

Nusyuz Regulations in Muslim Countries: Indonesia, Malaysia, Turkey

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Abstract

Marriage is a sacred relationship based on established regulations. However, building a household relationship is not easy, as various problems and disputes can arise, one of which is *nusyuz*. *Nusyuz* is the opposite of obedience and refers to all forms of negative behavior that weaken the marriage relationship. *Nusyuz* can occur in both husbands and wives. It is categorized as a form of psychological abuse, such as harsh words, restriction of freedom, and failure to fulfill obligations. Therefore, *nusyuz* is one of the marital issues that can potentially lead to divorce. For this reason, the researchers are interested in analyzing *nusyuz* based on existing laws and regulations in Muslim countries, specifically Indonesia, Malaysia, and Turkey. This study employs library research with a qualitative approach to collect and examine the regulations regarding *nusyuz* in several Muslim countries, as well as to identify and analyze the differences in how each country addresses *nusyuz*. The results show that there is a correlation between the sanction for *nusyuz* committed by wives and the loss of maintenance from the husband. This aligns with Islamic law. However, there are differences in the sanctions imposed on husbands who commit *nusyuz*. In Indonesia and Turkey, no sanctions are imposed on husbands for *nusyuz*, whereas in Malaysia, the husband may face a fine not exceeding one thousand ringgit, imprisonment for up to six months, or both.

Keywords: *nusyuz*; legislation; Muslim countries

1. INTRODUCTION

Marriage is defined as a vital bond that continues human life and forms a community [1]. It is the union of a man and a woman in a legal relationship with the aim of achieving happiness. Marriage can also be understood as the joining of a man and a woman to create a balanced family unit [2]. It serves as a forum to legally unite two individuals [3]. Marriage is a sacred relationship that must be conducted according to established rules [4]. The goal of marriage is to create a happy family, but in

practice, building a household does not always proceed smoothly and harmoniously. Problems can arise between husband and wife, and one common issue within the family sphere is *nusyuz* [5].

Nusyuz can be defined as the attitude of a wife who hates, opposes, and disobeys her husband [6]. It can also be understood as a form of resistance by a wife against her husband [7]. Additionally, *nusyuz* may refer to a wife behaving badly, such as being abusive or causing physical and mental harm [8]. *Nusyuz* is the opposite of obedience and is characterized by any form of negative behavior that weakens the marriage relationship [9]. According to the view of Ulama' Syafi'iah, *nusyuz* is an act of mutual mistreatment that occurs between husband and wife. Meanwhile, Ulama' Hambaliyah defines *nusyuz* as a form of displeasure from either the wife or husband, resulting in disharmonious relationships [10]. *Nusyuz* can also be categorized as a psychological attack, including abusive words, restriction of freedom, failure to fulfill obligations, and authoritarian behavior by the husband [11].

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‘Abd al-Rahman al-Jaziri states that *nusyuz* by wives can take several forms, such as preventing the husband from enjoying physical intimacy, whether through holding, kissing, or conjugal relations [12].

The act of *nusyuz* can occur in both husbands and wives. A wife who commits *nusyuz* is characterized by a lack of devotion to her husband [13]. Similarly, a husband can commit *nusyuz* when he fails to fulfill his obligations toward his wife, both material and non-material [14]. *Nusyuz* is not only committed by wives but can also be committed by husbands. Examples of *nusyuz* by husbands include showing displeasure when with their wives, frequently being away from their wives, and neglecting their wives’ rights [15].

The perpetrator of *nusyuz* can be understood as someone who violates the commitments of rights and obligations between husband and wife. *Nusyuz* is not a taboo topic in the community; rather, it is recognized as one of the marital issues that can lead to divorce. *Nusyuz* is mentioned six times in the Compilation of Islamic Law, but these articles do not provide detailed explanations. They only address *nusyuz* committed by the wife and the legal consequences of such actions [16].

In reviewing this research, the researchers found several related studies relevant to the topic under investigation. One such study was conducted by Fitriyani Zein, titled *Violence in Marriage and Nusyuz in Family Law in Turkey, Malaysia, Sudan, Jordan, and Indonesia*. This study found that family law in the Islamic world exhibits diverse characteristics that differ from one country to another. Patriarchal culture and the dynamics between men and women are seen to significantly influence family law provisions, particularly in cases of marital violence and *nusyuz*. The study also revealed that there are no explicit regulations or provisions addressing domestic violence and *nusyuz* in Jordan and Sudan.

This study also found that the Turkish state clearly and explicitly regulates issues related to domestic violence against wives, allowing them to file for divorce against their husbands. Additionally, husbands can be required to pay compensation for acts of violence they have committed. In Indonesia, acts of domestic violence can serve as grounds for one party to file for divorce, and the perpetrator is

categorized as committing a criminal offense [17]. Furthermore, research by Fitri Rafianti et al., titled *Nusyuz as a Cause of Domestic Violence: A Comparative Study of Islamic Law and Criminal Law*, concludes that regulations about *nusyuz* in Islamic law can be understood through the perspective of legal sources. There is a correlation between *nusyuz* and domestic violence, making it important to anticipate and address these actions within the family.

In this research, *nusyuz* is associated with acts of domestic violence. One important step to understanding duties and responsibilities within the household is effective communication with the wife, aiming to avoid causing her harm or physical abuse [18]. Based on the review of several studies above, the researcher intends to examine and analyze *nusyuz* more deeply, focusing on existing laws and regulations in Muslim countries, particularly Indonesia, Malaysia, and Turkey. The goal is to explore the correlation of *nusyuz* regulations across these countries, as well as to identify and analyze the differences in how each country addresses *nusyuz*.

Based on the background explanation above, the problem formulation to be studied in this research is: How is *nusyuz* regulated in Muslim countries, specifically Indonesia, Malaysia, and Turkey?

2. METHODS

This research uses library research as its method. Library research involves activities aimed at studying and collecting data through the process of reviewing literature [19]. It is conducted by examining books, journals, articles, and other relevant reading materials related to the research topic. The steps in this library research include identifying and describing the problem in a structured manner, followed by reviewing literature findings, and concluding with an analysis of the research study [20].

The approach used in this research is qualitative. The selection of this research type and approach is intended to examine and analyze *nusyuz* based on existing laws and regulations in Muslim countries, particularly Indonesia, Malaysia, and Turkey. The goal is to describe and compare the correlation of *nusyuz* regulations across these countries.

3. RESULTS AND DISCUSSIONS

3.1. The Concept of Nusyuz In Islamic Law

3.1.1. Definition of Nusyuz

Nusyuz is a form of opposition, resistance, disdain, rejection, and disobedience [21]. According to Wahbah al-Zuhaili, *nusyuz* is a form of disobedience or animosity that occurs between a husband and wife, or vice versa, regarding various matters that should be obeyed. *Nusyuz* can weaken household relationships because the husband and wife neglect their obligations [22]. In Islamic law, the term *nusyuz* refers to the relationship between husband and wife in family life [23]. It is also defined as a form of neglect within the household, which can be committed by either the husband or the wife, potentially leading to discord, disharmony, incompatibility, and ultimately divorce [24].

Some Fuqaha' also define the term *nusyuz*. According to the Hanafi *madzhab*, *nusyuz* is an act of mutual hatred that occurs between both spouses. Meanwhile, Ulama' from the Maliki *madzhab* define *nusyuz* as behavior that mistreats either the husband or the wife. According to the Ulama' of the Shafi'i *madzhab*, *nusyuz* refers to conflict or opposition between husband and wife. The Hanbali *madzhab* views *nusyuz* as a form of hatred considered harmful, whether committed by the husband or the wife [25]. Additionally, *nusyuz* can refer to a wife's disobedience to her husband, ranging from general disobedient behavior to refusing invitations to spend time with him [26].

3.1.2. Types of Nusyuz

Nusyuz is a type of conflict within a household that can lead to disharmony. Conflicts in family life often result in *nusyuz* due to misunderstandings between husband and wife. In this study on *nusyuz*, several legal bases are discussed, including:

1) The concept of a *nusyuz* wife is mentioned in Surah An-Nisa' Ayat 34 and Article 84 of the Compilation of Islamic Law. The verse states: "Men are the protectors and maintainers of women, because Allah has given some of them more (strength) than others, and because they (men) spend from their wealth. Therefore, the righteous women are devoutly obedient and guard in the husband's absence what Allah would have them guard. As for those women from whom you fear

disobedience, admonish them, refuse to share their beds, and (as a last resort) lightly strike them. But if they obey you, do not seek a way against them. Indeed, Allah is Most High, Most Great [27]."

In *Tafsir Al-Muyassar*, the verse above explains that men are leaders who carry the responsibility of guiding women and attending to their various affairs. This leadership is based on the special privileges Allah SWT has granted men, including excellence and authority, as well as the obligations men fulfill such as giving dowry and providing maintenance to their wives. Pious women, according to the teachings and laws of Allah SWT, are those who are obedient to both Allah SWT and their husbands, and who guard themselves and their households in their husbands' absence with Allah's protection. If a wife is feared to be disobedient, the husband should first advise her with kind and appropriate words. If that does not work, then he should refrain from approaching her and separate from her. If this still does not have an effect, then a light beating that does not cause harm may be administered. If she then obeys, the husband should avoid being unjust to his wife.

Article 85 states: (a) A wife may be considered to have committed an act of *nusyuz* if she refuses to fulfill the obligations referred to in Article 83 Paragraph (1) without valid reasons. (b) As long as the wife is categorized as *nusyuz*, the husband's obligations toward his wife, as described in Article 80 Paragraph (4) Letters a and b, shall not apply except for matters concerning the child's welfare. (c) The husband's obligations mentioned in Paragraph (2) shall be reinstated after the wife ceases to be *nusyuz*. (d) A wife is judged to be *nusyuz* only when supported by valid evidence [28].

Some Ulama state that a wife can be considered *nusyuz* if she has committed several actions, including: going out without a mahram and her husband's permission, refusing to engage in marital relations without a valid shar'i reason, refusing to live in her husband's house, or apostatizing.

Furthermore, based on al-Nisa verse 34, the steps taken regarding a wife who commits *nusyuz* include: the husband giving advice to the wife in a kind manner, the husband separating beds from the wife to encourage her to reflect on her mistakes, and if these two methods do not work, then the husband is permitted to discipline his wife with a

light, non-harmful strike.

2) *Nusyuz* of a husband is mentioned in the Qur'an in Surah al-Nisa, verse 128. A *nusyuz* husband is one who shows disobedience toward his wife, despite fulfilling his material obligations and providing maintenance. The verse states: "...And if a woman fears that her husband may be unfaithful or indifferent, there is nothing wrong with the two partners making a sincere peace, and peace is better for them, even though man by nature is miserly. And if you live with your wife in harmony and protect yourselves from disobedience and neglect, then surely Allah is All-Knowing of what you do..." [29]

Based on *Tafsir al-Muyassar*, this verse explains that if a woman realizes her husband is arrogant or indifferent toward her, there is no sin for either of them to make a peace agreement based on mutual willingness, especially regarding the arrangement of lodging and maintenance. Such peace is better and preferable. Human nature tends to be greedy and miserly. If you improve your treatment of your wives and fear Allah in how you deal with them, then surely Allah is aware of all your actions, including any miserliness, nothing is hidden from Him, and He will reward you accordingly.

3.1.3. *Nusyuz* Sanctions

1) Sanctions for wives who commit *nusyuz* against their husbands. The sanction given to a wife who commits *nusyuz*, according to the Ulama' consensus, is the loss of her right to maintenance from her husband, making the maintenance forbidden for her [30]. The majority of Ulama state that a wife who commits *nusyuz* is not entitled to maintenance until she returns to obey her husband [31]. According to the Hanafiyah school of thought, a wife must accept the consequence of her *nusyuz* by losing maintenance from her husband [32].

Sayyid Sabiq states in *Fiqh al-Sunnah* that the sanctions for a wife who has committed *nusyuz* include first giving advice to encourage her to return to her husband and to Allah SWT. Additionally, one sanction that can be imposed is the loss of maintenance from her husband [33]. Ibn Rushd, in his book *Bidayah al-Mujtahid*, explains that one possible consequence for a wife who commits *nusyuz* is the loss of her livelihood [34]. Furthermore, the Imams of the four *madhhabs* agree

that the sanction for a wife who commits *nusyuz* is the loss of maintenance as a consequence of her disobedience to her husband [35].

2) Sanctions for husbands who have committed *nusyuz*. The Malikiyah school of thought holds that if a husband is found to have committed *nusyuz* against his wife and the wife does not accept his treatment, the husband should be able to divorce her. However, if the husband does not wish to divorce, both parties are required to make peace and refrain from repeating the behavior [36]. The Hanabilah school defines a *nusyuz* husband as one who is indifferent to his wife. In this case, the consequences for the husband may include the wife submitting a *khulu'* (divorce initiated by the wife) and the husband not being allowed to receive compensation (*'iwadh*) from her [37].

Quraish Shihab states that there are sanctions that can be applied to a husband who has committed *nusyuz* against his wife. When a wife can no longer endure her husband's treatment, she has the right to seek a divorce and may offer a payment (*khulu'*) to redeem herself [38]. The willingness of the wife to pay *khulu'* indicates that the marital relationship can no longer be sustained.

3.2. *Nusyuz* Legislation in Indonesia

3.2.1. *Nusyuz* Law in Indonesia

Nusyuz is not specifically regulated in the Compilation of Islamic Law, so there is no explicit definition of *nusyuz* or clear guidelines on how to resolve it. The Compilation does not include the concept of *nusyuz* committed by a husband. However, the norms related to *nusyuz* are addressed in Articles 80, 84, and 125, which include the following:

1) Based on Article 80, Paragraph 7, it is stated that the husband's obligation mentioned in Paragraph 5 applies when the wife commits *nusyuz*.

2) Based on Article 83, Paragraph 1, it is stated that "The primary obligation of a wife is to her husband, both physically and mentally, according to Islamic law."

3) Based on Article 84, Paragraph 1, it states that "A wife can be considered *nusyuz* if she refuses to fulfill the obligations stated in Article 83, Paragraph 1, except for valid reasons."

4) Based on Article 84, Paragraph 2, it states that "As long as the wife is in a state of *nusyuz*, the

husband's obligations toward his wife as mentioned in Article 80, Paragraph 4, letters a and b, do not apply, except for matters concerning the welfare of their children."

5) Article 84, Paragraph 3 states that "The husband's obligations mentioned in Paragraph 2 will resume once the wife no longer commits *nusyuz*."

6) Article 152 of the Compilation of Islamic Law states that "A former wife is entitled to iddah maintenance from her former husband unless she is *nusyuz*."

3.2.2. Sanctions for Nusyuz Perpetrators in Indonesia

Sanctions for a wife who has committed *nusyuz* against her husband are stipulated in Articles 149 and 152. Article 152 states that "a wife who has committed *nusyuz* will lose her rights to 'iddah maintenance, *maskan* (housing), *kiswah* (clothing), and *mut'ah* (compensation) [39]." Meanwhile, Article 149(b) states that "if a marriage ends in divorce, the husband is obligated to provide iddah maintenance, *mut'ah*, and *kiswah* to the former wife, unless the wife has committed *nusyuz* and is not pregnant [40]." In contrast to the sanctions imposed on wives who commit *nusyuz*, there are no clear regulations governing sanctions for husbands who commit *nusyuz*. This results in gender inequality, as wives who commit *nusyuz* face sanctions, while husbands who do so do not receive any penalties [41].

3.3. Nusyuz Legislation in Malaysia

3.3.1. Nusyuz Law

In Malaysian family law, the basic provisions regarding *nusyuz* are regulated in the Islamic Family Law Act of Wilayah Persekutuan of 1984. Malaysian law does not explicitly define the term *nusyuz*, but it can be understood based on Article 59, Paragraph 3, of the Islamic Family Law of Federal Malaysia 1984 [42]. This article states that *nusyuz* refers to an act committed by a wife when she disobeys the orders of her husband. Based on this article, several criteria indicate that a wife has committed *nusyuz*, namely when she shows indifference in cooperating within the family environment or refuses to live with her husband.

Faridah Jalil and Muhammad Helmi stated that the laws related to *nusyuz* in Malaysia consist of three types of legislation, including: the Akta Undang-undang Keluarga Islam 1984 (AUKI), the Akta Tatacara Mal 1998 (ATM), and the Akta Pentadbiran Undang-undang Islam Wilayah-Wilayah Persekutuan 1993 (APU). Although these two experts mention that *nusyuz* is discussed in all three laws, the term "*nusyuz*" is explicitly mentioned only in the Malaysian Islamic Family Law Act under Section VI. Furthermore, the Islamic Family Law Act of 1984 addresses the wife's maintenance rights and the consequences of *nusyuz* [43].

3.3.2. Sanctions for Wives Who Have Committed Nusyuz

The legal sanctions imposed on wives who commit *nusyuz* are similar to those in Indonesia and are outlined in Article 59, Paragraph 2, of the Islamic Family Law of Federal Malaysia 1984. It states that "wives who have committed *nusyuz* towards their husbands will lose maintenance from their husbands if they are still married. The material maintenance provided by the husband will cease and will only be reinstated if the wife returns to obey her husband. However, if the wife is already divorced, she will lose both the 'iddah and *mut'ah* maintenance if she commits *nusyuz*." In Malaysia, not all *nusyuz* cases result in divorce, as the filing of a *nusyuz* case is handled separately from divorce proceedings.

3.3.3. Sanctions for Husbands Who Commit Nusyuz

Malaysian law does not provide detailed provisions about the form or concept of *nusyuz*. However, if a husband commits an act that violates the legal provisions related to his wife, he can be sanctioned. As part of the measures to address *nusyuz* committed by the husband, if the husband is ordered to provide maintenance and return to his wife but refuses to comply, he may be penalized with a fine not exceeding one thousand ringgit, imprisonment for up to six months, or both.

3.4. Nusyuz Legislation in Turkey

3.4.1. Turkish Nusyuz Law

Article 22 of the Turkish Family Law of Cyprus 1951 states that the court may order a wife who

fails to fulfill her obligations to pay compensation. Additionally, this law also considers the right to maintenance for the wife to be affected by the act of *nusyuz* committed.

3.4.2. Sanctions for Nusyuz in Turkey

In Turkey, there are also regulations that impose sanctions on wives who commit *nusyuz*, including the possibility of withholding maintenance or requiring compensation from the wife. This is similar to the regulations in Indonesia, where husbands are allowed to withhold maintenance from wives who commit *nusyuz*, although there are no provisions regarding compensation. The sanctions are the same as those in Indonesia, where the cessation of maintenance applies only to the wife and not to the children who remain in the family.

4. CONCLUSIONS

The results show that there is a correlation between the sanction of *nusyuz* against the wife, specifically the loss of maintenance from the husband to the wife. This aligns with Islamic law. However, there are differences in the sanctions imposed on husbands who commit *nusyuz*. In Indonesia, husbands do not receive sanctions for *nusyuz*, which is similar to the situation in Turkey. In contrast, in Malaysia, husbands may be subject to a fine not exceeding one thousand ringgit, imprisonment for up to six months, or both.

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