are considered as complementary “partners” (*zaujain*), then all interpretations of family law must return to the principles of justice (*'adl*) and goodness (*iḥsān*).

From this perspective, a husband who commits violence or neglects his wife is not only committing *nusyuz* in the *fiqh* sense, but also violating the spiritual covenant of marriage (*mīṣāqan ghalīẓan*), a sacred bond which, according to the Qur'an, must be upheld with spiritual awareness and human ethics. The reconstruction of this idea needs to be realized in the positive legal system. A revision of the KHI is urgently needed to include an operational definition of *nusyuz* by husbands that not only normatively states that husbands must behave well, but also details indicators of *ḍarar*, *iḍrār*, neglect, verbal abuse, gaslighting, emotional manipulation, and financial control. When this definition is clarified, the religious court system can be used more effectively to protect women and encourage fairer resolution of domestic conflicts. This revision must be accompanied by integrated training for judges, mediators, investigators, and religious counselors so that their understanding of *nusyuz* is no longer limited to the old perspective that only blames women.

At the social level, religious counselors, community leaders, and Islamic organizations have a strategic role in changing the way society views husband-wife relationships. Mutuality-oriented preaching, equality-based premarital education, and the involvement of men in anti-violence campaigns are concrete strategies for shaping a healthier family culture. Religious counselors must be equipped with special modules on *nusyuz* by husbands and domestic violence, so that they no longer give advice that blames the victim, but rather ensure that women receive psychological, spiritual, and legal support. Advocacy spaces are also an important pillar. Legal aid institutions, Muslim women's organizations, and integrated service units need to collaborate to create a comprehensive assistance system. Here is the accurate English translation with a clear academic tone: A holistic approach involving psychologists, family counselors, progressive Islamic jurists, and social workers can serve as a more humane and effective model for addressing cases of *nusyuz*.

committed by husbands. At the same time, strengthening digital literacy and promoting public campaigns about the concept of *ma'rūf* as an ethical foundation for family life will help society understand that household harmony cannot be built on one-sided patience or the dominance of one party over the other. Amid these transformations, the moral message of KH. Hasyim Asy'ari provides a strong spiritual foundation: that each spouse must treat the other with *'adl* (justice) and *ihsān* (benevolence).

This message illustrates that justice is not merely a legal concept or an abstract norm, but a concrete practice that must be present in the daily lives of husbands and wives. By taking this value as a normative foundation, the reconstruction of family law can proceed within the framework of an authentic Islamic tradition rather than simply adopting external ideas. Thus, *nusyuz* committed by husbands must be understood as a multidimensional phenomenon that requires a multidisciplinary response from the interpretation of religious texts and legal reconstruction to social transformation and family education. Islam possesses strong moral and intellectual resources to build families grounded in *sakinah*, *mawaddah*, and *rahmah*, yet these ideals can only be realized when reciprocity, justice, and compassion are genuinely implemented in social practice. At this point, legal reform and religious thought converge, as both serve as pathways toward a more humane, equitable, and dignified household.

CONCLUSION

This study of the concept of *nushūz* by husbands in both classical and contemporary perspectives reveals a significant epistemological shift in understanding marital relations within Islam. In the classical legal tradition, scholars such as Ibn Qudāmah and Imām al-Nawawī provide an important foundation by asserting that acts of harm, neglect, or failure to fulfil a wife's rightful entitlements may be classified as *ḍarar* and *iḍrār*, both of which constitute legitimate grounds for legal action. This demonstrates that classical jurisprudence implicitly recognized the possibility of injustice committed by husbands, even though discussions of *nushūz* historically centered more on wives.

Contemporary discourse, articulated by scholars such as Faqihuddin Abdul Kodir and Siti Musdah Mulia through the frameworks of

mubādalāh and reciprocal ethics, expands the interpretive landscape of Islamic family law toward a more egalitarian and inclusive understanding. The *mubādalāh* paradigm not only critiques patriarchal tendencies within classical jurisprudence but also offers methodological and ethical tools to reaffirm *ma'rūf* as the supreme foundation of marital relations.

Within this framework, husbands and wives are no longer viewed as hierarchical entities, but as partners bound by shared responsibilities, mutual compassion, and reciprocal respect an ethos firmly grounded in Qur'anic guidance, particularly QS al-Nisā' 19. Employing a normative-analytical approach through textual and comparative study of classical jurisprudence, contemporary thought, and national legal instruments such as the Compilation of Islamic Law (KHI), this research finds that the phenomenon of *nushūz* by husbands is not merely a private domestic issue. Rather, it represents the intersection between scriptural interpretation, legal policy, and social reality an intersection that demands a comprehensive and equitable reassessment. The findings indicate that existing legal definitions of *nushūz* within national frameworks remain limited and gender-biased, necessitating substantive reform of the KHI to explicitly incorporate harmful conduct by husbands, including psychological abuse, financial neglect, and emotional abandonment. Strengthening reciprocal ethics within Islamic education through curricula grounded in the values of *'adl* (justice) and *ihsān* (benevolence) is equally vital for cultivating gender-sensitive religious literacy. Institutional reforms particularly within religious courts, integrated service centers, and community-based religious organizations are essential to ensure gender-responsive handling of domestic cases that prioritizes the protection and wellbeing of wives or victims. This study concludes that reconstructing the concept of *nushūz* perpetrated by husbands requires a sustained dialogue between classical jurisprudential heritage, contemporary demands for justice, and the evolving social dynamics of Muslim communities. Legal reform, educational renewal, institutional strengthening, and community empowerment form an integrated pathway toward establishing Muslim families that embody *sakinah*, *mawaddah*, and *rahmah* in substantive terms. At this juncture, *mubādalāh* emerges not merely as a theoretical construct but as an emancipatory ethic capable of fostering

marital relationships that are equitable, dialogical, and dignified for both spouses.

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