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Masalah Perspective on Husband Nusyuz in Islamic Law and Positive Law In Indonesia

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Abstract: The Qur'an reviews the husband's nusyuz as contained in the letter an-Nisa/4 verse 128. The jurisprudence and positive law literature in Indonesia do not specifically discuss the husband's nusyuz. The discussion is only limited to the wife's nusyuz. This study ³⁴ focuses on the analysis of the husband's masalah nusyuz in Islamic law and positive law. The conclusions of this study are: Nusyuz's husband is not fulfilling the rights of the wife or not carrying out the obligations of the husband. The discourse on Islamic law and positive law only focuses on discussing the wife's nusyuz. Nusyuz's husband was resolved in a familial way. If it is considered to bring benefit to both of them, then they can return to living their domestic life. However, if reuniting them does not bring any benefit, then they can file for divorce.

Keywords: Nusyuz Husband; Masalah; Islamic Law; Positive Law.

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INTRODUCTION

⁴⁹ One of the obligations of the husband is to provide physical and spiritual support to his wife. The wife must obey and obey her husband in cases that do not conflict with Islamic law. The wife's defiance of the obligations that must be done to her husband in Islamic law is called nusyuz. Nusyuz means the disobedience of a wife against her husband. This can occur in the form of violation of orders, deviations, and things that can disrupt household harmony.¹

The definition above can be understood that the ⁴⁰ attitude of not caring or even to the level of disobeying, the emergence of hatred, ⁴⁶ and the wife's defiance of her obligations in the household is called nusyuz. Nusyuz is closely related to the rights and obligations of husband and wife in domestic life.² The legal basis for the wife's nusyuz in the Qur'an letter an-Nisa/4 verse 34 states that:

38

¹ Amior Nuruddin dan Azhari Akmal Tarigan, *Hukum Perdata Islam Di Indonesia*, Second edi (Jakarta: ⁴⁷ incana, 2004).

² Law Number 1 of 1974 concerning Marriage, As Confirmed in the Marriage Law No. 1 of 1974 Article 33 Paragraph (1) It Is Stated That: Husband and Wife Are Obligated to Love Each Other, Respect, Be Faithful and Provide Physical and Spiritual Assistance to One Another. Then Article 34 Paragra.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَنَاطٌ حَافِظَاتٌ لِنَفْسِهِنَّ
بِمَا حَفِظَ اللَّهُ وَاللَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ
سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا - ٣٤

¹ "Men (husbands) are protectors for women (wives), because Allah has favored some of them (men) over others (women), and because they (men) have provided a living from their wealth. So pious women are those who obey (to Allah) and take care of themselves when (her husband) is not around because Allah has taken care of (them). The women you worry about nusyuz, you should advise them, leave them in bed (separate beds), and (if necessary) beat them. But if they obey you, then do not look for reasons to trouble them. Indeed, Allah is Most High, Most Great." QS an-Nisā/4: 34

Worrying about her nusyuz means if it is known with certainty that his wife is doing nusyuz by paying attention to qarinah or her movements have changed in serving her husband.³ This is the discussion in the books of fiqh.

The discussion about nusyuz and its legal consequences has received quite a lot of attention from the fuqaha'. Imam Syafi'i himself as one of the mujtahids whose thoughts are widely followed by Muslims in Indonesia places the discussion of nusyuz in a separate chapter in his work al-Umm.⁴ Nusyuz in the view of Imam Shafi'i is a legal term that is only applied to the wife, not to the husband. Nusyuz committed by the wife according to Imam Syafi'i results in the loss of the wife's right to support which must be given by the husband. In addition, Imam Shafi'i views that the mere existence of a marriage contract is not a mandatory condition for the husband to provide for his wife until the wife surrenders herself totally (tamkīn) to her husband.

Nusyuz in the married life of husband and wife is a dynamic that can happen. However, the phenomenon of nusyuz in domestic life in today's modern era is becoming more complex. A wife may argue that she is doing nusyuz because her husband is too strict in limiting her rights, such as forbidding her to work outside the home or continue her education to a higher level.

In husband and wife relations, today's socio-cultural development opens up space for nusyuz discourse not only from the wife's side, but can also come from the husband's side. So far, the discussion about nusyuz has been more directed at the wife's nusyuz, giving the impression that there is injustice in this matter. It is possible that the husband's nusyuz can occur in the form of negligence on the part of the husband to fulfill his obligations to his wife, the right to support physically and mentally.⁵ The Qur'an also talks about the husband's nusyuz as contained in the Qur'an letter an-Nisa verse (128).

The provisions for nusyuz in positive law in Indonesia are also limited to wife nusyuz. The Compilation of Islamic Law is even accompanied by sanctions that incriminate the wife. This can be seen from the provisions in Article 80 paragraph 7 of

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³ Abdul Halim Hasan Binjai, *Tafsir Ahkam* (Jakarta: Pustaka, 2006).

⁴ Muhammad bin Idris Asy-Syafi'i, *Al-Umm*, Juz 6, Cet. ke-1 (Riyad: Dār Al-ʿIlm, 2001).

⁵ Tarigan; Ida Zahara Adibah, 'Nusyuz Dan Disharmoni Rumah Tangga', *Jurnal Inspirasi*, 2.2 (2018) <<https://ejournal.undaris.ac.id/index.php/inspirasi/article/view/16>>.

Masalah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

the KHI which reads "The husband's obligations as referred to in paragraph (5) fall if the wife of Nusyuz."⁶ KHI does not explain the husband's nusyuz.⁷

The view above indirectly confirms that the results of the previous ulama's ijhtihad are not legal provisions that cannot be criticized or re-analyzed, especially if you look at the socio-cultural reality that prevails in the area where the husband and wife are located. It can also be stated that the views of the previous scholars' ijhtihad were more influenced by the social and cultural realities in which the ulama lived at that time.

Among the previous studies related to this research is Ali Trigiyatno's research with the title, "Nusyuz in the Qur'an and its use as a reason for divorce." The findings of this study are that nusyuz is the attitude of a partner who does not respect and appreciate the rights of his partner which arises from pride and pride so that his partner feels neglected and ignored which will result in the fracture of the integrity of the household. Completion of the husband's nusyuz by the wife, in which the wife is more required to succumb to the reduction of some of her rights. Even though the spirit of the teachings of the Qur'an is to prioritize justice, balance, and the common good without any party being harmed (oppressed). The solution to nusyuz by both husband and wife in the Qur'an is to always prioritize the principle of sulh and try to avoid divorce. Because the basis (mabna) of Surat an-Nisā, in general, is muwāsalah (maintaining the integrity and continuity of the household). Divorce is the last door (emergency exit). Fatma Novida Matondang's research entitled "The Concept of Nusyuz Husband in the Perspective of Islamic Marriage Law." The focus of this research examines the nusyuz of the wife and wife, as well as the handling carried out in dealing with the nusyuz of husband and wife.⁸ Research by Aisyah Nurlia, Nilla Nargis, Elly Nurlaili, "Nusyuz Husband to Wife in the Perspective of Islamic Law." This study concludes in QS an-Nisā/4: verses 20-21 and 128-130, the hadith of the Prophet SAW (HR. Abū Dāwud, Ibn Mājah, Ahmad and Nasāī), Article 116 letter (d), (g), (k) KHI regulates the husband's nusyuz. The husband's nusyuz criteria consist of the husband's actions that are not justified by syara', one of which is the condition of the husband's dislike of his wife. Nusyuz who comes from the husband has legal consequences that can be felt by the wife and children, the legal consequences of the husband's nusyuz received by the wife and child are very detrimental to both, namely, it is explained that the wife gives some of her rights to her husband not to be fulfilled in achieving peace so that divorce does not occur, while for children this can be seen from the case that occurred in Bandar Lampung, namely children do not get their rights as children that must be fulfilled by their fathers, namely in terms of maintenance and education. Legal efforts to settle the husband's nusyuz should be carried out by way of peace preceded by the wife advising her husband as described in QS li-Imrān/3: 104 and QS at-Tahrīm/66: 6, but if it doesn't work. The husband continues to do nusyuz even to the point of endangering the life of the family, then the wife can file for divorce by khulu'.⁹ The formulation of the research problem

⁶ Redaksi Nuansa Aulia, *Pasal 80 Ayat 5 Berbunyi: "kewajiban Suami Terhadap Istrinya Seperti Tersebut Pada ayat (4) Huruf a Dan b Di Atas Mulai Berlaku Sesudah Ada Tamkin Sempurna Dari Istrinya. Lihat Tim Redaksi Nuansa Aulia, Kompilasi Hukum Islam*, Second Edi (Bandung: Nuansa Aulia, 2009).

⁷ Zulkarnain Sulaiman Sofyan A.P. Kau, *Fikih Feminis* (Yogyakarta: Pustaka Pelajar, 2014).

⁸ Fatma Novida Matondang, 'Konsep Nusyuz Suami Dalam Perspektif Hukum Perkawinan Islam', 2009.

⁹ Elly Nurlaili Aisyah Nurlia, Nilla Nargis, 'Nusyuz Suami Terhadap Istri Dalam Perspektif Hukum Islam', *Jurnal Pactum Law Journal*, 1.4 (2018) <<http://repository.lppm.unila.ac.id/13091/>>.

Maslahah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

is: what the *maslahah* perspective on the husband's nusyuz problem which is contained in Islamic law and positive law?.

RESEARCH METHOD

This type of research is library research. The primary data in this study were the Marriage Law Number I of 1974, the Compilation of Islamic Law, and the Books of Fiqh and supplemented by secondary data relevant to this research. The data collection method in this research is documentation. This research is qualitative, the research analysis was carried out during the data collection process. Then a conclusion is drawn with a deductive system of thinking.

DISCUSSION

Maslahah Theory

Maslahah al-mursalah according to the language consists of two words, namely *maslahah* and *al-mursalah*.¹⁰ The word *maslahah* comes from the Arabic verb (صَلَحَ) (صَلَحَاتُ) or (مَصْلَحَةٌ) which means "Something that brings good."¹¹ The word *maslahah* is sometimes also called (الْإِسْتِصْلَاحُ) which means "Seeking the good (طَلَبُ) (الإِصْلَاحُ)"¹²

As for the word *al-mursalah*, it is the *isim maf'ul* from *fi'il madi sulasi*, that (رَسَلَ), by adding the letter alif at the beginning, so that it changes to (أُرْسَلَ). Etymologically it means "Regardless, or in the sense (free). The word detached and free here when connected with the word *maslahah* means detached or free from the evidence that shows it can or cannot be done."¹³

Al-Ghazali explained that the definition of *maslahah mursalah* is:

مَا لَمْ يَشْهَدْ لَهُ مِنَ الشَّرْعِ بِالْبَطْلَانِ وَلَا بِالِإِعْتِبَارِ نَصٌّ مُعَيَّنٌ

Anything from (*Maslahah*) for which there is no evidence for it from the *syara'* in the form of a certain text that invalidates it and no one pays attention to it."

According to Abdul Wahab Khallaf, *Maslahah al-mursalah* is a *Maslahah* where the *Shari'ah* does not prescribe the law to create *maslahah*, nor is there any evidence to show its confession or cancellation."¹⁴

In terms of its strength as evidence in establishing the law, there are three kinds of *maslahah*, namely: first, *maslahah darūriyah*, benefit, and its existence are very much needed by human life, meaning that human life has no meaning if one of the five principles does not exist. Second, *maslahah hājīyah*, benefits for which the level of human life needs for him is not at the level of *darūriyah*. The form of benefit is not directly for the fulfillment of the needs of human life. Third, *maslahah tahsnīyah*,

¹⁰ Rahmat Sya fi'i, *Ilmu Ushul Fiqih*, Cet. III (Bandung: Pustaka Setia, 2007).

¹¹ Chaerul Um, *Usul Al-Fiqih I* (Bandung: Pustaka Setia, 2000). p. 135

¹² M Khallaf, Abdul Wahab, *Masādir At-Tasyrī' Al-Islāmī Fīmā Lā Nassā Fīhā* (Beirut: Dar al-Qalam, 1972). p. 85.

¹³ mir Syarifuddin, *Ushul Al-Fiqh* (Jakarta: Kencana, 2009). p. 332.

¹⁴ Abdullah Wahab Khallaf, *Ilmu Usul Al-Fiqh*, Terj. Noer Iskandar Al-Bansani, *Kaidah Hukum Islam*, Cet-8 (123: PT. Raja Grafindo Persada, 2002); p. 123 Jayusman Nurul Huda, 'Perspektif *Maslahah* Terhadap Pertimbangan Hakim Pada Putusan Perkara Nomor: 376/Pdt.G/2019/PA.Tnk Tentang Perpan Hak Hadanah Kepada Ibu Kandung', *Ijtimaiyya: Jurnal Pengembangan Masyarakat Islam*, 14.2 (2021) <<http://ejournal.radenintan.ac.id/index.php/ijtimaiyya/article/view/10119/5037>>. diakses 10 Januari 2022

Maslahah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

namely maslahah whose needs for human life do not reach the level of darūrī, nor do they reach the level of pilgrimage, but these needs need to be fulfilled to provide perfect²² and beauty of human life.

When viewed from the point of view of seeking and establishing law, then maslahah is the opposite of evil and damage whose essence is the creation of good or pleasure in human life and avoiding things that can damage public life. Maslahah in this sense is divided into three types. This classification is²⁹ based on the syara' acknowledgment of its existence. Namely first, maslahah al-mu'tabarāh, namely problems that are calculated by syara', that is, in this problem there are syara' instructions, either directly or indirectly that provide clues to the existence of maslahah that be the reason for enacting the law. Second, maslahah al-mulghāh, also known as rejected maslahah, is maslahah that is considered good by reason, but is not considered by syara' and there are shari'a instructions that reject it. Here the mind considers it good and in line with what is required by the maslahah. Third, maslahah mursalah or also called istihlah, which is what is considered good by reason, is in line with the objectives of syara' in establishing the law, but there are no shari'a instructions that reject it. *Maslahah in this last form is in line with the conditions that can be used as a foothold in realizing the goodness that humans need to avoid the harm that occurs. Maslahah mursalah theory is to talk about unlimited interests and there are no provisions in syara' law, that this theory is the method of finding the law that is mostly carried out by judges of the Religious Courts in overcoming various legal problems in controversial cases.*¹⁵

Nusyuz Husband in Islamic Marriage Law

Etymologically nusyuz comes from the word nasyaza, yansyuzu means irtifa '(rise, accentuate and exalt oneself), meaning the disobedience of the wife to her husband. Meanwhile, Ibn Manzur defines nusyuz as a place that protrudes from the earth.¹⁶ Meanwhile, Imam at-Tobari interprets nusyuz as disobedience.¹⁷ Ahmad Warson al-Munawwir stated that nusyuz is something that stands out in, or from a place. And if the context is related to the husband and wife relationship, then he interprets it as the attitude of the disobedient wife, against, and hating her husband. Nusyuz is rejection or defiance. The point is that the wife does not obey her husband for reasons that are not justified⁸ according to Islamic teachings. A wife refuses to have sex or mak⁴⁰ love to her husband. In the book of Fath al-Mu'tn, it is explained that nusyuz, is the act of a wife who refuses to serve her husband's wishes even though the wife is busy.¹⁸

Hanafiyah scholars set a limit, that nusyuz is the wife's exit from the husband's house in a way that is not justified by syara'. The Malikiyah ulema group gives the meaning, that nusyuz is the behavior

¹⁵ Nurul Huda; Efrinaldi Zuhri Imansyah, Jayusman, Erina Pane, Iim Fahimah, 'Tinjauan Maqāsīd Syarīah Terhadap Perkara Harta Bersama Dan Kontribusinya Dalam Pembaruan Hukum Keluarga Islam Di Indonesia (Studi Kasus Di Wilayah Hukum Pengadilan Tinggi Agama Bengkulu)', *Ijtima'iyya: Jurnal Pengemb¹⁹an Masyarakat Islam*, 13.1 (2020). 1-20, p.5

¹⁶ Muhammad bin Mukrim bin Ali Abu al-Fadhl Jamaluddin Ibn Manzhur Al-Anshari, *Lisān Al-Arab*, cet. ke-3, (Beirut: Dār Shadir). p. 4425

¹⁷ ¹⁴ Tbari, *Tafsir At-Tabarī*, Juz 8 (Jakarta: Pustaka Azzam, 2008). p. 300

¹⁸ Tihami dan Sohari Sahrani, *Fikih Munakahat* (Jakarta: Rajawali Press, 2013); p. h. 185 Haswir, '43 penyelesaian Kasus Nusyuz Menurut Perspektif Ulama Tafsir.', *Jurnal Al-Fikra*, 11.2 (2012) <<http://ejournal.uin-suska.ac.id/index.php/al-fikra/article/view/3859>>. diakses tanggal 14 Mei 2021

Masalah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

Of husband and wife who abuse each other. Syafi'iyah and Hanabilah scholar⁶⁴ive meaning to disputes that occur between husband and wife. The opinion of Imam Jalaluddin al-Mahalli and Jalaluddin as-Suyuti in their book *Tafsir Jalalain* that the meaning of "Nusyuz is the wife's disobedience to her obligations to her husband."¹⁹ Meanwhile, Sayyid Sabiq defines nusyuz as a wife's disobedience to her husband, disobedience or refusal to be invited to her bed or out of the house without her husband's permission."²⁰

In essence, the husband's nusyuz occurs when he does not carry out his obligations to his wife, either leaving material or nafaqah obligations and or leaving non-material obligations including mu'asyarah bil ma'ruf or having good intercourse with his wife. Mu'asyarah bil ma'ruf has a broad meaning, namely, everything that can be called sexual intercourse with his wife in a bad way such as being rude, physically and or mentally hurting his wife, not having physical relations for a certain time, and other actions that are contrary to the principle of good association. According to Ibn Qudamah: "Nusyuz husband means the husband's disobedience to Allah because he leaves his obligations to his wife."²¹ This opinion is based on Q.S an-Nisā: 34 which explains that the husband is the priest/leader for the wife in the household.

The concept of nusyuz in the Qur'an can be found in several letters and verses with several derivations. In the form of isim masdar as contained in the QS. 58; 11, in the form of fi'il Mudari' which is continued with damir mutakallim ma'a al-ghair, found in QS. al-Baqarah/2: 259, and in the form of masdar in QS. an-Nisa/ 4: 34 and 127.²²

Islam prohibits violence, let alone against one's wife (domestic violence) to other people is also prohibited to do violence. Conceptually Islam teaches to do good to the wife. Marriage is an institution that binds husband and wife intending to bring sakinah, mawaddah, and mercy. For that purpose, the Qur'an teaches husbands are obliged to educate their wives in the household.

The Qur'an contains principles or basic principles that will not change (qānūn jāmid). Among these principles are:

1. The principle of equal rights (QS. al-Hujarāt: 13)
2. The principle of justice (Surat an-Nisa/4: 3)
3. The principle of propriety or reasonable behavior (Q.S. an-Nisa/4: 19)

Islam views violence against wives as not only physical but also non-physical. In further detail, non-physical violence against wives is as follows:

1. Do not want to pay off the dowry debt or withdraw the dowry without the pleasure of the wife as Allah says in QS. an-Nisa/4:19.
2. Abandoning the wife's shopping as the word of God in QS. al-Baqarah/2: 233.
3. Do not give a place to live for the wife as the word of God in the QS. at-Thalaq/ : 6.
4. Having intercourse with the wife at the time of menstruation as the word of God in the QS. al-Baqarah/2: 222.
5. Treat your wife harshly as Allah says in QS. an-Nisa/4:19.

¹⁹ Jalaluddin al-Mahalli dan Jalaluddin As-Suyuthi, *Tafsir Jalalain, Juz. I* (Dar al-Ihya' al-Kutub Al-Arabiyyah Indonesia). p.76

²⁰ Sayyid Sabiq, *Fiqh Sunnah, Jilid II* (Madinah: Al-Fatkh Li'lāam al-Araby, 1990). p. 314

²¹ Ibnu Qudamah, *Al-Mughnīy* (Mesir: Mathba'ah Al Qahirah, 1969). p.235

²² Muhammad Fuad Al-Baqi, *Al-Mu'jam Al-Mufahras Li Alfāz Al-Qurān Al-Karīm* (Bandung: CV. Diponegoro); p. 873 Moh Subhan, 'Rethinking Konsep Nusyuz Relasi Menciptakan Harmonisasi Dalam Keluarga', *Jurnal Al-Adalah*, 4.2 (2019) <<https://ejournal.ikhac.ac.id/index.php/adlh/article/download/542/384>>. diakses 14 Mei 2021

Masalah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

6. Burdening the wife's work beyond her ability as the word of God in the QS. al-Baqarah/2: 233.
7. It is unfair in rotating wives as Allah says in QS. an-Nisa/4: 129.
8. Accusing the wife of adultery without valid evidence as to the word of God in the QS. an-Nūr/: 6.
9. Blackmailing the wife as Allah says in Q.S. al-Baqarah/2: 231.
10. Do not provide for the wife during the iddah as Allah says in the QS. at-Talaq/: 7.

With a little difference, here is another version of the husband's nusyuz form:

1. The husband intends to not provide a living for his wife, either in the form of spiritual sustenance, even though he knows and can provide for it.
2. The husband does not treat his wife properly and properly.
3. In the husband, there is a feeling of displeasure toward his wife, so the husband no longer cares and has empathy for his wife, and gradually the husband's attitude turns into hatred.
4. The husband throws his wife out of the common residence without a valid reason.
5. The husband does not want to pay the dowry that ²² not been paid when
6. carrying out the marriage contract. Even though **the dowry is the absolute right of the wife** that must be paid by the husband.
7. The husband abuses his wife's physical or spiritual disgrace.
8. The husband leaves his wife because of her illness.
9. The husband accuses his wife of committing adultery without any clear evidence.
10. The husband arbitrarily divorces his wife without a reason justified by religion.
11. Having forbidden sexual intercourse either through the rectum or the wife during menstruation or childbirth.
12. The husband always finds fault with his wife.
13. The husband ordered his wife to commit disobedience by violating Allah's prohibition.
14. Husbands are not fair in dividing time and shifts to their wives.²³

Nusyuz is theoretically influenced by the factors that cause the husband's nusyuz as follows:

1. Lack of religious knowledge possessed by the husband.
2. Because there is more than one wife while the conditions for polygamy are not enough.²⁴
3. Because the husband considers his wife to be unattractive or old or sickly.
4. Blind jealousy
5. There is a third party or another ideal woman's husband
6. Boredom

²³ Su²⁹n; Rizki Pangestu Rizqa Febry Ayu, 'Modernitas Nusyuz: Antara Hak Dan KDRT', *Yudisia*, 12.1 <<https://journal.iainkudus.ac.id/index.php/Yudisia/article/view/8711>>; diakses tanggal 14 Mei ²⁶21p. 204-206 Saleh, *Nusyuz Saleh Bin Ganim Al-Saldani* (Yogyakarta: Gema Insani, 2004); h.82-83 Achmad Furqan Darajat, 'Tipologi Relasi Suami Istri Dan Indikator Terjadinya Nusyuz', *Jurnal Taft* ⁴⁸uh, 2.2 (2017) h. 33-34 <<http://ejournal.kopertais4.or.id/sasambo/index.php/tafaqquh/article/view/3102>>. accessed on 06 November ³⁶21

²⁴ Kasmuri Selamat, *Pedoman Mengayuh Bahtera Rumah Tangga (Panduan Perkawinan)*, Cet. Ke-1 (Jakarta: Kalam Mulia, 1998). p. 31

Masalah Perspektif on Husband Nusyuz in Islamic Law..., Jayusman Et al.

7. A husband is a lazy person who does not like to assume responsibility as the head of the family.
8. He is no longer attracted to his wife because she pays less attention to physical care.
9. Unstable emotions due to the pressure outside the family.
10. Upset over the treatment of his wife who felt displeasing to him.
11. Due to the influence of bad habits in relationships outside the household, such as gambling habits, drinking, and other bad morals.²⁵

The solution to the husband's nusyuz is to ask for his obligations as a husband to be fulfilled by the purpose of marriage, namely to accept and make each other happy and always provide a living both physically and mentally according to his ability. In addition, the wife must also ask for clarity regarding the relationship with her husband regarding her status as a wife whether she is still together or separated if her husband continues to hurt her or behaves nusyuz to her.²⁶

The wife's efforts in overcoming her husband's nusyuz can be understood from the Qur'an Surah an-Nisa' verse 128 as follows:

وَأَنَّ امْرَأَةً خَافَتْ مِنْ بَعْضِهَا نُشُوزًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ
الْأَنْفُسَ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا - ١٢٨

⁶ "And if a wife is worried about her nusyuz or the indifference of her husband, then there is nothing wrong with both of them making real peace, and peace is better for them) even though humans are by nature stingy. And if you get along with your wife well and take care of yourself (from nusyuz and indifference), then verily Allah is All-Knowing of what you do." Q.S. an-Nisa'/4: 128

The verse above emphasizes the importance of peace (sulh) when the wife's concern for her husband's nusyuz has been proven. Sulh in the verse above is intended as an agreement to end the dispute between two disputants peacefully. Peace is carried out using mediation and deliberation. Ibn Kathir explains the reason for the revelation of the verse as follows:

"According to the external meaning of the verse, the peace made by the wife gives part of her rights to her husband and the husband accepts these conditions. It is better for the wife than to be divorced at all. As the Prophet saw has taken Sauda bint Zam'ah as his wife by giving her turn to Ayesha and the Prophet did not divorce her, but let her be one of his wives. The Holy Prophet did this intentionally so that his followers would follow in his footsteps in this matter, that it was required and permitted. This is better for the Prophet, remembering that harmony is preferred by Allah SWT than divorce."²⁷

Reconciliation (sulh) as a solution to the wife's concerns over her husband's nusyuz requires a mediator (hakam) who acts as a mediator. The existence of hakam is one of the institutions for resolving disputes between husband and wife that has legitimacy in the Islamic marriage law system. According to Abu Hanifah, as quoted by

²⁵ Muhammad Thalib, 20 *Perilaku Durhaka Suami Terhadap Istri* (Bandung: Irsayad Baitus Salam, 2002), 53, 78, 106, dan 120

²⁶ A. Y As-Subki, *Fiqh Keluarga Pedoman Berkeluarga Dalam Islam* (Jakarta: Amzah, 2010), p. 319

²⁷ Ibnu Katsir, *Tafsir Al-Qur'an Al-Adhim (Tafsir Ibnu Katsir), Juz 5, Alih Bahasa Bahrin Abu Bakar* (Bandung: Sinar Baru Algesindo, 2000), p. 549

Maslahah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

Beni Ahmad Saebani, a hakam is a representative, that is, a person who represents the disputing parties, both from the husband and wife..²⁸

The legal basis of the existence of hakam in the context of dispute resolution and nusyuz of husband and wife is confirmed in the Qur'an Surah an-Nisā: 35 as follows:

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمَا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقُ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا
خَبِيرًا ۝ ٣٥

¹⁸ "And if you fear a dispute between the two, then send a judge from the family of the man and a judge from the family of the woman, if the two judges intend to make amends, surely God gives taufik to the husband and wife. Lo! Allah is Knower, Aware. " (QS. An-Nisā/4: 35).

About the above verse, Atur Rahman Ghazali said: "According to the word of God, if there is syiqāq (dispute) between husband and wife, then sent a judge from the husband and a judge from the wife to conduct research and investigation on the cause of syiqāq, as well as trying to reconcile it."²⁹

Regarding the existence of hakam as a mediator in marital disputes, Ibn Kasir said as follows:

"Scholars of jurisprudence say, when there is a dispute between a couple, then the judge who dissolves the two as a mediator who considers the case of the two and prevents the two from committing acts of violence, if the conflict and the dispute prolongs, then the judge calls a trusted person from the family the woman and a trusted man of the men, then the two gathered to consider the matter of the two disputing couples. Then the two do things that are more beneficial for him according to their views, between separating or remaining united as husband and wife. However, the admonition of the Shari'ah recommends remaining intact as a husband and wife."³⁰

Understanding the above quotation, it can be said that sending a hakam as a mediator in marital disputes is a recommended step in Islamic law in preventing divorce. Hakam must try to create goodness and permanence in domestic life or end division without first requiring the consent and authorization of the spouse concerned.

About the consequences of the husband's nusyuz law, Q.S an-Nisā/4: 128 only explains the legal consequences received by the wife because of the husband's nusyuz, while regarding the consequences that can be felt by the child, this is not mentioned in the explanation of the husband's nusyuz verse. However, if you look at the reality that is happening in the community, the victims of nusyuz are not only wives but also children from their marriage victims. The case showed that during the marriage the father did not meet and bear the child's needs in the form of alimony, clothing, education costs as well as the cost of care and treatment of the child.

Nusyuz Husband According to Positive Law in Indonesia

In the positive law, both from KHI and Law Number 1 of 1974 on Marriage do not touch on the issue of nusyuz husband specifically and in detail. The discussion on

²⁸ ⁶¹ Beni Ahmad Saebani, *Fiqh Munakahat 2* (Bandung: Pustaka Setia, 2010). p. 53

²⁹ Abdur Rahman Ghazali, *Fiqh Munakahat* (Jakarta: Kencana, 2010). p. 242

³⁰ Katsir. p. 115

Maslahah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

the wife's nusyuz only is in the Compilation of Islamic Law article 84 paragraph (1) which reads: "The wife can be considered nusyuz if she does not want to perform the obligations as referred to in article 83 paragraph (1)³¹ except for legitimate reasons". However, according to the author, a husband can be considered nusyuz if he contains the elements of a nusyuz husband. This is as regulated in Government Regulation Number 9 of 1975 on the Implementation of Law Number 1 of 1974 on marriage article 19 and the Compilation of Islamic Law article 116 which mentions the reasons for divorce when the wife files for divorce in a religious court. Divorce can occur for the following reasons: a) One of the parties commits adultery or becomes a drunkard, a drunkard, a gambler and so on that are difficult to cure; b) one party leaves the other party for 2 consecutive years without the permission of the other party and lawful reason or for any other reason outside his ability; c) One of the parties is sentenced to 5 years imprisonment or a heavier sentence after the marriage; d) One of the parties commits cruelty or severe persecution that endangers the other party; e) One of the parties has a disability or illness as a result of not being able to carry out his obligations as a husband or wife; f) Between husband and wife there are constant disputes and quarrels and there is no hope of living peacefully again in the household; and g) The husband violates the taklik talak; h) Religious conversion or apostasy that causes disharmony in the household.³²

In KHI article 80 paragraph (7), "The obligation of the husband as referred to in paragraph (2) falls if the wife nusyuz." What is meant by the husband's obligation here is the obligation to provide maintenance, kiswah, and residence for the wife. As explained in paragraph (4) in the same article before.

KHI did not make more specific rules regarding the issue of nusyuz. In KHI it is not mentioned or explained specifically related to nusyuz such as in the special chapter discussing the issue of nusyuz. The mention of nusyuz a total of 6 times is mentioned in three different articles, including Articles 80, 84, and 152. But these articles have not explained the meaning of nusyuz and also do not explain how to solve problems related to nusyuz. KHI only mentions nusyuz wife and not nusyuz husband. The three articles contain the form and characteristics of nusyuz performed by a wife and the legal consequences as a result of such acts.

According to the explanation of article 7 of Law No. 7 of 1989 on religious courts states that "a hakim is a person appointed by the court from the husband's family or the wife's family or other parties to seek efforts to resolve disputes against nusyuz."³³

Analysis of Maslahah Against Nusyuz Husband According to Islamic Law and Positive Law

Several pointers are analyzed related to the problem of nusyuz husband according to Islamic law and Positive law, as follows:

1. Husband who changes his attitude towards his wife, according to Quraish Shihab is also called nusyuz. This Nusyuz brings misery to the couple's domestic life. This is because the benefits in a household are not realized. Indeed, in the text, there is a difference between nusyuz performed by the husband or wife in terms

³¹ *Kompilasi Hukum Islam Pasal 83 Ayat (1) Berbunyi: "Kewajiban Utama Bagi Seorang Istri ialah Berbakti Lahir Dan Batin Kepada Suami Di Dalam Batas-Batas Yang Dibenarkan Oleh Hukum Islam"*.

³² *KHI Pasal 116*.

³³ *Penjelasan Undang-Undang No. 7 Tahun 1989 Tentang Peradilan Agama Pasal 76*.

- ⁷⁰ of the solution, even in the Marriage Law and KHI do not mention the husband's nusyuz. This is what causes inequality and injustice in the matter of nusyuz. The issue of nusyuz that arose from the wife's side was responded to as a serious issue and must be acted upon immediately. While with nusyuz husband.³⁴ People interpret nusyuz as the behavior of a rebellious wife and if it happens in the household, the quickest solution they can do is divorce. Although divorce is not an option in this situation, many steps can be taken to deal with it. Though it does not necessarily bring benefits to both.³⁵
2. Nusyuz husband in KHI is implicitly mentioned in Article 116 letter (d), (g), (k) which reads: Divorce can occur for the following reasons: One party commits cruelty or severe abuse that endangers the other party, the husband violates the taklik talak, and religious conversion or apostasy that causes disharmony in the household. Nusyuz husband can be used as an excuse for a wife to file a divorce lawsuit or what is commonly referred to as a divorce lawsuit to a religious court when it is seen that there are no more benefits in domestic life. In positive law when a wife files for divorce from her husband then she (the wife) must give a ransom to her husband. This is as written in KHI article 124 which reads: "Khulu 'must be based on the grounds of divorce by the provisions of article 116." However, according to Islamic law, the ransom cannot be given to a nusyuz husband. This is based on the hadith narrated by Ibn Abbas that the wife of Sabit ibn Qais asked for divorce not because she got pressure, violence, and persecution from her husband. But because of his disbelief. So if the wife gets pressured, and persecuted both physically and mentally, then the ransom is not valid and illegal for the husband if he accepts it. This is based on the words of Allah Q.S. on Nisan/ 4:19.³⁶
 3. Disputes between husband and wife, both caused by nusyuz wife, and nusyuz husband, should be resolved in a family way to bring benefits to living a good household life. If the settlement through the family is not successful, the husband can divorce the wife or the wife can file for divorce or khulu 'to the husband when there are no more benefits in their married life. Husbands or wives are legal subjects who must be held accountable for all their actions, both civil and criminal. When the husband violates the wife's rights in matters of alimony and good relations, then the husband applies Islamic civil law whose authority rests with the judge of a religious court. However, if the violation committed by the husband has led to persecution, physical cruelty, and torture that can result in disability of the wife, or loss of limb function of the wife, then the violation of the husband has entered the realm of criminal proceedings whose authority rests with district court judges. Islam rejects non-violence because it is not in line with Islamic teachings that teach the goodness and welfare of human life. In-Law No. 23 of 2004 on the Elimination of Domestic Violence, article 1 paragraph 1 states: "Domestic violence is any act against a person, especially a woman, which results in physical, sexual, psychological,

¹⁴
³⁴ Munib, 'Batasan Hak Suami Istri Dalam Memperlakukan Istri Pada Saat Nusyuz Dan Kemungkinan Sanksi Pidana', *Jurnal Voice Justicia*, 3.2 <<http://www.journal.uim.ac.id/index.php/justisia/article/view/819>>. diakses tanggal 14 Mei 2021

³⁵ Rizqa Febry Ayu. diakses tanggal 14 Mei 2021

³⁶ Karim Muhammad U'waidah penerjemah M. Abdul Goffar. EM Kamil Muhammad U'waidah, *Fiqh Wanita, Cet. Ke-1* (Jakarta: Pustaka Al-Kautsar, 1998). p. 445

Masalah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

- ³³ and/or neglect or suffering. household includes threats to commit acts, coercion, or deprivation of liberty unlawfully within the household. ” Understanding the above provisions, the wife is placed as a vulnerable party to acts of violence committed by the husband. Protection of wives, is one of the aspects ¹³ that get legal security, as stated in Consideration letter (c), the Law states: "Victims of domestic violence, most of whom are women, must receive protection from the state and/or society to avoid and be free from violence or the threat of violence, torture, or treatment that degrades the rank and dignity of humanity."³⁷
4. Arrangements regarding nusyuz in the KHI are narrowed only to the wife and the legal consequences. As for the husband's nusyuz, it is not mentioned in the KHI. Of course, this is discriminatory and less in line with the principle of equality in Islamic teachings. About the husband's nusyuz, as the wife's nusyuz is described in Article 84 KHI, if you look at the contents of paragraph (1) of Article 84 regarding the wife's nusyuz stating that the wife is considered nusyuz if she does not want to perform the obligations as regulated in Article 83 paragraph (1) except for legitimate reasons, then it also applies to nusyuz husband. So that nusyuz husband is a husband who does not want to perform the obligations as regulated in Article 80 KHI. Nusyuz in KHI which only applies to wives as stated in article 84 can be reformulated to obtain a new concept. Therefore, the formulation of nusyuz in article 84 KHI can be added to a new concept, namely the concept of nusyuz husband. In other words, in article 84 it will read: 1) The husband can be considered nusyuz if he does not perform the obligations as referred to in article 80 paragraphs (2), (3), and (4) except for legitimate reasons, while the ⁸ wife can be considered nusyuz if he does not want to perform the obligations as referred to in article 83 paragraph (1) except for legitimate reasons. 2) As long as the husband or wife is in a state of nusyuz, the obligation of one party to the other does not apply except in matters for the benefit of the child. 3) The obligation of one party to the other applies again after one of them is not nusyuz. 4) Provisions about the presence or absence of nusyuz from the husband or wife must be based on valid evidence.³⁸

CONCLUSION AND SUGGESTION

Conclusion

The conclusion of this study is: Nusyuz husband is the non -fulfillment of the ³⁴ wife's rights or the non -implementation of the husband's obligations. The discourse of Islamic law and positive law only focuses on the discussion of the nusyuz wife. Husband nusyuz settled in a family way. If it is considered to bring benefits to both, then they can return to home life. However, if reuniting them does not bring benefits, then they can file for divorce.

³⁷ dan lih Hasiah dan Rukmana Prasetyo, 'Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 Tentang Pengha²⁴an Kekerasan Dalam Rumah Tangga, Konsideran Huruf (c) Dan Lih Hasiah Dan Rukmana Prasetyo, Memukul Isteri Yang Nusyuz; Antara Upaya Pendidikan Dalam Islam Dan ²³Prasran Dalam Rumah Tang', *Jurnal*, 7.2 <http://191.153.129/index.php/almaqasid/article/view/4616/pdf_1>. diakses 06 November 2021

³⁸ Muhammad Habib Adi Putra dan Umi Sumbulah, 'Memaknai Kembali Konsep Nusyuz Dalam ⁵⁵Kompilasi Hukum Islam Perspektif Gender & Maqashid Syariah Jasser Auda', *Jurnal Egalita*, 15.1 (2020) <<http://ejournal.uin-malang.ac.id/index.php/egalita/article/view/10179>>. accessed on 08 Juni 2021

Suggestions

This study suggests that ⁷²positive law in Indonesia should accommodate ³⁹the existence of a nusyuz husband. Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law only justifies the wife's nusyuz. Whereas the reality in society and the text in the Qur'an and sunnah explain and justify the existence of the nusyuz husband. There is a need for equal regulation between husband and wife in the matter of nusyuz.

BIBLIOGRAPHY

- Adibah, Ida Zahara, 'Nusyuz Dan Disharmoni Rumah Tangga', *Jurnal Inspirasi*, 2.2 (2018) <<https://ejournal.undaris.ac.id/index.php/inspirasi/article/view/16>>
- Aisyah Nurlia, Nilla Nargis, Elly Nurlaili, 'Nusyuz Suami Terhadap Istri Dalam Perspektif Hukum Islam', *Jurnal Pactum Law Journal*, 1.4 (2018) <<http://repository.lppm.unila.ac.id/13091/>>
- Al-Anshari, Muhammad bin Mukrim bin Ali Abu al-Fadhl Jamaluddin Ibn Manzhur, *Lisān Al-Arab*, cet. ke-3, (Beirut: Dār Shadir)
- Al-Baqi, Muhammad Fuad Abd, *Al-Mu'jam Al-Mufahras Li Alfāz Al-Qurān Al-Karīm* (Bandung: CV. Diponegoro)
- As-Subki, A. Y, *Fiqh Keluarga Pedoman Berkeluarga Dalam Islam* (Jakarta: Amzah, 2010)
- As-Suyuthi, Jalaluddin al-Mahalliy dan Jalaluddin, *Tafsir Jalālain, Juz. I* (Dar al-Ihya' al-Kutub Al-Arabiyyah Indonesia)
- Asy-Syafi'i, Muhammad bin Idris, *Al-Umm, Juz 6*, Cet. ke-1 (Riyad: Dār Al-Wafā', 2001)
- Aulia, Redaksi Nuansa, *Pasal 80 Ayat 5 Berbunyi: "kewajiban Suami Terhadap Istrinya Seperti Tersebut Pada Ayat (4) Huruf a Dan b Di Atas Mulai Berlaku Sesudah Ada Tamkin Sempurna Dari Istrinya. Lihat Tim Redaksi Nuansa Aulia, Kompilasi Hukum Islam*, Second Edi (Bandung: Nuansa Aulia, 2009)
- Binjai, Abdul Halim Hasan, *Tafsir Ahkam* (Jakarta: Kencana, 2006)
- Darajat, Achmad Furqan, 'Tipologi Relasi Suami Istri Dan Indikator Terjadinya Nusyuz', *Jurnal Tafaqquh*, 2.2 (2017) <<http://ejournal.kopertais4.or.id/sasambo/index.php/tafaqquh/article/view/3102>>
- Ghazali, Abdur Rahman, *Fiqh Munakahat* (Jakarta: Kencana, 2010)
- Haswir, 'Penyelesaian Kasus Nusyuz Menurut Perspektif Ulama Tafsir.', *Jurnal Al-Fikra*, 11.2 (2012) <<http://ejournal.uin-suska.ac.id/index.php/al-fikra/article/view/3859>>
- Kamil Muhammad U'waidah, penerjemah M. Abdul Goffar. EM, *Fiqh Wanita, Cet. Ke-1* (Jakarta: Pustaka Al-Kautsar, 1998)
- Katsir, Ibnu, *Tafsir Al-Qur'an Al-Adhim (Tafsir Ibnu Katsir), Juz 5, Alih Bahasa Bahrun Abu Bakar* (Bandung: Sinar Baru Algesindo, 2000)
- Khallaf, Abdul Wahab, M, *Masādir At-Tasyrī' Al-Islāmī Fīmā Lā Nassa Fihā* (Beirut: Dar al-Qalam, 1972)
- Khallaf, Abdullah Wahab, *Ilmu Usul Al-Fiqh, Terj. Noer Iskandar Al-Bansani, Kaidah-Kaidah Hukum Islam*, Cet-8 (123: PT. Raja Grafindo Persada, 2002)
- KHI Pasal 116*
Kompilasi Hukum Islam Pasal 83 Ayat (1) Berbunyi: "Kewajiban Utama Bagi Seorang Istri ialah Berbakti Lahir Dan Batin Kepada Suami Di Dalam Batas-Batas Yang Dibenarkan Oleh Hukum Islam"
- Marriage, Law Number 1 of 1974 concerning, *As Confirmed in the Marriage Law No. 1 of 1974 Article 33 Paragraph (1) It Is Stated That: Husband and Wife Are Obligated to Love Each Other, Respect, Respect, Be Faithful and Provide Physical and Spiritual Assistance to One Another. Then Article 34 Paragra*
- Matondang, Fatma Novida, 'Konsep Nusyuz Suami Dalam Perspektif Hukum Perkawinan Islam', 2009

Masalah Perspective on Husband Nusyuz in Islamic Law..., Jayusman Et al.

- Munib, 'Batasan Hak Suami Istri Dalam Memperlakukan Istri Pada Saat Nusyuz Dan Kemungkinan Sanksi Pidana', *Jurnal Voice Justicia*, 3.2 <<http://www.journal.uim.ac.id/index.php/justisia/article/view/819>>
- Nurul Huda, Jayusman, 'Perspektif Masalah Terhadap Pertimbangan Hakim Pada Putusan Perkara Nomor: 376/Pdt.G/2019/PA.Tnk Tentang Penetapan Hak Hadanah Kepada Ibu Kandung', *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam*, 14.2 (2021) <<http://ejournal.radenintan.ac.id/index.php/ijtima'iyya/article/view/10119/5037>>
- Penjelasan Undang-Undang No. 7 Tahun 1989 Tentang Peradilan Agama Pasal 76*
- Prasetyo, dan lih Hasiah dan Rukmana, 'Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga, Konsideran Huruf (c) Dan Lih Hasiah Dan Rukmana Prasetyo, Memukul Isteri Yang Nusyuz: Antara Upaya Pendidikan Dalam Islam Dan Kekerasan Dalam Rumah Tang', *Jurnal*, 7.2 <http://194.31.53.129/index.php/almaqasid/article/view/4616/pdf_1>
- Qudamah, Ibnu, *Al-Mughnīy* (Mesir: Mathba'ah Al Qahirah, 1969)
- Rizqa Febry Ayu, Rizki Pangestu, 'Modernitas Nusyuz: Antara Hak Dan KDRT', *Yudisia*, 12.1 <<https://journal.iainkudus.ac.id/index.php/Yudisia/article/view/8711>>
- Sabiq, Sayyid, *Fiqh Sunnah, Jilid II* (Madinah: Al-Fatkh Li I'lāam al-Araby, 1990)
- Saebani, Beni Ahmad, *Fiqh Munakahat 2* (Bandung: Pustaka Setia, 2010)
- Sahrani, Tihami dan Sohari, *Fikih Munakahat* (Jakarta: Rajawali Press, 2013)
- Saleh, *Nusyuz Saleh Bin Ganim Al-Saldani* (Yogyakarta: Gema Insani, 2004)
- Selamat, Kasmuri, *Pedoman Mengayuh Bahtera Rumah Tangga (Panduan Perkawinan), Cet. Ke-1* (Jakarta: Kalam Mulia, 1998)
- Sofyan A.P. Kau, dan Zulkarnain Sulaiman, *Fikih Feminis* (Yogyakarta: Pustaka Pelajar, 2014)
- Subhan, Moh, 'Rethinking Konsep Nusyuz Relasi Menciptakan Harmonisasi Dalam Keluarga', *Jurnal Al-'Adalah*, 4.2 (2019) <<https://ejournal.ikhac.ac.id/index.php/adlh/article/download/542/384>>
- Sumbulah, Muhammad Habib Adi Putra dan Umi, 'Memaknai Kembali Konsep Nusyuz Dalam Kompilasi Hukum Islam Perspektif Gender & Maqashid Syariah Jasser Auda', *Jurnal Egalita*, 15.1 (2020) <<http://ejournal.uin-malang.ac.id/index.php/egalita/article/view/10179>>
- Syafi'i, Rahmat, *Ilmu Ushul Fiqih*, Cet. III (Bandung: Pustaka Setia, 2007)
- Syarifuddin, Amir, *Ushul Al-Fiqih* (Jakarta: Kencana, 2009)
- Tarigan, Amiur Nuruddin dan Azhari Akmal, *Hukum Perdata Islam Di Indonesia*, Second edi (Jakarta: Kencana, 2004)
- Thalib, Muhammmad, *20 Perilaku Durhaka Suami Terhadap Istri* (Bandung: Irsayad Baitus Salam, 2002)
- Thobari, *Tafsir At-Tabarī, Juz 8* (Jakarta: Pustaka Azzam, 2008)
- Umam, Chaerul, *Usul Al-Fiqih I* (Bandung: Pustaka Setia, 2000)
- Zuhri Imansyah, Jayusman, Erina Pane, Im Fahimah, Efrinaldi, 'Tinjauan Maqāsid Syariah Terhadap Perkara Harta Bersama Dan Kontribusinya Dalam Pembaruan Hukum Keluarga Islam Di Indonesia (Studi Kasus Di Wilayah Hukum Pengadilan Tinggi Agama Bengkulu)', *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam*, 13.1 (2020)

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