

## DOMESTIC VIOLENCE AS A CONSEQUENCE OF NUSYUZ UNDER THE ISLAMIC LAW AND LEGISLATION OF INDONESIA

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Article History: Received on 07<sup>th</sup> February, Revised on 19<sup>th</sup> March, Published on 19<sup>th</sup> May 2019

### Abstract

**Purpose of the study:** This paper aims to clarify the views of Islamic law on the acts of domestic violence as a consequence of nusyuz (disobedience) and its position under the legislation of Indonesia.

**Methodology:** This research was conducted by using the library research method. Documentary techniques are used in data collection, primary data is obtained from books, journals, and writings that directly discuss the material or problem under study, and from the secondary literature, which implicitly discusses it and is still quite relevant to be a comparison.

**Main Findings:** The findings of this discussion revealed that the legislation of Indonesia is very protective of women, which is in line with the Islamic law principle that prioritizes persuasive and not repressive efforts in overcoming conflicts in the household. The compilation of Islamic law does not regulate the beating of wife, but the rule contained in Law No. 23 of 2004 on the elimination of domestic violence prohibits violence in the household.

**Applications of this study:** This study can be useful for Indonesian people, especially for women and human right activists.

**Novelty/Originality of this study:** The novelty in this discussion is the enlightenment of the public about the existence of a relationship between Islamic law and applicable law in Indonesia, wherein Islamic law is often not considered to be in harmony with the law in existing discussions.

**Keywords:** Domestic Violence, Islamic Law, Nusyuz, Women, Legislation of Indonesia

### INTRODUCTION

Marriage is a sacred contract between a man and a woman, not only giving civil rights and obligations for both, but also an act of devotion from human beings to God. Based on the noble purpose of a marriage, to build a happy family, and to keep faith in God, it is necessary to formulate some rules that give legal certainty in relation to the rights and obligations from both sides in the bond of marriage (Rofiq, 1998). If their rights and obligations are fulfilled, then the desirable family unit can be realized on the basis of love and affection.

Based on Elli Nurhayati (Nurhayati, 1999), the concept of "family" is generally built through four perspectives as follows: (1) nuclear family; where a family is built from the three main components: husband, wife, and child; (2) happy family; (3) family as continuance from generation to generation; and (4) family as a whole one marriage. From those perspectives, it leads to a conclusion that family is a unit that consists of father, mother, child, and other relatives, whereby all components unite through harmony and clear roles.

Everyone wishes to have or build a happy family. But in reality, tension and conflicts may appear anytime in the form of disagreement, arguments, disputes, and even fighting between family members. They have to be solved wisely through discussion and negotiation among the members. If we look in real life, it turns out that many problems are reputed as simple and small, but may cause distraction to the balance and harmony of the family relationship. The understanding about religious thoughts takes a serious role for the harmony of marriage, because misperception of religious thoughts may cause someone to commit acts perceived to be right, including violence. In Islam, the term nusyuz (disobedience) is often misunderstood as an excuse for men to engage in some kind of domestic violence towards their wives.

Issues related to nusyuz are usually connected to a wife, in which nusyuz is an act or behavior of a wife who is disobedient to her husband. It is stated in the Al-Quran and is also explained in Tafseer (explanation of the passages of the Quran) and other Fiqh books that the term nusyuz is applicable to women (wife) with certain rules allowing men (husband) to have authority over women by resorting to certain actions following women's disobedience. The first treatment of advice being given by a husband is allowed by the law. Sleeping together is a symbol of harmony in

marriage. If the first treatment does not succeed, then the second treatment a husband can do is sleep separately. If this treatment also fails to change the wife's actions, then the next treatment allowed is that the husband can beat his wife ([Hasyim, 2001](#)).

These three treatments are in conformity with the message explained in the Al-Quran, Sura An-Nisa' (4): 34, which means: Men are the leaders for women, because Allah (God) has given them (men) more superiority above others (women), and because they (men) have provided a part of their property for women. For that reason, a good woman is the one worshipping Allah and protecting herself when her husband is not around, because Allah protects (them). If women are disobedient, then give them advice, separate from them in the bed, and beat them. After that, if they obey you, do not cause any difficulties for them in any way. It is true that Allah is the most high and enormous.

Although various regulatory controls have been formulated with the aim of eliminating violence against women, many cases still occur in reality. This is evident from the data on violence against women obtained from the National Women's Commission (KOMNAS Perempuan), which is given below: ([Perempuan, 2017](#))

**Table 1:** Data of violence against women

No	Year	Personal Domain <sup>#</sup>	Community Domain <sup>§</sup>	Number
1	2015	199,390 (68%)	90.898 (31 %)	293,220
2	2016	202,137 (78%)	57,013 (22%)	259,150
3	2017	247,397 (71%)	96,868 (27.8%)	348,446

<sup>#</sup>Personal domain means that the violence occurs within the scope of the nuclear family and extended family, including in this case people who have close relations with the concerned such as boyfriend. <sup>§</sup>Community domain means the scope of the wider community including unknown foreigners.

*Source: KOMNAS Perempuan*

The data above may not describe the actual situation of violence against women that have occurred. The data can only record cases of violence against women as reported to various lawyers and courts. This can be understood because violence against women is a crime that is referred to as an iceberg phenomenon in criminology, such that only the surface is apparent. Nevertheless, the data shows high numbers of violence against women. There is a relatively high increase in the number of cases in 2017. Therefore, this paper aims to clarify the views of Islamic law on the acts of domestic violence as a consequence of nusyuz (disobedience) and its position under the legislation of Indonesia.

## LITERATURE REVIEW

Nur Faizah ([Faizah, 2013](#)) describes the issue of Nusyuz is actually for both husband and wife. On the other hand, in a field perspective, Kompilasi Hukum Islam (KHI) said that nusyuz is only for the wife. Thus, based on this article, KHI has been marginalizing and dehumanizing women.

Rahma Pramudya Nawang Sari in an article titled "Nusyuz Marital Rape (KDRT) Perspektif Hukum Perkawinan Islam" gives an overview of the definition of Nusyuz ([Nawang Sari, 2012](#)) that husband and wife are burdened with rights and obligations in household life. Violation of these rights and obligations is called Nusyuz. This article also gives the view that Nusyuz in Islamic marriage law is closely related to sighth taklik, namely the pledge of a husband to protect his wife from arbitrary acts.

Oom Mukarrimah and Asep Ubaidillah ([Mukarromah & Ubaidillah, 2016](#)) write the nushuz issue in an article entitled "Criminalization on Husband Wife Relationship toward Nushuz in the perspective of Islamic law and Criminal Code". That article explores and determines the aspects of the criminalization law of nushuz behavior, both in Islamic law and the criminal code and also to know the relevance of the Islamic law and the criminal code. The conclusion of this study finds that in Islamic law, violence toward wife is classified in term of jarimah (a criminal act) which is regulated in Islamic criminal law (fiqh jinayah). Furthermore, the substances of domestic violence against wife are part of jarimah (classified into jarimah takzir). The goal of this literature review is to compare the understanding of nushuz from various legal perspectives

## METHODOLOGY

This study used library research method and the source of data in this study is obtained from books, journals, or literature, which matches the material of discussion, namely, various works that discuss the issue of nusyuz, family, rights and protection of women, marriage law in Indonesia, as well as some literature on domestic violence.

Documentary techniques are used in data collection, and the primary data is obtained from books, journals, and writings that directly discuss the material or problems under study, and from the secondary literature, which implicitly discusses it and is still quite relevant to be a comparison.

This research is descriptive analysis where inventory and identification is used through critical analysis and the existing legal classification process, with the first objective of determining the identification criteria for selecting and sorting between positive norms, social norms, and non-legal norms. The second objective is to correct the norms identified as positive norms. The third objective is to set the identified norms and collect them into a comprehensive system.

### **Domestic Violence as Consequence of Nusyuz under the Islamic Law**

Most muftis define nusyuz as the disobedience of wife towards her husband. For instance, in his explanation, Ibnu Katsir defines nusyuz as "a wife who fights back, is disobedient, and leaves home without permission". At-Thabari as quoted by mulia defines nusyuz as a wife's resistance towards her husband, refusing sexual intercourse is considered as the expression of disobedience, hatred, and resistance ([Mulia, 2005](#)).

Asghar Ali Engineer ([Engineer, 2003](#)) has the same idea with Ar-Razi that the expression of nusyuz itself can be in oral form or by action; thus, if the wife says something rude to her husband, it means that she commits nusyuz in an oral form, and if she refuses to sleep with her husband or disobeys him, then she commits nusyuz by action (fa'al).

Nur Faizah ([Faizah, 2013](#)) states that apart from nusyuz for a wife, nusyuz for a husband can be in a form of utterance, behavior, or both. It is also elaborated in detail by Saleh bin Ganim ([Ganim, 2001](#)) as: (1) not talking to his wife or always using blaspheming and hurtful words; (2) mocking her physical or mental weakness; (3) suspicious towards his wife, not asking her to sleep together; and (4) asking his wife to do bad things that are forbidden by Allah. While behaviors considered as nusyuz are: (1) not doing sexual activity with the wife without any strong or clear reasons; (2) torturing wife, either by inflicting punch, insult, or scolding; (3) not providing any of his property, clothes, food, etc. to wife; (4) staying away from wife because of illness; and (5) having sexual intercourse through anus.

A wife, in response to nusyuz committed by her husband, should try hard to give advice so that her husband would take on the responsibility of looking after her and their children. This must be done wisely through peaceful discussion with good and wise words. Besides, it is forbidden to apply the wrong approach, such as ignoring or beating the husband. The only way out to solve this nusyuz is by making peace (islah) with the husband.

Meanwhile, if a wife commits nusyuz, there are three phases of treatment as the solution: (1) verbal solution, by giving advice between husband and wife themselves, as stated in Sura An-Nisa' verse 34 or by involving someone else as a mediator, as stated in Sura An-Nisa' verse 35 and 128. If this open discussion cannot solve the problem, the second phase can be done, that is (2) splitting the husband and wife apart for a while, which means that they cannot sleep together. If those approaches cannot solve the problem, a third approach must be performed, which is (3) beating the wife. However, the third treatment is only meant for extreme cases. ([Muhsin, 1994](#)). The first phase is the best solution that is offered and is also suggested by Al-Quran above the second and the third one, because those can be misunderstood as permission to commit domestic violence against the wife.

In relation to the three phases of treatment that can be taken by a husband towards his disobedient wife based on Sura An-Nisa' verse (4):34, there are different opinions among the muftis related to the realization of the behaviors stated in the verse, whether it should be done consecutively or not. Jumhur of muftis, including Madhhab Hambali, suggests that the treatment should be done consecutively and adjusted to the state and extent of nusyuz. Meanwhile, according to Madhhab Syafi'i, including Imam Nawawi, the phases should not be gradual. Thus, it is possible to do any phase, for instance, doing the third phase (beating the disobedient wife) as the first treatment. It should be noticed that this is done because the husband thinks that this treatment will give an advantage or benefit. If it does not give any benefit, it is forbidden to do it and forgiving is the better answer ([An-Nawawi, n.d.](#)). In addition, these three treatments cannot be performed before giving a chance for the wife to explain her mistake ([Nasution, 2002](#)).

In Madhhab Hanafi, the opinion is that if a wife stays in her husband's house and she does not leave without her husband's permission, she is an obedient wife. If she leaves the house without permission or refuses to do sexual activity without acceptable reasons by law, she is disobedient and she would not get any income from her husband, including receiving money or any basic necessity from her husband, because it is only given to her as long as she stays his wife ([Mughniyah, 1964](#)).

Imam Malik states a different opinion, as quoted by Nur Jannah Ismail ([Ismail, 2003](#)) that if the discussion fails to create peace, then the wife may report her husband to the judge (the court), and the judge will be the one who gives advice to the husband. If this treatment cannot change the husband's mind, then it is permissible for the wife to be disobedient towards her husband (under the judge's permission) and he still has the responsibility to support her for living. The judge also gives permission to the wife to sleep separately with her husband, and she can even leave the house. If this treatment

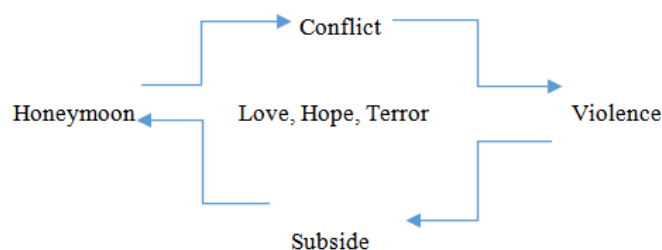
also cannot change his mind, then the judge may sentence him with punishment. If this treatment cannot change the condition, the judge has the right to decide a divorce for both, under certain conditions, if she so wishes.

Imam Malik's opinion is suitable for actions that should be taken by the husband when he is dealing with his disobedient wife, as also explained in Sura An-Nisa' verse 34. The difference is in the case of disobedient husband, where all three phases are executed by the judge (court), and not by the wife herself.

As a consequence of the above act of nusyuz, the question is whether domestic violence is allowed to be exercised by the husband from the perspective of the Islamic law? Discussing about marriage problems, especially in relation to domestic violence, must include violence towards wives or abandoned wives (not receiving anything as basic necessity) as the effect of the husband's action without compassion. Basically, domestic violence is a kind of discrimination against women and can be categorized as a violation of human rights.

The potential of conflict in marriage is high, if it is not well-managed, and may cause violence inflicted by one party to another and the domestic violence will repeatedly happen if there is no effort to overcome the problem. Michael Victory (Victory, 1993) illustrates this condition as a cycle of violence: (1) Build-up Phase - The conflict appears in this phase. If both parties do not have capability to overcome the conflict, it will cause tension and gets worse; (2) Stand-over Phase - men begin to use their power and superiority (physic, psychology, and financial) to dominate their partner; (3) Remorse Phase - Mostly, the doers feel guilty in this phase for what they have done or they become afraid of legal action that would come and therefore try to avoid any serious consequences of their actions; (4) Pursuit or Buy-back Phase - The doers are trying to compensate their actions by giving presents or making a promise that they will change their attitude so that their partner does not leave them. Unfortunately, the domestic violence happens repeatedly; (5) Honeymoon Phase - Both parties make reconciliation for peace after the occurrence of violence.

Mufidah (Cholil, 2013) illustrates the cycle in the figure below:



Misunderstanding in comprehending religious teachings may become a reason for domestic violence. Sometimes this misunderstanding of wife's disobedience becomes an excuse for the husband to commit violence toward his wife under the justification that he is 'educating his wife' or 'fixing her attitude'. The implication of patriarchy culture that is deeply rooted in Indonesia on the understanding of religious teachings tends to make it special for men to be above women.

The action of beating wife because of nusyuz is justified by the authoritative verse of the Quran, which considered it as the last phase to be executed to restore the wife's obedience toward her husband. Utterances that allow the husband to beat his wife have been found in many Islamic literatures. That is the way how the Quran suggested the husband to do for educating his disobedient wife. This point of view may come to our mind if we read and comprehend the verse literally.

However, a question arises whether beating is offered as Allah's commandments in the Quran? Or is that the last resort that should be taken? These questions become more crucial because the Quran was delivered at a time when the society regarded women as subordinates, who can be murdered or inherited. Therefore, if disobedience took place, then beating was a normal treatment in response, as what the pre-Islam Arabian society had done.

Nevertheless, it is explained in the same verse that there are better, more humane ways, and those are giving advice, and not sleeping together.

Giving advice and separating the bed (not sleeping together but still in the same house) are better approaches suggested by the Quran to overcome the wife's disobedience and the occurrence of violence is minimized. Both approaches suggested in this verse acknowledge the importance of women (Fayumi, 2002). Sayyid Qutb (Quthb, 1985) said that this verse is an example of a type of verses in the Quran showing a struggle between the tradition ('urf) and Islamic teachings where Islam takes the role of a reorganizer of tradition.

Comprehending Sura An-Nisa': 34 as a suggestion from the Quran to beat the wife may give the impression that Islam favors men, whereas many verses in the Quran emphasizes that men and women are equal, and what differentiates a person to another is his piety to Allah. In this case, the word واضربوهن becomes a challenge to the commentators of Al-Quran, either to define that as 'beat/hit' or define that with other meanings such as 'drive out' ([Mudzhar, 2003](#)).

Sahrur ([Shahrur, 1992](#)) proposes a new point of view and opinion towards this word, ضرب in this verse, which means "to act decisively towards them". Decisive action, according to Sahrur, can be done by way of arbitration or mediation. This mechanism is the same one applied to disobedient husbands as stated in Sura An-Nisa': 128. He points out that this word is more suitable with a contemporary context, which is an approach without violence and more relevant with the expression of gender equality and justice.

In the Prophet's hadith, he had clearly shown his disapproval in the action of 'beating one's wife' by criticizing the behavior of the society at that time. From Abu Hurairah, Rasulullah S.A.W. said: ([Majah, n.d.](#))

"It is forbidden among you to whip your wife like a slave, then you sleep with her at night." (HH. Ibnu Majah)

A valid proof that Rasulullah had never beaten his wives was the testimony from his wife, Aisyah. Ummul Mukminin Aisyah R.A. said ([Majah, n.d.](#)):

"Rasulullah S.A.W. never beat his maids, his wives, and he never beats anything with his hand." (HH. Ibnu Majah)

Therefore, in order to provide the correct notion of domestic violence in Islam, we must look at the very basic principle of Islamic teachings, among others, that Islamic principles must not be oppress fellow human beings, as stated in Sura At-Tawbah (9) verse 71 that men and women are partners, and as partners, the position is parallel to the absence of subordination. The second principle is fairness. Fairness in Islam has several concepts including to mean balanced and to give rights according to proportion.

### **Domestic Violence as a Consequence of Nusyuz under the Legislation of Indonesia**

There are many sources of Islamic law, mainly comprising Fiqh books, the law in Moslem nations, the decision of the religious court, and the compilation of Islamic law (CIL/KHI: bahasa) in Indonesia. Society considers Fiqh books as the finest literature studied and which becomes the reference. On the other hand, most Muslims have their own madhhab and they learn Fiqh from their own madhhab. The decision of the religious court only rules and binds the litigant. Thus, it cannot be generally applied unless it is legalized by jurisprudence or if it becomes the law. The law is mostly formulated by the Fuqaha and applies to all citizens. CIL is a kind of exception from those concepts, formulated by following the rule of the formulation of the law, complete with chapters and verses. Yet, it is not a modification but a kind of consensus of Indonesian muftis, which then sets out in a form of attachment of the President's instruction ([Mudzhar, 2003](#)). The CIL is set through the President's instruction No. 1 year 1990 as the material law of religious court.

As a result of the thought of law, CIL also covers nusyuz cases and the consequences. It is stated in the Compilation of Islam Law (CIL), Article 80 verse (7) that "the obligation of a husband stated in verse (2) is considered to be deferred if his wife is disobedient" ([Abdurrahman, 1992](#)). The obligation pointed here is the obligation of a husband to give basic necessity, clothes, and house to a wife. As explained in verse (4) in the same article, action done by the husband seems to be his own right, his own authority, supported by justification of law, and he may do that every time he finds the indication that his wife is disobedient. Then, the obligation of wife stated in Article 83 verse (1) says the main obligation of a wife is obeying her husband physically and mentally, as long as it is within the provision of the Islamic Law.

In CIL Article 84, it is elaborated that:

- 1) The wife may be considered disobedient if she does not want to perform her obligations as stated in Article 83 verse (1) except under acceptable reasons.
- 2) During the disobedience, husband's obligations towards his wife as stated in Article 80 verse (4) (on subsistence, wife's residence and other financial support that belonged to the wife) are not applicable, except if it is related to their children.
- 3) Husband's obligations as stated in verse (2) will revive after the wife turns obedient.
- 4) Consideration about the wife's disobedience must be proved by valid evidence.



Generally, disobedience in CIL is not explained in detail, such as what has to be done when the disobedience act is committed. In CIL, it only contained the husband's obligation related to basic necessity, clothes, house, and other costs for the wife that cannot be fulfilled by her husband.

The provision on disobedience in CIL also mentioned domestic violence, especially in the case of forcing wife to perform sexual activity. While in judicial process, the judge however does not think that it is necessary to prove whether the wife commits disobedience or not, and this is contradictory, as explained in Article 84 verse (4). There were many cases where the husband divorced the wife because the wife reported to the authority that her husband behaved badly and punched her, which caused injury and constituted an act of domestic violence.

Those cases showed how risky it is for the wife to get justice for violence inflicted on her. They worry about the divorce as a consequence of them reporting to the authority. That is the primary reason for many cases of domestic violence remaining unreported. Most of the victims choose to be patient and carry on with their marriage, while some of them choose to file the suit for divorce instead of filing the suit for criminal charges (Munti, Ratna Batara; Anisa, 2005).

Remarkably, the position of domestic violence under the legislation of Indonesia is concurrent with the Islamic law principle that it protects women from domestic violence. The effort to eliminate discrimination against women was done continually, and it was declared in the 1993 UN Conference that the elimination of violence against women was contained in the Declaration on the Elimination of Violence against Women. The declaration stated the concept of violence against women and in the next article, it stated the form of violence against women, although it is emphasized that the form of violence is not limited to the form stated in the article. The concepts and forms are as follows (Nation, 1993):

(Article 1) Violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.

(Article 2) Violence against women shall be understood to encompass, but not be limited to, the following:

- a) Physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;
- b) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking of women, and forced prostitution;
- c) Physical, sexual, and psychological violence perpetrated or condoned by the state, wherever it occurs.

According to the declaration, violence against women has the same definition with gender-based violence, where the meaning of violence itself is more comprehensive, as explained by Vittorio Bufacchi, because the concept does not only define it as the actions that may cause danger physically, psychologically, and sexually, but also the actions that involve the expropriation of freedom, as freedom is everyone's right including women. Vittorio Bufacchi divides the meaning of violence into two concepts (Bufacchi, 2005), namely, the Minimalist Conception of Violence (MCV) and the Comprehensive Conception of Violence (CCV). The MCV is an intentional act of excessive or destructive force, while the CCV means a broader violation of rights. Based on these two concepts, the elements of violence itself are: (1) the actions involving the strength that violate the law; (2) the actions that violate human rights; and (3) the actions that may cause dangerous consequences.

On December 18th, 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was held to give obligation and accountability onto nations as parties to the agreement to formulate and validate the elimination of discrimination against women through their legislative policy.

Pursuant to these conventions and declarations, Indonesia successfully endorsed through the Law No. 23, Year 2004, on the Elimination of Domestic Violence (EDV) in the Gazette of Republic of Indonesia Year 2004, No. 95. The explanation of this law is stated in the Additional Gazette of Republic of Indonesia No. 4419.

The basic legal substance of the law of EDV is criminalizing the actions of a husband against his wife that would cause suffering for the wife. The actions include any action that causes danger physically, psychologically, or sexually and the action of abandoning her financially.

While there are some opinions saying this law of EDV as contradictory to Islamic teachings, the writer opines that prohibition of those actions is not contradictory with Islamic values, because in Islam, in Sura An-Nisa' verse 19, Allah instructs husbands to associate with their wives understandably. This shows that all actions that cause suffering to the wife are not justified or even forbidden.

Therefore, any form and excuse to commit domestic violence is not justified by the law and also by Islamic teaching. This covers the actions related to disobedience where a husband beats his wife in order to discipline her to follow religious teachings. It means that the understanding is wrong. Islam conveys appropriate ways on how the husband should discipline his wife. Any action taken by the husband in relation to disobedience through violence against his wife, which causes wounds, physical injury, or even death, is not recognized as appropriate but instead falls into the criminal act of domestic violence.

In addition, the proof that the prohibition of domestic violence is not contradictory with Islamic teaching can be found in the source of law, i.e., the law of Pancasila, where the first basic principle is the belief in God Almighty, and thus the banning of domestic violence act is not contradictory with the fundamental values of Indonesia. It can be understood from the meaning of domestic violence that is formulated in law of elimination of domestic violence Article 1 No 1 as follows:

Any actions against someone, especially women, physically, psychologically, sexually, causing misery or suffering, and/or abandoning the family, including the threat to do coercion, expropriation of someone's independence in the act of violating the law within the scope of marriage/family.

The form of domestic violence as stated in Article 5 of this law covers physical, psychological, sexual, and financial violence. The criminal sanction of such forms of violence is imprisonment. The meaning has been stated by Fitriani, Mahmud Mulyadi, Ekaputra, and Chairul Bariah in their research, which includes: 1) Forcing the victim to work exploitatively; 2) Forbidding the victim from working and abandoning them; 3) Taking, expropriating, and/or manipulating victim's property without the victim's knowledge and permission; 4) Not giving basic necessity to the family; 5) Not loving the family; 6) Not taking care of the family; 7) Not giving appropriate education to children (Fitriani; Mahmud; Ekaputra, Muhammad; Bariah, Chairul, 2015). The meaning of 'financially abandoning' in the verdict of the Supreme Court of the Republic of Indonesia No. 467K/Pid.Sus/2013 is that the husband does not fulfill his wife's necessity, physically, and psychologically, and worse if they have children from their marriage, the children also face psychological shock (Mahkamah Agung, 2013). According to this verdict, the nature of 'financially abandoning' is that the wife's necessity is not fulfilled by her husband, physically and psychologically. This verdict of the Supreme Court shall become the reference for other judges handling other similar cases of domestic violence.

Besides, the law to Eliminate Domestic Violence (EDV) Article No. 2 explains the scope of the family, which are a) husband, wife, and children (including adopted child and stepchild); b) persons who have family relationship with the persons stated in point, because of (a) blood relationship, marriage, parenting, and guardianship, that stay in the same house (parents-in-law, children-in-law, brother/sister-in-law, and (b) besan (relationship between parents whose children are married to each other); and/or; c) people who help the family and stay in that house (housekeeper).

The existence of the law of EDV gives hope for wives to have better married lives. It can be a shield to protect women from the misunderstanding of punishment that can be inflicted on her upon disobedience that does not conform with the values of Islam and generally to the values of Pancasila as the basic principles and ideology of Indonesians.

## CONCLUSION

Islam does not allow someone to inflict violence on others if there is no valid reason that allows him to do so, including nusyuz cases. Although in the Qur'an there is a verse allowing a husband to beat his wife who is nusyuz, as this is the last solution to this problem. Islam put forward a persuasive effort towards the nusyuz wife and there are still many other ways to educate the wife without using violence.

Law No. 23 of 2004 concerning the elimination of domestic violence as a rule of law in Indonesia complements the rules from the compilation of Islamic law on marriage for the sake of creating families that are peaceful, loving, and full of mercy.

The act of domestic violence is against the Islamic teaching, viewed from the principles of relations between individuals (humans), especially husband and wife, and the purpose of Islamic law that highly respects and protects individual rights.

From the perspective of Islam and legislation in Indonesia, domestic violence is considered as a criminal act that is punishable under the criminal law. Naturally, both Islam and legislation in Indonesia forbid any kind of action categorized as oppression that may cause danger and loss to others, especially the wife, in the context of discussing nusyuz.

## ACKNOWLEDGEMENT

We would like to extend our highest appreciation to the Universitas Muhammadiyah Surakarta, which has fully supported the completion of this paper, and also to all those who have helped in the cause.

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