



Reconstruction of Nusyūz in the Compilation of Islamic Law from the Perspectives of Qirā'ah Mubādalāh and Rawls's Theory of Justice

Achmad Kadarisman^{1*}, Saifullah², Erfaniah Zuhriah³, Abd. Rouf⁴, Abdul Hakim⁵

^{1,2,3,4}Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

⁵Universiti of Malaya, Malaysia

*Email: achmadkadarisman@gmail.com

*Corresponding Author

Submitted: May 14, 2025	Accepted: August 14, 2025	Published: August 20, 2025
How to Cite (Chicago): Kadarisman, Achmad, Saifullah Saifullah, Erfaniah Zuhriah, Abd Rouf, and Abdul Hakim. 2025. "Reconstruction of Nusyuz in the Compilation of Islamic Law from the Perspectives of Qirā'ah Mubādalāh and Rawls's Theory of Justice". <i>Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan</i> 12 (2), 374-395. https://doi.org/10.32505/qadha.v12i2.11356 .		

Abstract

The Compilation of Islamic Law in Indonesia gives the impression of marginalizing wives and does not regulate the possibility of *nusyūz* committed by husbands. The existing *nusyūz* norms in Indonesia still reflect gender dominance, which is contrary to the principles of justice and equality increasingly emphasized in modern society. This research seeks to address the legal gap by reconstructing the *nusyūz* norms in Articles 80, 84, and 149 of the Compilation of Islamic Law, drawing on the concept of *qirā'ah mubādalāh* and John Rawls's theory of justice. This study employs legal research using legislative, historical, conceptual, case, and comparative approaches, with qualitative methods for analyzing legal materials. The findings reveal that the current *nusyūz* norms in the Compilation of Islamic Law still contain patriarchal bias and fail to fully realize the principle of relational justice. From the perspective of *qirā'ah mubādalāh*, both husbands and wives have the potential to commit *nusyūz*, thus requiring fair legal treatment. The reconstruction of these norms should affirm the importance of reciprocity (*mubādalāh*) in marital relationships, in which husbands and wives are not positioned hierarchically but as equal partners who fairly fulfill each other's rights and obligations. Meanwhile, Rawls's theory of justice suggests that legal norms should be drafted without gender bias, ensuring justice for all parties, particularly those in vulnerable positions. Therefore, the reconstructed *nusyūz* norms must recognize the mutual rights and obligations of both husband and wife in a fair and equal manner.

Keywords: Compilation of Islamic Law, Qirā'ah Mubādalāh, Rawls's Theory of Justice, Nusyūz

Abstrak

Kompilasi Hukum Islam di Indonesia memberikan kesan memarginalkan istri dan tidak mengatur kemungkinan terjadinya *nusyūz* yang dilakukan oleh suami. Norma *nusyūz* yang ada di Indonesia masih mencerminkan dominasi gender, yang bertentangan dengan prinsip-prinsip keadilan dan kesetaraan yang semakin ditekankan dalam masyarakat modern. Penelitian ini bertujuan untuk mengatasi kesenjangan hukum dengan merekonstruksi norma *nusyūz* dalam Pasal 80, 84, dan 149 Kompilasi Hukum Islam, dengan menggunakan konsep



Qirā'ah Mubādalah dan teori keadilan John Rawls. Penelitian ini merupakan penelitian hukum yang menggunakan pendekatan legislatif, historis, konseptual, kasus, dan komparatif, dengan metode kualitatif dalam menganalisis bahan hukum. Temuan penelitian ini menunjukkan bahwa norma *nusyūz* dalam Kompilasi Hukum Islam masih mengandung bias patriarkal dan belum sepenuhnya mewujudkan prinsip keadilan relasional. Dari perspektif *Qirā'ah Mubādalah*, baik suami maupun istri sama-sama berpotensi melakukan *nusyūz*, sehingga diperlukan perlakuan hukum yang adil. Rekonstruksi norma tersebut harus menegaskan pentingnya prinsip timbal balik (*mubādalah*) dalam hubungan perkawinan, di mana suami dan istri tidak diposisikan secara hierarkis, tetapi sebagai mitra yang setara dalam memenuhi hak dan kewajiban secara adil. Sementara itu, teori keadilan Rawls menekankan bahwa norma hukum harus dirumuskan tanpa bias gender, sehingga keadilan dapat terjamin bagi semua pihak, khususnya mereka yang berada dalam posisi rentan. Oleh karena itu, rekonstruksi norma *nusyūz* harus mengakui hak dan kewajiban timbal balik antara suami dan istri secara adil dan setara.

Kata Kunci: Kompilasi Hukum Islam, *Qirā'ah Mubādalah*, Teori Keadilan John Rawls, *Nusyūz*

Introduction

Islamic teachings affirm that both husband and wife are endowed with balanced rights and obligations. However, in practice, disparities frequently emerge due to the influence of patriarchal social structures.¹ Although the Qur'an emphasizes the principles of justice and mutual cooperation between spouses, many communities continue to regard the husband as the dominant figure within the household.² Such perceptions give rise to forms of injustice, particularly in the distribution of domestic responsibilities and in family decision-making processes, which often disadvantage the position of the wife.³

Within the framework of Islamic law, *nusyūz* is one of the most frequently encountered forms of injustice in marital relations. It refers to the wife's defiance of her religiously prescribed obligations, such as neglecting household duties or disregarding her husband. Nevertheless, the definition of *nusyūz* is often understood in a one-sided manner, disproportionately emphasizing the wife's conduct while failing to adequately address the unjust or even violent behavior of husbands. This imbalance contributes to a skewed understanding of rights and obligations within the household and exacerbates broader social tensions.⁴

In Indonesia, disputes related to *nusyūz* are not always resolved through the Religious Courts but are often settled privately between the spouses themselves or with the

¹ Abd Rouf, Mufidah Ch, and Zaenul Mahmudi, "Joint Property Division in Indonesia : A Gender Equality Viewpoint," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023): 230–50, <https://doi.org/http://dx.doi.org/10.18860/j-fsh.v15i2.23050>.

² Abd Rouf, "Jurimetrics in the Reconstruction of the Joint Property Division Model for Wage-Earner Wives in Indonesia," *Al-Ahkam* 34, no. 1 (2024): 1–32, <https://doi.org/10.21580/ahkam.2024.34.1.17937>.

³ Asniah Asniah, Yeni Huriani, and Eni Zulaiha, "'Kesetaraan Gender Perspektif Hukum Islam Socio Politika,'" *Jurnal Ilmiah Jurusan Sosiologi*, 2023, <https://doi.org/https://journal.uinsgd.ac.id/index.php/socio-politika/article/view/25388>.

⁴ Andi Silva Quadsajul et al., "Nusyuz Suami Dalam Hukum Islam: Analisis Dampak Terhadap Kehidupan Keluarga," *Akhlaq: Jurnal Pendidikan Agama Islam Dan Filsafat* 2, no. 2 (2025): 90–104, <https://doi.org/https://doi.org/10.61132/akhlaq.v2i2.637>.

assistance of local community leaders. What is particularly concerning, however, is that such extra-judicial settlements may lead to violations of Law No. 23 of 2004 on the Elimination of Domestic Violence. Acts such as physical abuse or neglect, which are frequently justified under the pretext of disciplining a spouse, may constitute criminal offenses warranting legal sanctions. A notable example can be found in the Supreme Court cassation ruling No. 2403 K/Pid.Sus/2014, which sentenced a husband to four months' imprisonment for the criminal act of "neglecting another person within his household."⁵ The perpetrator (the husband) argued that his wife had engaged in *nusyūz* and therefore punished her by withholding her rights as a wife. The wife subsequently reported the husband's actions to the authorities, ultimately resulting in his conviction. In principle, such misconduct should be subject to sanctions consistent with the principle of marriage equality.⁶ However, in reality, such equality is rarely upheld.

In the context of a society increasingly oriented toward gender equality, it is crucial for Indonesian law to reform and reconstruct the norms related to *nusyūz*, so that the law does not favor one party over the other. Such reform must also encompass a broader understanding of *nusyūz*—not only referring to the wife's conduct but also including the husband's negligence in fulfilling his responsibilities.⁷—by reconstructing the relevant provisions of the Compilation of Islamic Law (KHI).

In Islamic family law, the relationship between husband and wife is structured to enable both parties to fulfill their respective obligations properly. In doing so, the family can attain both material and spiritual well-being. This concept emphasizes the importance of mutual support and understanding in creating a harmonious and happy household.⁸ The rights and obligations of husband and wife are interdependent and reciprocal: every obligation carried out by the husband toward his wife constitutes her right, and vice versa. Both are equally responsible for meeting each other's needs.

Beyond their rights and obligations, there are also rights held jointly by both spouses.⁹ namely: 1) The right to enjoy sexual relations mutually, willingly, and with affection; 2) The prohibition against marriage with parties related by blood or *mahram* ties; 3) The preservation of lineage by ascribing children to their legitimate father, whether the parents remain married or have divorced; 4) The obligation to treat one another kindly, thereby fostering intimacy between them; and; 5) The right of inheritance for either spouse upon the death of the other.

⁵ Muhammad Alwi Bin Sae Roji, "Putusan Mahkamah Agung Nomor 2403 K/Pid.Sus/2014," 2015, <https://putusan3.mahkamahagung.go.id/direktori/putusan>.

⁶ Al Fitri et al., "Reconstruction Of Nusyuz Concept in Compilation Of Islamic Law," *SMART: Journal of Sharia, Traditon, and Modernity* 1, no. 2 (2021): 143–60.

⁷ Muhammad Habib Adi Putra and Umi Sumbulah, "Memaknai Kembali Konsep Nusyuz Dalam Kompilasi Hukum Islam Perspektif Gender & Maqashid Syariah Jasser Auda," *EGALITA*, 2020, <https://doi.org/http://ejournal.uinmalang.ac.id/index.php/egalita/article/view/10179>.

⁸ Eko Prayetno, "Relasi Suami Istri: Studi Pemikiran Hasbi Ash-Shidieqy, Hamka, Dan M. Quraish Shihab Dalam Q.S Al-Nisa'," *Panangkaran: Jurnal Penelitian Agama Dan Masyarakat* 3, no. 2 (2020): 269–84, <https://doi.org/https://doi.org/10.14421/panangkaran.2019.0302-09>.

⁹ Sifa Mulya Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam)," *Al-Syakhsyiyah: Journal of Law & Family Studies* 3, no. 1 (2021): 98–116, <https://doi.org/https://doi.org/10.21154/syakhsyiyah.v3i1.2719>.

The efforts undertaken by the government in developing Islamic family law deserve due appreciation. Nevertheless, it must also be acknowledged that concerning the norms contained in Articles 80, 84, and 149 of the Compilation of Islamic Law (KHI), significant gaps remain. Among these are the absence of clear guidelines on how to impose sanctions on wives accused of *nusyūz* in a manner consistent with other laws, as well as the lack of discussion on *nusyūz* committed by husbands against their wives, even though classical Islamic jurisprudence already addresses the notion of *nusyūz* by husbands.¹⁰

The reform of Islamic law in Indonesia has developed along two complementary perspectives. First, the law functions in a *dienende functie* (servant function), meaning that it must be responsive to social change. In this regard, law is often seen as lagging behind social dynamics. Second, the law also serves as *ius constituendum* (future-oriented law), indicating that legal norms should be formulated proactively before problems arise, thereby preventing conflict and offering practical solutions. Viewed in this light, the reform of Islamic law in Indonesia is not merely about keeping pace with the times, but rather about creating a more just and comprehensive legal framework. With the right approach, Islamic law can continue to serve as a relevant and beneficial guide for society, safeguarding the values of justice and collective well-being.¹¹ From this paradigm, the *qirā'ah mubādalāh* perspective offers a more equitable and balanced understanding of *nusyūz*, in contrast to patriarchal interpretations that often privilege men. This perspective emphasizes the principle of reciprocity in marital relations, wherein both husband and wife share equal rights and obligations in preserving household harmony. Accordingly, *nusyūz* should not only refer to the wife's disobedience toward her husband, but also to the husband's violations of his wife's rights. Through the lens of *qirā'ah mubādalāh*, *nusyūz* can be reinterpreted more fairly within the marital relationship: it may be committed by either spouse, and both have the right to admonish one another when such conduct arises.¹²

In addition to this, John Rawls's seminal work *A Theory of Justice* introduces the concept of the **veil** of ignorance, which enables decision-making free from personal and social bias. This approach is highly relevant for legal research requiring analyses acceptable across cultural and religious boundaries.¹³

In harmony with *qirā'ah mubādalāh*, Rawls's principle underscores that rules must be designed neutrally, as if individuals did not know their social position – whether as husband or wife. Within the framework of Islamic law, the concept of *nusyūz* can be reinterpreted through this approach. If norms are constructed without gender bias, *nusyūz* will be understood as a violation that may be committed by either spouse against the principles of justice and shared responsibility.

The central emphasis in reconstructing *nusyūz* through the combined perspectives of *qirā'ah mubādalāh* and Rawls's theory of justice lies in shifting the understanding of equality in marital relations. Traditionally, *nusyūz* in the KHI positions the wife as the party subject to sanction for disobedience to her husband. However, through *qirā'ah mubādalāh*, which

¹⁰ Muhammad Ali Thaha, *Tafsir Al Quran Wa I'rabih Wa Bayanah* (Damaskus: Daru Ibn Kathir, 2009).

¹¹ Saifullah, *Refleksi Sosiologi Hukum* (Bandung: Refika Aditama, 2007).

¹² Shivi Mala Ghummiah, "Qiraah Mubadalah Sebagai Dialektika Penafsiran Ayatayat Nusyuz Di Era Kontemporer," *Al-Tadabbur: Jurnal Ilmu Al-Qur'an Dan Tafsir* 8, no. 2 (2023): 359–374.

¹³ John Rawls, *A Theory of Justice: Revised Edition* (United States of America: Harvard University Press, 1971).

prioritizes reciprocity and mutual understanding in spousal relations, and Rawls's veil of ignorance, *nusyūz* ought to be reconceptualized as a violation potentially committed by either party. In this way, the law becomes more just, avoiding bias rooted in traditional gender roles. This reconstruction aims to establish a more universal conception of justice, wherein both husband and wife possess equal rights and obligations in upholding morality, sharing responsibility, and maintaining household harmony.

Based on the issues identified above, this study seeks to reconstruct the norms of *nusyūz* in Articles 80, 84, and 149 of the Compilation of Islamic Law by incorporating the concepts of *qirā'ah mubādalah* and John Rawls's theory of justice.

This study employs a normative legal research design, which focuses on law as its object of inquiry. The research examines theoretical, historical, comparative, and structural aspects of the law, as well as other dimensions, insofar as they pertain to legal norms rather than their practical implementation.¹⁴ Five principal approaches are utilized: the statute approach, the conceptual approach, the historical approach, the case approach, and the comparative approach.¹⁵

Three categories of legal materials are employed in this research: primary, secondary, and tertiary. Primary legal materials include statutory regulations on marriage, such as the Compilation of Islamic Law (KHI), relevant jurisprudence on marriage and *nusyūz*, as well as ratified treaties and conventions. Secondary legal materials consist of Abdul Kodir Faqihuddin's *qirā'ah mubādalah: Tafsir Progresif untuk Keadilan Gender dalam Islam*, John Rawls's *A Theory of Justice: Revised Edition*, along with other relevant books and scholarly articles on marriage and *nusyūz*.¹⁶ Tertiary legal materials comprise mass media reports that highlight the phenomenon of *nusyūz* in contemporary society.

The collection of legal materials was carried out through a document-based method, commonly referred to as library research. This involved gathering written legal sources and analyzing them through content analysis.¹⁷ Content analysis is a research method used to systematically examine and interpret documents or texts by identifying patterns, themes, and key elements embedded in the legal materials.

For the analytical process, the provisions of the Compilation of Islamic Law (Articles 80, 84, and 149) were examined in consideration of their connotative meanings within the relevant socio-legal context. These primary materials were then compared with secondary and tertiary materials to develop a more comprehensive understanding. The comparative process aims to assess how Rawls's principles of justice—particularly “justice as fairness”—can be applied within the framework of Islamic law.

Nusyūz from the Perspective of Qirā'ah Mubādalah

Qirā'ah Mubādalah is a method of reciprocal interpretation, or interpretive reading of mutuality, applied in re-examining the foundational texts of Islam—the Qur'an and Hadith—to develop a more inclusive understanding. In this context, *nusyūz* is not merely

¹⁴ Abdul Kadir Muhammad, *Hukum Dan Penelitian Hukum* (Bandung: PT. Citra Aditya Bakti, 2004).

¹⁵ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2006).

¹⁶ Bahder Johan Nasution, *Metode Penelitian Hukum* (Bandung: CV. Mandar Maju, 2008).

¹⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada, 2010).

understood as the wife's disobedience, such as leaving the home without permission or refusing sexual relations, but also encompasses the husband's indifference and failure to fulfill his responsibilities.¹⁸ This broader perspective offers a more holistic understanding of the dynamics of power and emotion within marital relationships, compelling us to reconsider how sacred texts, when approached through *qirā'ah mubādalāh*, may transform our comprehension of gender equality in the household.¹⁹

This approach underscores that the marital relationship is one of reciprocal benefit and shared responsibility, both of which are essential in building a harmonious family. Studies confirm that mutual respect and cooperation in fulfilling respective roles significantly reduce the potential for *nusyūz*. Accordingly, Muslims are encouraged to view *nusyūz* within the framework of mutuality, wherein both spouses have equal rights to share responsibilities and fulfill their commitments within marriage.

In practice, applying the values of *qirā'ah mubādalāh* can help to reduce the level of conflict and address instances of *nusyūz* more constructively and equitably. In this regard, the *mubādalāh* approach provides an ontological foundation rooted in Islamic teachings that honor the humanity of all individuals, regardless of gender. Moreover, *qirā'ah mubādalāh* relates to how we interpret and critically engage with the influence of broader social superstructures on the phenomenon of *nusyūz*. Through this perspective, *nusyūz* is no longer confined to a patriarchal understanding but is recognized as a relational phenomenon that may involve both husband and wife.²⁰

Qirā'ah Mubādalāh introduces egalitarian values and gender justice into family life. In the phenomenon of *nusyūz*, this approach emphasizes the importance of mutual awareness of rights and obligations within marriage, as well as reciprocal understanding and support between spouses.²¹ Furthermore, *qirā'ah mubādalāh* asserts that both spouses must be recognized as active agents in defining their relationship. Accordingly, it advocates for a relational model grounded in cooperation and communication, which can reduce the likelihood of *nusyūz* and enhance the overall quality of marital relations.²²

As an emerging interpretive framework in approaching religious texts, *qirā'ah mubādalāh* provides a new lens for examining the phenomenon of *nusyūz*—namely, behavior that violates one's marital obligations. This approach centers on gender equality and mutual respect as the foundations governing spousal relations within an Islamic context.

¹⁸ Nor Syamimi Mat Nudin and Nor Firdous Mohamed, "Exploring the Long-Term Psychological Impact of Childhood Abuse on Intimate Partner Violence Victims in Malaysia," *International Journal of Academic Research in Business and Social Sciences* 13, no. 5 (2023): 1331–1341.

¹⁹ Fitri Rafianti and M. Hary Angga Pratama Sinaga, "Nusyuz as the Cause of Domestic Violence: A Comparative Study of Islamic Law and Criminal Law," *International Journal of Law, Environment, and Natural Resources* 3, no. 1 (2023): 11–20, <https://doi.org/https://doi.org/10.51749/injurlens.v3i1.45>.

²⁰ Umar Multazam and Akhmad Roja Badrus Zaman, "The Mubadalāh Approach to Parental Rights and Obligations in Childcare According to Islamic Law," *Journal of Mujaddid Nusantara* 1, no. 2 (2024): 46–58, <https://doi.org/https://doi.org/10.62568/jomn.v1i2.139>.

²¹ M. Bintang Fadhlurrahman et al., "Kajian Kesalingan: Emansipasi Laki-Laki Dan Perempuan Di Ranah Publik Pada Era Kontemporer Dalam Perspektif Al-Quran," *Jurnal Riset Agama* 2, no. 1 (2022): 133–48, <https://doi.org/https://doi.org/10.15575/jra.v2i1.16007>.

²² Amelya Fauzia Putri, "Nusyuz Suami Dan Penyelesaiannya Menurut Perspektif Qirā'ah Mubadalāh (Studi Di Desa Manggar, Tlanakan, Madura)," *Sakina: Journal of Family Studies* 7, no. 4 (2023): 501–13, <https://doi.org/https://doi.org/10.18860/jfs.v7i4.6126>.

In this regard, the roles of husband and wife should be understood as complementary to one another. The Qur'an highlights this in two verses: Surah al-Nisā' (4:34) and Surah al-Nisā' (4:128). The first verse addresses how to respond to a wife's *nusyūz*, while the second guides resolving marital conflict, which may also be applied reciprocally in the context of a husband's *nusyūz*.²³ Research has shown that *nusyūz* is not limited to wives but may also occur on the part of husbands, manifesting in behaviors such as neglect, emotional withdrawal, or harboring unfounded suspicions toward their wives.²⁴

The interpretation of these verses, through the *mubādalah* framework, is carried out by applying three distinctive premises:

1. Islamic texts must address both men and women equally;
2. The principle underlying male-female relations is cooperation and reciprocity, rather than hegemony or domination;
3. Islamic texts remain open to reinterpretation so that the first two premises are consistently reflected in every act of interpretation.

Several scholars have also highlighted the presence of injustice in the legal framework governing *nusyūz*, wherein, in many cases, only the wife is regarded as the party committing *nusyūz*. At the same time, similar conduct on the part of the husband is overlooked. This highlights the need for legal reform to reflect a more just and equitable marital relationship.²⁵ The *mubādalah* approach encourages us to reassess these conventional understandings and adopt a more inclusive perspective, in which both spouses share equal responsibility for their conduct within marriage.²⁶

In interpreting the positive norms enshrined in Articles 80, 84, and 149 of the Compilation of Islamic Law (KHI), *qirā'ah mubādalah* offers a fairer and more respectful framework for understanding marital relations, particularly in addressing issues of *nusyūz*. This approach emphasizes equality and shared responsibility, standing in contrast to traditional interpretations that tend to reinforce patriarchal biases. The following is an assessment of Articles 80, 84, and 149 of the Compilation of Islamic Law:

Article 80 of the Compilation of Islamic Law

This article stipulates that the husband is obliged to provide financial support (*nafkah*) to his wife, including basic needs, housing, and medical expenses. Within the framework of *qirā'ah mubādalah*, this norm should be understood as a shared responsibility between both spouses. The wife also plays a role in providing emotional and material support for the family. The duties of husband and wife must be complementary, strengthening family bonds

²³ Azis Abdul Sidik and Ihsan Imaduddin, "Analisis Penafsiran Tokoh Feminis Terhadap Ayat-Ayat Nusyuz Dalam Al-Quran," *Jurnal Iman Dan Spiritualitas* 3, no. 1 (2023): 11-18, <https://doi.org/https://doi.org/10.15575/jis.v3i1.23771>.

²⁴ Abdul Kodir Faqihuddin, *Qiraah Mubadalah Tafsir Progresif Untuk Keadilan Gender Dalam Islam* (Yogyakarta: IRCiSoD, 2021).

²⁵ Muhammad Badaruddin, "Penyelesaian Nusyuz Dalam Kesetaraan Gender Perspektif Teori Mubadalah," *Al-Ittihad: Jurnal Pemikiran Dan Hukum Islam* 9, no. 1 (2023): 1-9, <https://doi.org/https://doi.org/10.61817/ittihad.v9i1.111>.

²⁶ Fadhlurrahman et al., "Kajian Kesalingan: Emansipasi Laki-Laki Dan Perempuan Di Ranah Publik Pada Era Kontemporer Dalam Perspektif Al-Quran."

and minimizing the potential for *nusyūz* arising from dissatisfaction or perceived injustice in the distribution of responsibilities.²⁷

The concept of *nafkah* in *qirā'ah mubādalah* underscores the wife's role not only as a recipient but also as an active contributor to the family's economic well-being. She is regarded as a partner who provides both emotional and material support. Balanced distribution of responsibilities between spouses reduces the likelihood of disputes and tension within the household. Thus, the application of *qirā'ah mubādalah* values in the context of *nafkah* contributes positively to family life by fostering cooperation and fairness.

Article 84 of the Compilation of Islamic Law

This article states that a wife is obligated to obey her husband, provided that such obedience does not contravene Islamic law. From the perspective of *qirā'ah mubādalah*, obedience (*ṭā'ah*) must be viewed within the context of mutual understanding and negotiation, rather than domination. This principle calls upon spouses to conduct their marriage based on *musyawarah* (deliberation), whereby decisions are made jointly and grounded in equitable consensus.²⁸

The concept of obedience in *qirā'ah mubādalah* highlights equality in marital relations. In this sense, obedience does not signify unconditional submission by the wife to her husband, but rather a relationship in which both parties mutually respect and honor each other. The application of *musyawarah* in family life further strengthens trust and fosters a more egalitarian partnership.

Article 149 of the Compilation of Islamic Law

This article provides legal protection for a spouse who experiences *nusyūz*. From the *qirā'ah mubādalah* perspective, dissatisfaction on the part of either spouse that leads to *nusyūz* should be understood as an indication of disharmony in the relationship that requires joint resolution. Instead of judging one party as solely at fault, *qirā'ah mubādalah* encourages collaborative initiatives to restore harmony. This approach allows both spouses to engage in self-reflection and evaluate their respective roles and behaviors within the marital relationship.²⁹

Article 149 thus affirms the importance of legal protection for the aggrieved spouse. While *nusyūz* is conventionally framed as disobedience to marital obligations, *qirā'ah mubādalah* interprets dissatisfaction as a signal of deeper issues within the relationship's dynamics. As a hermeneutical approach to understanding religious texts, *qirā'ah mubādalah* emphasizes cooperation and reciprocal communication as essential means of resolving marital conflict and preserving the integrity of the household.

The concept of *nusyūz* is not limited to physical or verbal acts but also encompasses emotional and psychological imbalances that may arise within a marital relationship. The implementation of *qirā'ah mubādalah* in addressing *nusyūz* offers a constructive framework for repairing fractured relationships. Rather than focusing solely on punishment or sanctions

²⁷ Miswanto, "Kritik Konsep Nusyuz Dalam Kompilasi Hukum Islam (Perspektif Teori Mubadalah)," *YUSTISI* 11, no. 2 (2024): 209–19, <https://doi.org/https://doi.org/10.32832/yustisi.v11i2.16676>.

²⁸ Miswanto.

²⁹ Miswanto.

against the party deemed guilty, *qirā'ah mubādalah* invites both spouses to perceive the issue as a shared challenge to be resolved collaboratively.

The primary expectation of these provisions is that *qirā'ah mubādalah* be incorporated into the positive norms of the Compilation of Islamic Law (KHI), thereby creating a more respectful and empathetic marital atmosphere. Another vital aspiration is that *qirā'ah mubādalah* may transform the paradigm of understanding and applying Islamic law in ways that reflect greater gender equity. This approach encourages broader social change, fostering healthier and more harmonious spousal relationships.

Nevertheless, from the perspective of *qirā'ah mubādalah*, the provisions of the Compilation of Islamic Law—particularly Articles 80, 84, and 149 related to *nusyūz*—still reveal significant shortcomings that warrant careful examination in the process of legal reconstruction. One of the most notable weaknesses is that these provisions often put women at a disadvantageous position. Furthermore, they often fail to reflect a balanced recognition of the rights and responsibilities of both spouses.

For example, Article 84 defines *nusyūz* exclusively in terms of a wife's failure to fulfill her obligations. By contrast, *qirā'ah mubādalah* demonstrates that *either spouse may commit nusyūz*. This narrow interpretation—restricting *nusyūz* to wives—risks exacerbating inequality in marital relations. When only wives are deemed responsible for marital conflict, women may be unjustly blamed for relational breakdowns, while the misconduct or negligence of husbands, which may equally harm the marriage relationship, is overlooked or ignored.

The implementation of this narrow definition of *nusyūz* also neglects the importance of communication and cooperation between husband and wife in building a healthy relationship. As a corrective step, the law needs to develop a more inclusive concept of *nusyūz*, whereby both husband and wife may be held accountable for behaviors that undermine marital harmony.

Article 149, which regulates the resolution of conflicts arising from *nusyūz*, tends to emphasize punitive measures rather than solutions that allow for dialogue and reconciliation. An approach that intimidates or punishes one party without considering the broader context merely escalates tension within the relationship. Such measures create unhealthy power dynamics and fail to address the problem constructively.³⁰

The punitive orientation embedded in Article 149 provides little space for conflict resolution through communication and mutual understanding between spouses. By focusing on punishment, this provision risks intensifying mutual distrust and deepening polarization. As an alternative, the law should consider incorporating mediation or counseling as integral components of conflict resolution.

The Compilation of Islamic Law frequently falls short of reflecting the principles of justice and equality, which should serve as the foundation of marital relations. The existing provisions do not embody the principles of *Qirā'ah Mubādalah*, which call for a balanced recognition of rights and responsibilities between spouses. Without reconstruction, the law risks perpetuating restrictive and unresponsive norms that fail to address contemporary

³⁰ Sidik and Imaduddin, "Analisis Penafsiran Tokoh Feminis Terhadap Ayat-Ayat Nusyuz Dalam Al-Quran."

gender dynamics.³¹ Constructive dialogue and negotiation should therefore form a central element of legal reform in resolving domestic issues.

In reconstructing these articles, a more inclusive and egalitarian approach lies in applying the principles of *qirā'ah mubādalah*, namely by eliminating gender-biased categorizations that view the roles of husband and wife solely from a traditional perspective. The reconstruction of the Compilation of Islamic Law (KHI) must also consider the need to create an open space for dialogue in resolving conflicts.

Compilation of Islamic Law from John Rawls's Perspective of Justice

John Rawls did not specifically address marital law in Indonesia. However, his primary concern lies in the principles of social justice and the distribution of wealth, rather than in regulating marriage within a particular national context. Nonetheless, Rawls's principles of justice may be applied in analyzing marital law, including Islamic family law, through the lens of his foundational concept of *Justice as Fairness*.

Rawls's ideas on justice can be linked to the values embedded in *Pancasila*, particularly the first principle, *Belief in the One and Only God*. This principle functions not only as a spiritual foundation but also as a driving force for the implementation of the other principles, including the second, *Just and Civilized Humanity*. Together, these principles emphasize the importance of respecting universal human values, wherein every individual is regarded as equal as a creation of God. This aligns with Rawls's principle of *equal liberty*, which underscores the necessity of equal freedoms for all individuals.³²

The relationship between *Pancasila* and Rawls's principles of justice is reflected in the legal framework articulated in the Preamble of the 1945 Constitution. According to this preamble, the people are entitled to fundamental rights and freedoms. Within Rawls's theory of justice, these basic rights and freedoms that must be guaranteed to every Indonesian citizen are detailed in the Constitution, encompassing the right to a decent life, the right to self-preservation, and the right to meet basic needs – all of which are consistent with Rawls's perspective.³³

The concept of justice introduced by John Rawls is consistent with the principles contained in the Compilation of Islamic Law (KHI), particularly in its recognition that acts of *nushuz* may be committed by either the husband or the wife. The application of the principle of equality in the KHI reflects the law's commitment to relational justice within the family,

³¹ Jirzanah and Budisutrisna, ““Women's Equality in Islamic Teachings Seen Through the Perspective of Fair and Civilized Humanity (Kemanusiaan Yang Adil Dan Beradab),” *Jurnal Filsafat* 33, no. 2 (2023): 246–69, <https://doi.org/https://doi.org/10.22146/jf.82044>.

³² Syukron Wahyudhi and Faza Achsan Baihaqi, “Kontekstualisasi Teori Keadilan John Rawls Pada Konstelasi Kemasyarakatan Di Indonesia (Studi Korelasi Antara Al-Quran Dan Bibel),” *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 6, no. 2 (2023): 258–69, <https://doi.org/https://doi.org/10.31538/almada.v6i2.3393>.

³³ Andra Triyudiana and Neneng Putri Siti Nurhayati, “Penerapan Prinsip Keadilan Sebagai Fairness Menurut John Rawls Di Indonesia Sebagai Perwujudan Dari Pancasila,” *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 2, no. 1 (2024): 1–13, <https://doi.org/https://doi.org/DOI:10.11111/dassollen.xxxxxxx>.

which includes acknowledging the roles and rights of both parties in marriage as part of a just social system.³⁴

John Rawls chose the basic structure of society—particularly the family—as the central subject of his theory of social justice, recognizing that this structure encompasses diverse and complex social positions. By understanding these dynamics, Rawls sought to develop a theory of justice capable of addressing such inequalities and establishing a foundation for a more just and equitable society.³⁵

The provisions of the Compilation of Islamic Law, however, continue to portray *nusyūz* as being exclusively on the part of women. Likewise, its mechanism for controlling *nusyūz* is primarily through the suspension of the husband's obligation to provide financial support (*nafkah*) to his wife. In reality, however, many Indonesian women today can work and earn income not only to support themselves but also their children and even their husbands. Consequently, the articles of the KHI are increasingly viewed as irrelevant, leaving a legal vacuum. It is within this context that the concepts of *mubādalah* and John Rawls's *Justice as Fairness* may function optimally, contributing to the development of legal solutions that fill this gap in a comprehensive, decisive, and beneficial manner, while ensuring justice for both spouses. Between *mubādalah* and *Justice as Fairness*, a precise alignment emerges in their scope and application—namely, within constitutional norms and the family—both of which prioritize equality and reciprocity.

The Relationship between John Rawls's Principles of Justice and Islamic Marital Law:

1. Rights and obligations in Islamic marriage: According to Islamic family law (as codified in the Indonesian Compilation of Islamic Law), several provisions may appear unequal, such as the husband's role as the head of the household and his greater financial responsibilities. From Rawls's perspective, however, Islamic marital law must ensure that such inequalities do not disadvantage the weaker party—namely, women—and must guarantee the protection of wives' rights, particularly in matters of inheritance, divorce, and protection from domestic violence.
2. The Difference Principle: Rawls argued that inequalities are acceptable only if they benefit the least advantaged members of society. In the context of Islamic family law, this means that the asymmetry in spousal roles must be structured in such a way that it provides advantages to women and children, particularly by granting them social and economic protection.

John Rawls also emphasized the importance of fundamental individual liberties within a just society. This principle emphasizes granting individuals broad freedoms, provided that these freedoms do not infringe upon the rights of others. Its application can be illustrated as follows:

³⁴ Nur Solikin and Moh. Wasik, "The Construction of Family Law in the Compilation of Islamic Law in Indonesia: A Review of John Rawls's Concept of Justice and Jasser Auda's Maqashid Al-Shari'a," *Ulumuna* 27, no. 1 (2023): 315–40, <https://doi.org/https://doi.org/10.20414/ujis.v27i1.708>.

³⁵ Mustafid et al., "Sanksi Kebiri Dalam Konteks Kejahatan Seksual Pada Anak Perspektif Hukum Islam Dan Teori Keadilan John Rawls," *Yurisprudencia: Jurnal Hukum Ekonomi* 9, no. 2 (2023): 148–63, <https://doi.org/https://doi.org/10.24952/yurisprudencia.v9i2.9430>.

1. Freedom to choose a spouse: In Islamic family law, a guardian (*walī*) plays a significant role in determining a woman's marriage partner. From Rawls's perspective, this raises the question of whether such an arrangement affords women sufficient freedom to choose their life partners by the principle of fundamental liberty
2. Divorce and individual freedom: A key provision in Islamic family law concerns divorce procedures, wherein the husband is granted the unilateral right of *ṭalāq* (repudiation), while a wife must undergo more complex procedures, such as filing for *cerai gugat* (contested divorce), if she wishes to end the marriage. From Rawls's standpoint, this arrangement invites scrutiny as to whether it generates inequality in individual freedom, particularly the wife's freedom to exit an unhealthy marital relationship.

One of the significant debates in applying Rawls's principles to Islamic family law concerns the position of women within the legal framework. Within Rawls's framework, especially the Difference Principle, it is essential to evaluate whether existing inequalities genuinely benefit the weaker party. Islamic family law frequently faces challenges in its integration with the national legal system, particularly in strengthening the principles of justice proposed by John Rawls—namely, ensuring legal protections for those in weaker positions within the family structure.³⁶

The application of Rawls's principles of justice to Islamic marital law opens space for reflection on the extent to which such law can create social justice and equality for all parties, particularly women. Islamic family law could become more equitable if Rawls's principles were applied—by granting adequate freedoms and protections for women and children, and by ensuring that any inequality in the law is permissible only when it produces greater benefits for those who are most vulnerable in society.

Rawls's Principles of Justice and *Nusyūz* can be understood through the application of both the Principle of Equality and the Difference Principle. The first principle, the Principle of Greatest Equal Liberty, emphasizes that every individual should possess equal rights and freedoms. In the marital context, this principle can be used to evaluate the position of women in Islamic family law, particularly to determine whether certain provisions restrict or infringe upon their fundamental liberties. For instance, in cases of *nusyūz*, if a wife feels compelled to withhold sexual relations or leave the marital home due to unjust treatment by her husband, such actions may be understood as efforts to preserve her dignity and freedom.³⁷ Meanwhile, Rawls's second principle, the Difference Principle, asserts that social and economic inequalities are acceptable only if they benefit the least privileged members of society. Within Islamic family law, disparities in marital relations—

³⁶ Alex Kusmardani et al., "The Development of Ideas on The Reform and Transformation of Islamic Family Law Into Legislation in Islamic Countries," *JURNAL SYNTAX IMPERATIF: Jurnal Ilmu Sosial Dan Pendidikan* 4, no. 5 (2023): 644–62, <https://doi.org/https://doi.org/10.36418/syntax-imperatif.v4i5.296>.

³⁷ Syafruddin Syam, Syahrul Syahrul, and Siti Ameliyah, "Pembangunan Politik Hukum Islam Pada Masa Orde Baru, Reformasi Dan Pasca Reformasi," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 17, no. 2 (2023): 1069–86, <https://doi.org/https://doi.org/10.35931/aq.v17i2.1992>.

such as in the regulation of nusyūz – must therefore be carefully assessed to ensure that they do not place women at a disadvantage.³⁸

The primary critique of Islamic family law about *nusyūz* lies in the presence of gender inequality in the treatment of husbands and wives. The law often grants husbands greater authority in managing household affairs and making decisions, which may conflict with Rawls's principles of justice. For instance, the husband's right to pronounce *ṭalāq* (divorce) more easily than the wife's more complicated divorce procedures has drawn considerable criticism.³⁹ From the perspective of law and justice, women's rights concerning divorce, financial support (*nafkah*), and protection from violence must be emphasized more strongly to ensure that these rights are safeguarded both legally and socially.

Based on the foregoing analysis, the application of Rawls's principles can support the expansion of reform in Islamic family law, making it more just and equitable. The implementation of John Rawls's principles of justice in analyzing *nusyūz* underscores the importance of adapting Islamic family law to create fairness for all parties within marriage. A critical evaluation of existing inequalities—especially those related to divorce rights, financial support, and child protection—is therefore necessary. Such reform is expected to safeguard the fundamental rights of women and children in marriage while establishing a more just and egalitarian legal structure within society. The following illustrates the application of John Rawls's principles of justice in analyzing Articles 80, 84, and 149 of the Compilation of Islamic Law (KHI):

Article 80

Article 80 of the Compilation of Islamic Law (KHI) regulates the rights of spouses in marriage, including the right to mutual love and respect. From Rawls's perspective, this provision can be analyzed through the lens of distributive justice, which emphasizes that rights and obligations within a social structure must be arranged in a way that benefits all parties, particularly those who are most vulnerable. The essential point of Article 80 states: "If the wife commits nusyūz, the husband has the right to withhold financial support (*nafkah*)."

Its relationship with Rawls's principles can be understood in two ways. First, the Principle of Equality (Principle of Greatest Equal Liberty) raises questions regarding the wife's freedom, as every individual should have the liberty to determine their actions as long as they do not harm others. Second, the Difference Principle suggests that any inequality must provide benefits to the least advantaged. Considering the inherent disparities in divorce rights and the right to leave the marital home, Article 80 requires revision to grant greater freedom to women, particularly in urgent situations such as domestic violence. Such a reconstruction aligns with Rawls's emphasis on protecting fundamental freedoms and safeguarding individuals who are more vulnerable in society.

³⁸ Arif Sugitanata, "Transformasi Konsep Hadhanah Di Indonesia: Analisis Kemaslahatan Pada Surat Edaran Mahkamah Agung Nomor 1 Tahun 2017," *JURNAL DARUSSALAM: Pemikiran Hukum Tata Negara Dan Perbandingan Mazhab* 3, no. 2 (2023): 302–16, <https://doi.org/https://doi.org/10.59259/jd.v3i2.66>.

³⁹ Maskur Rosyid, "Istishab Sebagai Pemecahan Masalah Kekinian," *Syariah: Jurnal Hukum Dan Pemikiran* 18, no. 1 (2018): 45–64, <https://doi.org/https://doi.org/10.18592/sy.v18i1.2125>.

Article 84

Article 84 of the Compilation of Islamic Law (KHI) concerns the conduct of husbands and wives in marriage, including their respective rights and obligations, as well as the legal consequences that may arise when one party fails to fulfill such obligations. When analyzed through the lens of John Rawls's principles of justice, several significant points can be identified. The essence of Article 84 of the KHI is: *"Concerning the consequences borne by a wife when she is proven to have committed nusyūz, based on valid evidence."*

Its relation to Rawls's principles can be understood as follows. From the perspective of the Principle of Equality (Principle of Greatest Equal Liberty), this article may be seen as favoring the stronger party – the husband – since it allows the suspension of his obligation to provide *nafkah* (financial support) to a wife deemed *nusyūz*. However, Rawls maintained that inequality is legitimate only when it benefits the least advantaged. In this context, wives who are already in a vulnerable or marginalized position, including victims of domestic violence, should retain their right to financial support and protection. Similarly, under the Difference Principle, the article appears to privilege the husband by permitting the termination of *nafkah* to a wife deemed *nusyūz*. Yet, according to Rawls, any inequality is acceptable only if it serves to benefit those who are least advantaged.

Therefore, in situations involving injustice or domestic violence, women must still be guaranteed their rights to *nafkah* and protection from their husbands. Financial support should be regarded as a fundamental right, one that is not contingent solely on the wife's *nusyūz* status, but also on her broader social and emotional conditions within the marriage.

Article 149

Article 149 of the Compilation of Islamic Law (KHI) serves as a primary reference for regulating divorce matters within the framework of Islamic law in Indonesia. It grants authority to the courts to resolve issues arising from divorce, including the determination of *nafkah*, child custody, and the division of joint property.⁴⁰ Within this framework, the application of Rawls's principles of justice becomes highly relevant, as any legal resolution must ensure fairness for all parties, especially those who are more vulnerable, such as wives and children. The essence of Article 149 of the KHI is: *"A husband may withhold post-divorce nafkah if the wife is deemed to have committed nusyūz against her husband."*

Its relation to Rawls's principles can be elaborated as follows. From the perspective of the Principle of Equality (Principle of Greatest Equal Liberty), this provision grants husbands broader authority to initiate divorce, while wives may only file for divorce under more complex procedures, such as *ceraai gugat* (contested divorce). From Rawls's perspective, such an arrangement risks placing wives in a more unequal position, as they face greater obstacles in obtaining the right to divorce compared to husbands. Similarly, under the Difference Principle, any inequality in divorce rights must be carefully scrutinized. The husband's easier access to *ṭalāq* (divorce) may disadvantage wives who remain trapped in unjust or abusive marriages.

In the spirit of legal reform, women should be granted more equal rights in initiating divorce, particularly in cases of *nusyūz* or domestic violence. Granting women greater ease in

⁴⁰ Rouf, Ch, and Mahmudi, "Joint Property Division in Indonesia : A Gender Equality Viewpoint."

obtaining divorce would create a balance between husband and wife, enabling both to end unhealthy or unjust relationships.

From the foregoing discussion, it becomes clear that all three articles – Articles 80, 84, and 149 of the KHI – contain inherent inequalities that may disadvantage the weaker party in the household, especially women. Based on Rawls’s principles of justice, these inequalities must be evaluated to ensure that they genuinely benefit the weaker party – namely, women – by guaranteeing them equal rights to freedom, financial support, and divorce within marriage.

Table 1: Reconstruction of Nusyūz Norms

No	Nusyūz	Initial Construction	Weakness	Reconstruction
1.	Article 80	<ol style="list-style-type: none"> 1) The husband is the leader of his wife and household, although important household matters must be decided jointly between husband and wife. 2) The husband is obliged to protect his wife and provide for the household according to his ability. 3) The husband must provide religious education to his wife and allow her to pursue knowledge beneficial for religion, the nation, and society. 4) According to his income, the husband must bear: <ol style="list-style-type: none"> a) <i>Nafkah</i> (living expenses), clothing, and housing for his wife; b) Household expenses, healthcare, and medical costs for wife and children; c) Educational 	<p>Article 80 verse (1) positions the husband as the household leader, giving the impression that the wife occupies a subordinate role. Although it requires joint decisions, the imbalance embedded in this provision creates injustice for wives when making significant household decisions.</p>	<p>Verse (1)</p> <p>Husband and wife serve as equal partners in leading the household. Important household decisions must be made through deliberation (<i>musyawarah</i>), with both parties equally entitled to participate freely and fairly.</p> <p>Verse (7)</p> <p>The husband’s obligations to provide <i>nafkah</i>, housing, and other necessities for his wife remain valid even in the event of disagreement or conflict, except where there is proven domestic violence or arbitrary conduct by the wife.</p> <p>Verse (8)</p> <p>The husband remains obliged to provide basic protection in the form of <i>nafkah</i>, housing, and care, even when disputes or disobedience arise</p>

		<p>expenses for children.</p> <p>5) The husband's obligation toward his wife as stipulated above applies only after the wife has achieved full <i>tamkīn</i> (marital submission).</p> <p>6) The wife may release her husband from his obligations as referred to in points (a) and (b).</p> <p>7) The husband's obligations lapse if the wife commits <i>nusyūz</i>.</p>		<p>within the marriage.</p>
2.	Article 84	<p>1) A wife may be considered <i>nusyūz</i> if she refuses to fulfill her obligations as stated in Article 83(1), except with a legitimate reason.</p> <p>2) While in a state of <i>nusyūz</i>, the husband's obligations as stated in Article 80(4)(a)(b) do not apply, except for matters concerning the children.</p> <p>3) The husband's obligations resume after the wife ceases to be in a state of <i>nusyūz</i>.</p> <p>4) Determination of whether the wife is in <i>nusyūz</i> must be based on valid evidence.</p>	<p>Article 80 Verse (7) and Article 84(2) state that a husband's obligations lapse if the wife is in <i>nusyūz</i>. This opens the possibility for a husband to deny financial support or housing to a wife who may already be in hardship or vulnerability (e.g., domestic violence or economic difficulties). Such provisions risk abandoning wives without protection.</p> <p>These articles are also overly dependent on the wife's <i>nusyūz</i> status to determine rights and obligations, placing women in a precarious position that relies heavily on subjective and</p>	<p>Verse (2) Even when the wife is considered in <i>nusyūz</i>, the husband's obligations to provide <i>nafkah</i> and housing remain in force, along with responsibilities related to the welfare of the children.</p> <p>Verse (3) Deleted.</p> <p>Verse (5) The husband shall be considered <i>nusyūz</i> if he fails to provide <i>nafkah</i>, housing, and other necessities without justifiable reason, or if he inflicts physical, mental, or economic harm upon his wife.</p> <p>Additional Article 84(b):</p> <p>Verse (1) Both husband and wife are jointly obliged to maintain household harmony and avoid</p>

			potentially unjust assessments.	<p>behavior constituting <i>nusyūz</i>.</p> <p>Verse (2) Any occurrence of <i>nusyūz</i> must first be addressed through dialogue and mediation, taking into account emotional, social, and economic factors.</p> <p>Verse (3) If mediation fails, the matter shall be resolved in court, where judgment will be based on the principle of shared welfare rather than the interests of only one party.</p> <p>Verse (4) Procedures for proving and handling cases of <i>nusyūz</i> must be conducted fairly and proportionally.</p> <p>Verse (5) In cases where one party suffers harm due to <i>nusyūz</i>, they have the right to request separation of residence or file for divorce.</p>
3.	Article 149	<p>When a marriage ends due to <i>ṭalāq</i> (repudiation), the former husband is obliged to:</p> <p>a) Provide a reasonable <i>mut'ah</i> (consolatory gift) to his former wife, in the form of money or goods, unless the divorce occurred before consummation</p>	<p>Article 149 requires husbands to provide support during <i>'iddah</i>, but Article 152 reduces this right if the wife is deemed <i>nusyūz</i>. This exacerbates injustice in divorce, as wives – already facing economic hardship – may lose</p>	<p>(b) The husband must provide reasonable <i>mut'ah</i> to his former wife, which includes adequate <i>nafkah</i> to support her livelihood during the waiting period (<i>'iddah</i>), except when the divorce results from the wife's proven fault.</p>

	<p>(<i>qobla al-dukhūl</i>).</p> <p>b) Provide <i>nafkah</i>, housing, and clothing during the wife's waiting period (<i>'iddah</i>), unless she was divorced irrevocably (<i>ṭalāq ba'in</i>), deemed <i>nusyūz</i>, or not pregnant.</p> <p>c) Pay any outstanding dowry (<i>mahr</i>) in full, or half if divorce occurred before consummation.</p> <p>d) Cover childcare expenses until the children reach the age of 21.</p>	<p>their entitlement to <i>'iddah</i> support solely due to their <i>nusyūz</i> status, even when it may result from the husband's misconduct.</p>	
--	---	--	--

The reconstruction of *nusyūz* norms in the Compilation of Islamic Law (KHI) highlights the imbalances that arise in husband-wife relationships. Article 80 positions the husband as the head of the household and specifies his obligations, yet these obligations may lapse if the wife is deemed *nusyūz*, placing her in a vulnerable position. The reconstruction emphasizes equality through joint decision-making and ensures that the husband's duties remain in effect except in cases of violence or arbitrary conduct. Article 84 reinforces this principle by establishing shared responsibilities, resolving issues through dialogue and mediation, and granting the aggrieved party the right to request separate residence or divorce, while limiting subjective determination of *nusyūz*. Article 149, related to divorce, affirms the husband's obligation to provide *mut'ah* and *'iddah* support unless the wife is proven at fault, aiming to protect wives from economic injustice due to their *nusyūz* status. Overall, this reconstruction underscores the need to revise *nusyūz* norms to guarantee equality, protect vulnerable wives, and implement the principles of distributive justice within Islamic family law.

Conclusion

This study finds that the norms contained in the Compilation of Islamic Law (KHI), particularly Articles 80, 84, and 149, remain discriminatory and gender-biased. These norms assume that the act of *nusyūz* can only be committed by the wife, thereby placing the legal consequences solely on women. Such a perspective contradicts the fundamental principles of justice in Islam, which recognize the reciprocal responsibilities between spouses. The *qirā'ah mubādalāh* perspective emphasizes the importance of reciprocity (*mubādalāh*) in marital relations. Husbands and wives are not parties in a hierarchical relationship but rather equal partners who fulfill their rights and obligations fairly. Meanwhile, John Rawls's theory of justice asserts that legal norms must be formulated based on principles of justice for all parties, especially those in vulnerable positions. The proposed reconstruction is to amend the *nusyūz* norms in Articles 80, 84, and 149 of the Compilation of Islamic Law by incorporating the concept of *qirā'ah mubādalāh* and John Rawls's theory of justice into a new norm.

References

- Asniah, Asniah, Yeni Huriani, and Eni Zulaiha. “Kesetaraan Gender Perspektif Hukum Islam Socio Politica.” *Jurnal Ilmiah Jurusan Sosiologi*, 2023. <https://doi.org/https://journal.uinsgd.ac.id/index.php/socio-politica/article/view/25388>.
- Badaruddin, Muhammad. “Penyelesaian Nusyuz Dalam Kesetaraan Gender Perspektif Teori Mubadalah.” *Al-Ittihad: Jurnal Pemikiran Dan Hukum Islam* 9, no. 1 (2023): 1–9. <https://doi.org/https://doi.org/10.61817/ittihad.v9i1.111>.
- Celbis, Osman, İsmail Altın, Nusret Ayaz, Turgay Börk, and Serdar Karatoprak. “Evaluation of Incest Cases: 4-Year Retrospective Study.” *Journal of Child Sexual Abuse* 29, no. 1 (2020): 79–89. <https://doi.org/https://doi.org/10.1080/10538712.2019.1634664>.
- Djawas, Mursyid, and Sri Astuti Abdul Samad. “Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehese Community According to Islamic Law.” *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (2020): 65. <https://doi.org/https://doi.org/10.22373/sjhk.v4i1.5271>.
- Fadhlurrahman, M. Bintang, Naqiyah Mukhtar, Shofia Nur Aini, and Hikmatul Siti Masitoh. “Kajian Kesalingan: Emansipasi Laki-Laki Dan Perempuan Di Ranah Publik Pada Era Kontemporer Dalam Perspektif Al-Quran.” *Jurnal Riset Agama* 2, no. 1 (2022): 133–48. <https://doi.org/https://doi.org/10.15575/jra.v2i1.16007>.
- Faiz, Pan Mohamad. “Teori Keadilan Jhon Rawls.” *Jurnal Konstitusi* 6 (2009): 15.
- Faqihuddin, Abdul Kodir. *Qiraah Mubadalah Tafsir Progresif Untuk Keadilan Gender Dalam Islam*. Yogyakarta: IRCiSoD, 2021.
- Fitri, Al, Alamsyah A, Sadari S, and Susanto Is. “Reconstruction Of Nusyuz Concept in Compilation Of Islamic Law.” *SMART: Journal of Sharia, Tradition, and Modernity* 1, no. 2 (2021): 143–60.
- Ghummiah, Shivi Mala. “Qiraah Mubadalah Sebagai Dialektika Penafsiran Ayatayat Nusyuz Di Era Kontemporer.” *Al-Tadabbur: Jurnal Ilmu Al-Qur’an Dan Tafsir* 8, no. 2 (2023): 359–74.
- Habib, Muhammad, Muhammad Shaleh, and Muhammad Hasbi. “Peran Kiai Dalam Menyelesaikan Konflik Keluarga.” *El-Mujtama: Jurnal Pengabdian Masyarakat* 1, no. 2 (2021): 184–93. <https://doi.org/https://doi.org/10.47467/elmujtama.v1i2.729>.
- Ibrahim, Johnny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2006.
- Jirzanah, and Budisutrisna. “Women’s Equality in Islamic Teachings Seen Through the Perspective of Fair and Civilized Humanity (Kemanusiaan Yang Adil Dan Beradab).” *Jurnal Filsafat* 33, no. 2 (2023): 246–69. <https://doi.org/https://doi.org/10.22146/jf.82044>.
- Kusmardani, Alex, Siah Khosyiaah, Oyo Sunaryo Mukhlas, Nurrohman, and Usep Saepullah. “The Development of Ideas on The Reform and Transformation of Islamic Family Law Into Legislation in Islamic Countries.” *JURNAL SYNTAX IMPERATIF: Jurnal Ilmu Sosial Dan Pendidikan* 4, no. 5 (2023): 644–62. <https://doi.org/https://doi.org/10.36418/syntax-imperatif.v4i5.296>.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana Prenada, 2010.

- Miswanto. "Kritik Konsep Nusyuz Dalam Kompilasi Hukum Islam (Perspektif Teori Mubadalah)." *YUSTISI* 11, no. 2 (2024): 209-19. <https://doi.org/https://doi.org/10.32832/yustisi.v11i2.16676>.
- Muhammad, Abdul Kadir. *Hukum Dan Penelitian Hukum*. Bandung: PT. Citra Aditya Bakti, 2004.
- Multazam, Umar, and Akhmad Roja Badrus Zaman. "The Mubadalah Approach to Parental Rights and Obligations in Childcare According to Islamic Law." *Journal of Mujaddid Nusantara* 1, no. 2 (2024): 46-58. <https://doi.org/https://doi.org/10.62568/jomn.v1i2.139>.
- Mustafa, Zulhas'ari. "Problematika Pemaknaan Teks Syariat Dan Dinamika Maslahat Kemanusiaan." *Jurnal Mazahibuna* 2, no. 1 (2020): 37-58. <https://doi.org/https://doi.org/10.24252/mh.v2i1.14282>.
- Mustafid, Sulastri, Achmad Napis Qurtubi, and Hosen. "Sanksi Kebiri Dalam Konteks Kejahatan Seksual Pada Anak Perspektif Hukum Islam Dan Teori Keadilan John Rawls." *Yurisprudencia: Jurnal Hukum Ekonomi* 9, no. 2 (2023): 148-63. <https://doi.org/https://doi.org/10.24952/yurisprudencia.v9i2.9430>.
- Nasution, Bahder Johan. *Metode Penelitian Hukum*. Bandung: CV. Mandar Maju, 2008.
- Ni'ami, Mohammad Fauzan. ""Tafsir Kontekstual Tujuan Pernikahan Dalam Surat Ar Rum:21." *Jurnal Nizham* 9, no. 1 (2022): 11-23. <https://doi.org/https://doi.org/10.32332/nizham.v10i1.4469>.
- Nudin, Nor Syamimi Mat, and Nor Firdous Mohamed. "Exploring the Long-Term Psychological Impact of Childhood Abuse on Intimate Partner Violence Victims in Malaysia." *International Journal of Academic Research in Business and Social Sciences* 13, no. 5 (2023): 1331-41.
- Nurani, Sifa Mulya. "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam)." *Al-Syakhsiyyah: Journal of Law & Family Studies* 3, no. 1 (2021): 98-116. <https://doi.org/https://doi.org/10.21154/syakhsiyyah.v3i1.2719>.
- Prayetno, Eko. "Relasi Suami Istri: Studi Pemikiran Hasbi Ash-Shidieqy, Hamka, Dan M. Quraish Shihab Dalam Q.S Al-Nisa'." *Panangkaran: Jurnal Penelitian Agama Dan Masyarakat* 3, no. 2 (2020): 269-84. <https://doi.org/https://doi.org/10.14421/panangkaran.2019.0302-09>.
- Putra, Muhammad Habib Adi, and Umi Sumbulah. "Memaknai Kembali Konsep Nusyuz Dalam Kompilasi Hukum Islam Perspektif Gender & Maqashid Syariah Jasser Auda." *EGALITA*, 2020. <https://doi.org/http://ejournal.uinmalang.ac.id/index.php/egalita/article/view/10179>.
- Putri, Amelya Fauzia. "Nusyuz Suami Dan Penyelesaiannya Menurut Perspektif Qira'ah Mubadalah (Studi Di Desa Manggar, Tlanakan, Madura)." *Sakina: Journal of Family Studies* 7, no. 4 (2023): 501-13. <https://doi.org/https://doi.org/10.18860/jfs.v7i4.6126>.
- Quadsajul, Andi Silva, Rihan Dwi Putri, Nur Ramadhani, and Kurniati Kurniati. "Nusyuz Suami Dalam Hukum Islam: Analisis Dampak Terhadap Kehidupan Keluarga." *Akhlak: Jurnal Pendidikan Agama Islam Dan Filsafat* 2, no. 2 (2025): 90-104.

- <https://doi.org/https://doi.org/10.61132/akhlak.v2i2.637>.
- Rafianti, Fitri, and M. Hary Angga Pratama Sinaga. "Nusyuz as the Cause of Domestic Violence: A Comparative Study of Islamic Law and Criminal Law." *International Journal of Law, Environment, and Natural Resources* 3, no. 1 (2023): 11–20. <https://doi.org/https://doi.org/10.51749/injurlens.v3i1.45>.
- Rawls, John. *A Theory of Justice: Revised Edition*. United States of America: Harvard University Press, 1971.
- Roji, Muhammad Alwi Bin Sae. "Putusan MAHKAMAH AGUNG Nomor 2403 K/Pid.Sus/2014," 2015. <https://putusan3.mahkamahagung.go.id/direktori/putusan/d2ee512c3d3413da4836fdea720d93b4>.
- Rosyid, Maskur. "Istishab Sebagai Pemecahan Masalah Kekinian." *Syariah: Jurnal Hukum Dan Pemikiran* 18, no. 1 (2018): 45–64. <https://doi.org/https://doi.org/10.18592/sy.v18i1.2125>.
- Rouf, Abd. "Jurimetrics in the Reconstruction of the Joint Property Division Model for Wage-Earner Wives in Indonesia." *Al-Ahkam* 34, no. 1 (2024): 1–32. <https://doi.org/10.21580/ahkam.2024.34.1.17937>.
- Rouf, Abd, Mufidah Ch, and Zaenul Mahmudi. "Joint Property Division in Indonesia : A Gender Equality Viewpoint." *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023): 230–50. <https://doi.org/http://dx.doi.org/10.18860/j-fsh.v15i2.23050>.
- Saifullah. *Refleksi Sosiologi Hukum*. Bandung: Refika Aditama, 2007.
- Sidik, Azis Abdul, and Ihsan Imaduddin. "Analisis Penafsiran Tokoh Feminis Terhadap Ayat-Ayat Nusyuz Dalam Al-Quran." *Jurnal Iman Dan Spiritualitas* 3, no. 1 (2023): 11–18. <https://doi.org/https://doi.org/10.15575/jis.v3i1.23771>.
- Solikin, Nur, and Moh. Wasik. "The Construction of Family Law in the Compilation of Islamic Law in Indonesia: A Review of John Rawls's Concept of Justice and Jasser Auda's Maqashid Al-Shari'a." *Ulumuna* 27, no. 1 (2023): 315–40. <https://doi.org/https://doi.org/10.20414/ujs.v27i1.708>.
- Sugitanata, Arif. "Transformasi Konsep Hadhanah Di Indonesia: Analisis Kemaslahatan Pada Surat Edaran Mahkamah Agung Nomor 1 Tahun 2017." *JURNAL DARUSSALAM: Pemikiran Hukum Tata Negara Dan Perbandingan Mazhab* 3, no. 2 (2023): 302–16. <https://doi.org/https://doi.org/10.59259/jd.v3i2.66>.
- Syam, Syafruddin, Syahrul Syahrul, and Siti Ameliyah. "Pembangunan Politik Hukum Islam Pada Masa Orde Baru, Reformasi Dan Pasca Reformasi." *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 17, no. 2 (2023): 1069–86. <https://doi.org/https://doi.org/10.35931/aq.v17i2.1992>.
- Thaha, Muhammad Ali. *Tafsir Al Quran Wa I'rabih Wa Bayanih*. Damaskus: Daru Ibn Kathir, 2009.
- Triyudiana, Andra, and Neneng Putri Siti Nurhayati. "Penerapan Prinsip Keadilan Sebagai Fairness Menurut John Rawls Di Indonesia Sebagai Perwujudan Dari Pancasila." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 2, no. 1 (2024): 1–13. <https://doi.org/https://doi.org/DOI: 10.11111/dassollen.xxxxxxx>.
- Wahyudhi, Syukron, and Faza Achsan Baihaqi. "Kontekstualisasi Teori Keadilan John Rawls Pada Konstelasi Kemasyarakatan Di Indonesia (Studi Korelasi Antara Al-Quran Dan

Bibel)." *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 6, no. 2 (2023): 258–69.
<https://doi.org/https://doi.org/10.31538/almada.v6i2.3393>.