

Handling of Nusyuz Cases in Marriage According to the Aceh Family Law Qanun (Ahwal Al-Syakhsiyah) Number 2 Of 2019

Zaki Satria

Sekolah Tinggi Ilmu Syari'ah (STIS) Nahdlatul Ulama Aceh, Indonesia

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ABSTRACT

This study aims to analyze the handling of nusyuz cases in marriage according to the Aceh Family Law Qanun (Ahwal Al-Syakhsiyah) Number 2 of 2019 and its implications for the protection of the rights and obligations of spouses. Nusyuz is understood as the disobedience of one party toward marital obligations, which has the potential to cause disharmony within the household. This research employs a normative juridical approach, using statutory analysis of Aceh Qanun Number 2 of 2019, supported by secondary legal materials in the form of classical Islamic jurisprudence and contemporary Islamic family law literature. The findings indicate that the Qanun regulates nusyuz comprehensively by emphasizing principles of justice, deliberation, and reconciliation prior to pursuing further legal measures. The handling of nusyuz is not solely oriented toward the imposition of sanctions but is directed toward the restoration of marital relations through advice, mediation, and the involvement of the Sharia Court. Furthermore, the Qanun seeks to balance Islamic legal values with human rights principles, particularly in preventing domestic violence and discrimination within marriage. Nevertheless, the implementation of nusyuz provisions continues to face challenges, including differing interpretations among law enforcement officials and the community, as well as limitations in supervision mechanisms. This study is expected to contribute academically to the development of Islamic family law in Aceh and to serve as a reference for policymakers and Sharia judicial practitioners in handling nusyuz cases in a fair and proportional manner. Accordingly, this research underscores the importance of harmonizing Acehnese local norms, national law, and Islamic values in building a responsive family law system oriented toward public welfare and substantive justice for Muslim families.

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Corresponding Author:

Zaki Satria

Sekolah Tinggi Ilmu Syari'ah (STIS) Nahdlatul Ulama Aceh, Indonesia; satriazaki@gmail.com

1. INTRODUCTION

Marriage in the perspective of Islamic law and positive law in Indonesia is seen as a bond of birth and mind that aims to create a family that is *sakinah, mawaddah, and rahmah*. This goal requires a balance of rights and obligations between husband and wife as legal subjects in the marriage bond (Muntashir, 2024). Within this framework, marital relations are not only spiritual, but also juridical, so any violation of marital obligations has legal and social implications. However, in the practice of domestic life, violations of these obligations often occur and in Islamic law it is known as *nusyuz* (Multazam, 2024: 12–14). The phenomenon of *nusyuz* is one of the main factors in the emergence of domestic conflicts that can lead to prolonged disputes, domestic violence, and divorce. Therefore, the regulation and handling of *nusyuz* is a crucial issue in the development of contemporary Islamic family law. (Amelia et al., 2022)

In Aceh, the regulation regarding *nusyuz* is specifically accommodated in Qanun Aceh Number 2 of 2019 concerning Family Law (*Ahwal Al-Syakhsyah*) as part of Aceh's specificity in the application of Islamic law. This Qanun functions as a positive legal instrument that binds the people of Aceh while reflecting Islamic *fiqh* values in the local context (Akhyar, 2023: 101–103). Nevertheless, the substance of the problem that arises lies not only in the normative regulation of *nusyuz*, but also in how the concept is understood, applied, and enforced in judicial practice and social life. Differences in interpretations of *nusyuz*—both those derived from classical jurisprudence and modern legal approaches—often cause legal uncertainty and potential injustice, especially for those who are in vulnerable positions in marital relationships (Arianto & Rinwanto, 2025).

A number of previous studies have discussed *nusyuz* from the perspective of Islamic jurisprudence, the Compilation of Islamic Law, and family law in various Muslim countries. However, the majority of these studies are still normative-dogmatic and tend to place *nusyuz* textually based on classical *fiqh* views, without relating it in depth to the context of the specificity of Acehese law and the dynamics of the implementation of Qanun Aceh Number 2 of 2019 (Pangestu, 2021: 66–68). In addition, research that specifically examines the handling of *nusyuz* cases in the Qanun – especially related to the settlement mechanism, the protection of the rights of husbands and wives, and its conformity with the principles of justice and human rights – is still relatively limited. This condition shows that there is a significant and relevant research gap for further study. (Handayani, 2012)

Based on these conditions, this study focuses attention on the root of the problem of handling *nusyuz* in marriage according to the Qanun of Aceh Family Law Number 2 of 2019. The main question studied is how the concept of *nusyuz* is formulated and handled in the qanun, and the extent to which its regulation is able to answer the issue of justice and protection of rights in marital relationships (Arianto & Rinwanto, 2025: 58–60). This study also seeks to identify normative and implementive weaknesses in the regulation of *nusyuz* that have the potential to cause bias, multiple interpretations, and imbalances in husband and wife relations (HIDAYATULLAH, n.d.)

The novelty of this research lies in the placement of the *nusyuz* arrangement in Qanun Aceh Number 2 of 2019 as the main object of study with a critical and contextual approach. This research is expected not only to add to the treasure of Islamic family law studies in Aceh, but also to provide new findings in the form of an analysis of the conformity between qanun norms, Islamic sharia principles, and the value of substantive justice in the practice of family law. Thus, this research is expected to be able to complement, correct, and enrich the findings of previous research and make a conceptual contribution to the development of a more just and responsive Islamic family law in Aceh (Nurmala & Iwan, 2025).

2. METHODS

This study uses a normative legal research method (normative juridical) with a legislative approach (*statute approach*) and conceptual approaches (*conceptual approach*). The normative legal research method is used to examine law as a norm or rule contained in laws and regulations and legal

doctrines, not as a social behavior of society (Soekanto & Mamudji, 2019: 13–15). The legislative approach is carried out by examining Qanun Aceh Number 2 of 2019 concerning Family Law (Ahwal Al-Syakhsiyah) as the main object of research, while the conceptual approach is used to analyze the concept *Nusyuz* in Islamic family law based on classical fiqh views and contemporary thought (Marzuki, 2017: 136–138). This method is seen as appropriate because the focus of the research is directed at the analysis of legal norms and the conceptual construction of handling *Nusyuz*, not on the empirical or sociological aspects (Maulidar, 2023)

The research data sources consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include Qanun Aceh Number 2 of 2019 and other laws and regulations related to Islamic family law. Secondary legal materials are in the form of scientific journal articles indexed by Google Scholar, fiqh books, and academic literature that discusses *nusyuz*, the rights and obligations of husband and wife, and justice in Islamic family law (Khairuddin & Jalil, 2021: 40–42; Pangestu, 2021: 62–64). Tertiary legal materials are used as a support to clarify legal terms and concepts, such as legal dictionaries and encyclopedias of Islamic law (Ibrahim, 2018: 52–53).

The technique of collecting legal materials is carried out through literature studies (*library research*), namely by searching, inventorying, and systematically reviewing relevant legal materials (Soekanto & Mamudji, 2019: 38–40). Data analysis was carried out in a qualitative descriptive manner with legal interpretation methods and content analysis (*content analysis*) to assess the consistency of norms, identify regulatory weaknesses, and formulate conceptual findings on handling *Nusyuz* justice in the context of Islamic family law in Aceh (Asnawi et al., 2023)

3. FINDINGS AND DISCUSSION

The Concept of Nusyuz in the Perspective of Islamic Family Law

The concept of *nusyuz* in Islamic family law is one of the central issues that is directly related to the relationship of rights and obligations of husband and wife in marriage. Etymologically, *nusyuz* means an attitude of elevation or defiance, which in the context of marriage is interpreted as a rejection or denial of obligations that should be carried out by one of the parties. In the Qur'an and hadith, *nusyuz* is mentioned as a condition of household disharmony that must be dealt with gradually and proportionately. Classical jurisprudence generally defines *nusyuz* as the disobedience of the wife to the husband, especially related to obedience and domestic obligations, although in some literature the concept of *nusyuz* is also known by the husband (Khairuddin & Jalil, 2021: 41–44; Multazam, 2024: 10–13)

However, the emphasis of classical fiqh that tends to focus on the wife is inseparable from the patriarchal social and cultural construction at the time of the formation of the doctrine. In the development of contemporary Islamic family law thought, the concept of *nusyuz* began to be interpreted more broadly and in a balanced way by placing husband and wife as legal subjects who both have the potential to violate marital obligations. This paradigm shift can also be seen in the shift in the purpose of handling *nusyuz*, from a corrective and hierarchical approach to a reconstructive approach that emphasizes the restoration of relationships and relational justice (Yunus, 2020)

The initial findings of this study show that the concept of *nusyuz* is dynamic and open to contextual reinterpretation, especially when faced with the principles of substantive justice and equality in modern marriage relationships. Thus, *nusyuz* is no longer solely understood as an individual mistake, but as an indicator of the existence of inequality in relations that require a fair and balanced settlement.

Nusyuz Regulation in Qanun Aceh Number 2 of 2019

Qanun Aceh Number 2 of 2019 concerning Family Law (Ahwal Al-Syakhsiyah) is a positive legal instrument that accommodates Islamic fiqh values in the context of Aceh's specificity. In this Qanun, *nusyuz* is regulated as a violation of the obligation of marriage which has certain legal consequences. These arrangements include *nusyuz* criteria, legal consequences for the rights and obligations of

husband and wife, as well as settlement mechanisms that emphasize deliberation, advice, and peace efforts before further legal steps are taken through sharia courts (Akhyar, 2023: 99–103; Sulaiman, 2020)

Normatively, Qanun Aceh shows a serious effort to integrate the principles of Islamic sharia with a more persuasive and preventive approach to modern law. The handling of nusyuz is not directed directly at sanctions, but rather at efforts to improve marital relations and prevent greater conflicts. However, the results of the analysis show that some of the provisions in the Qanun are still general and do not provide clear parameters regarding the nusyuz indicator, thus opening up space for multiinterpretation in the practice of its application. The main findings in this section show that Qanun Aceh has accommodated the basic principles of Islamic law, but has not fully provided adequate operational clarity for law enforcement officials and the public in determining and handling cases nusyuz consistently. (Nurmala & Iwan, 2025)

Handling the Nusyuz Case in the Perspective of Justice and Rights Protection

The handling of nusyuz cases cannot be separated from the issue of substantive justice and the protection of husband and wife human rights. A number of studies show that a gender-biased understanding of nusyuz has the potential to place wives as parties who are more often blamed and harmed in the family law enforcement process (Arianto & Rinwanto, 2025: 54–57; Mulia, 2015: 207–210). This condition shows the importance of a fairer and more sensitive approach to power relations in marriage.

In the context of Aceh, Qanun Aceh Number 2 of 2019 normatively seeks to balance the rights and obligations of husband and wife. However, this balance depends heavily on the interpretation of law enforcement officials and sharia court judges. Without a progressive interpretation, the nusyuz arrangement has the potential to continue to reproduce structural injustices that are contrary to human rights principles and Islamic justice values itself (Arifin, 2019: 30–33; Nurlaelawati, 2010: 20–23). The analytical findings of this study show that the protection of rights has been pursued normatively, but it has not been fully optimal conceptually and applicatively, especially in ensuring justice for both parties in the marital relationship. (Maisun et al., 2022)

Normative Weaknesses and Challenges of Qanun Implementation

Further analysis reveals a number of normative weaknesses in the regulation of nusyuz in Qanun Aceh, including the absence of objective indicators to determine nusyuz acts, the potential subjectivity of law enforcement officials, and weak supervision mechanisms in the implementation of decisions (Akhyar, 2023: 106–109; Hidayat, 2021: 60–63). This weakness has implications for the non-uniform handling of nusyuz cases in the field.

In addition, implementation challenges are also influenced by social and cultural factors. Empirical studies show that society's understanding of nusyuz is still strongly influenced by patriarchal constructions that consider wife's obedience as the main benchmark of domestic harmony (Amelia et al., 2022: 90–93; Fakhri, 2016: 52–55). The critical findings of this study confirm the gap between qanun norms and social realities, which demands a renewed approach in the implementation of Islamic family law in Aceh. This section is the main contribution (novelty) of the research. Based on previous findings, this study offers a reconstruction of the handling of nusyuz that emphasizes a mediative, restorative, and relational justice-based approach. This approach is in line with the direction of Islamic family law reform in Indonesia which places the welfare of the family and the protection of rights as the main goal of the law (Rofiq, 2013: 120–123; Syarifuddin, 2018: 298–301).

This reconstruction emphasizes that the handling of nusyuz should not only be punitive, but must be directed at the restoration of marital relations, the prevention of violence, and the creation of substantive justice for husband and wife. Thus, the harmonization between Qanun Aceh, Islamic sharia values, and human rights principles is the main prerequisite for the realization of a responsive and fair Islamic family law system. (HIDAYATULLAH, n.d.)

In the practice of the Aceh Syar'iyah Court, nusyuz cases generally arise in disputes over alimony, spousal rights and obligations, and divorce. The decisions of the Syar'iyah Court show that judges often use a normative approach based on qanun, but the assessment of nusyuz is highly dependent on the judge's proof and interpretation of the marital relationship of the parties. This condition corroborates the research findings that the absence of nusyuz operational indicators has the potential to cause differences in verdicts between cases and between judges (Akhyar, 2023: 106–109; Hidayat, 2021: 60–63). Thus, judicial practice shows the need for clearer and more equitable interpretive guidelines.

Legal Policy Recommendations (Based on Findings)

Based on the findings of the study, the handling of nusyuz in Islamic family law in Aceh still leaves a number of normative and practical problems that need serious attention from policymakers and law enforcement officials. One of the main problems is the lack of elaboration of operational nusyuz indicators in Qanun Aceh Number 2 of 2019. The existing provisions tend to be general and normative, thus opening up space for multiple interpretations in judicial practice in the Syar'iyah Court. This condition has the potential to cause inconsistency in the decision and legal uncertainty for the parties to the case. Therefore, it is necessary to formulate nusyuz indicators that are clearer, more detailed, and applicable, both through the revision of the qanun and through implementing regulations, so that judges have more objective and measurable guidelines in assessing the presence or absence of nusyuz elements in a case. (Jailani, 2020)

In addition to the normative aspect, this study also recommends strengthening the mediative and restorative approach in handling nusyuz cases. So far, the handling of nusyuz has often been trapped in a legalistic approach that focuses on the imposition of certain sanctions or legal consequences, such as the loss of alimony. In fact, in the context of Islamic family law, the main purpose of marriage is to realize calmness, affection, and justice in the relationship between husband and wife. Therefore, the handling of nusyuz should be directed at the restoration of marital relations and the protection of the rights of the parties, not solely at punishment. The mediative and restorative approaches, as affirmed by Rofiq (2013: 120–123), allow for a more humane and just solution, taking into account the roots of the conflict and the dynamics of relationships in the household.

Furthermore, this study emphasizes the importance of increasing the capacity of Syar'iyah Court judges, especially in the perspective of gender justice and substantive justice. A narrow and textual understanding of the concept of nusyuz risks reproducing inequality in the relationship between husband and wife, where the wife is more often positioned as the guilty party. Therefore, judges need to be equipped with a comprehensive understanding of power relations in the family, socio-cultural contexts, and principles of substantive justice, so that the resulting verdicts are not gender-biased and remain in line with Islamic justice values (Ulfa, 2023)

The next recommendation is the need for harmonization between qanun, Islamic sharia values, and human rights principles. Islamic family law in Aceh cannot be separated from the ever-evolving social dynamics, including the growing awareness of the protection of women's rights and justice in the family. This harmonization is important so that the qanun is not only normatively valid, but also fair and socially relevant.

Thus, the main contribution of this research lies in efforts to simplify, criticize, and recommend the reconstruction of the handling of nusyuz in Acehnese family law. This study emphasizes that nusyuz is not just a unilateral normative violation, but a matter of relations and justice that must be understood contextually. This kind of approach is expected to be able to encourage a more fair, humane, and common benefit-oriented family law practice. (Malacca, 2025)

4. CONCLUSION

Based on the results of the research and discussion that has been described, it can be concluded that the regulation and handling of nusyuz cases in marriage according to Qanun Aceh Number 2 of 2019 concerning Family Law (Ahwal Al-Syakhsiyah) is a normative effort to integrate Islamic sharia

values into the positive legal system of Aceh. The Qanun has provided a basic framework for the concept of nusyuz, its legal consequences, as well as a handling mechanism that emphasizes the principles of deliberation, advice, and gradual settlement before further legal steps are taken. This approach shows the orientation of Acehnese family law which is not only repressive, but also preventive and restorative in maintaining the integrity of the household.

However, this study found that the nusyuz arrangement in Qanun Aceh Number 2 of 2019 still leaves a number of normative weaknesses and implementation challenges. These weaknesses lie in the absence of clear and operational indicators regarding the determination of nusyuz, thus opening up space for multiinterpretation and potential subjectivity in its application. In addition, in the context of justice and protection of rights, the concept of nusyuz still has the potential to be understood in a biased manner if it is not interpreted contextually and fairly, especially in unbalanced marital relationships.

Therefore, this study emphasizes the importance of reinterpretation and reconstruction of the handling of nusyuz that is more oriented towards substantive justice, protection of the rights of both parties, and the restoration of marital relations. The harmonization between Aceh's Qanun norms, Islamic sharia principles, and human rights values is an important prerequisite in realizing an Islamic family law system that is responsive to social dynamics. Thus, this research is expected to make a conceptual contribution to the development of Islamic family law in Aceh and become a reference for policymakers and sharia justice practitioners in handling nusyuz cases in a fair, proportionate, and family-oriented manner.

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