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NUSYUZ AND ITS IMPLICATIONS IN MARITAL RELATIONS

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Academic project report submitted in partial fulfillment for the Bachelor of
SYARIAH AND JUDICIARY



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KOLEJ UNIVERSITI ISLAM MALAYSIA
KUALA LUMPUR

GIFT / DONATION SUMBANGAN IKHLAS WITH BEST COMPLIMENTS	
FROM	Farkh Syarifah & Undang-Undang
DATE	2004
ACC. NO	0000019489

March 2004

AUTHOR DECLARATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

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ACKNOWLEDGEMENTS

In The Name Of Allah, The Most Gracious, The Most Merciful

Say. Allah Is One,

Allah The Everlasting, The Eternal

He Has Not Given Birth And Was Not Born And No One is Comparable To Him.

In the name of Allah Almighty, the most Merciful and most Compassionate. Praise and Gratitude to Allah for His Guidance and His inspirations. Peace and blessings upon our beloved Prophet Muhammad SAW, the last Messenger of Allah SWT.

First and foremost, I would like to express my thankfulness to Allah, Almighty for granting my wish and giving me the courage and faith to complete this academic project paper.

With great pleasure, I would like to take this opportunity to thank my supervisor *Puan Farah Salwani Binti Muda @ Ismail* for her advises, criticisms, immeasurable amount of support and encouragement during the process of completing this project paper.

I am also indebted to my parents and my family who has given me support and encouragement to complete this project paper.

Last but not least, I would like to deliver a bouquet of thanks to all the lecturers in Islamic University College of Malaysia and my beloved friends especially the third year students of Faculty Syariah and Law.

Lastly a word of thanks also to everyone who has indirectly helped me in the preparation of this project paper. Without your cooperation this project paper would not become a reality.

Thank you, may Allah bless all of us.

KHAMSLAH BINTI MAMAT

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ABSTRAK

Nusyuz atau derhaka merupakan perkara yang dibenci dan dilarang dalam Islam. Namun pada akhir-akhir ini permasalahan ini kian meruncing dalam masyarakat kita walaupun ianya berlaku tanpa disedari. Pelbagai cara telah dilaksanakan oleh pihak yang bertanggungjawab untuk menanganinya, namun masih ada insan yang alpa tentang keburukannya. Justeru itu, terdetik dihati penulis untuk mengetengahkan sebuah penulisan ilmiah yang bertajuk 'Nusyuz dan kesannya kepada institusi kekeluargaan'. Melalui penulisan ini kita dapat mengetahui secara mendalam tentang pengertian nusyuz, punca berlakunya nusyuz, ciri-cirinya serta kesan-kesannya kepada institusi kekeluargaan. Kaedah yang digunakan dalam penulisan projek ilmiah ini adalah kaedah pemerhatian, pembacaan dan pengumpulan data. Hasil penulisan ini menunjukkan bahawa nusyuz memberi kesan yang amat besar kepada institusi kekeluargaan Islam. Dengan mengetahui kesan yang timbul akibat daripada perbuatan nusyuz ini memberi peluang kepada setiap individu untuk bertindak positif dan seterusnya sama-sama berusaha untuk menangani masalah ini dari terus berlarutan. Selain itu penulis berharap agar penulisan ilmiah ini dapat memberi manfaat dan iktibar kepada diri sendiri dan seterusnya secara tidak langsung kepada semua wanita yang bergelar isteri.

ABSTRACT

Nusyuz or betrayal is a hatred and forbidden thing in Islam. However lately, this problem has been a great issue in our society. Although a lot of ways have been taken by the authorities to handle it, but there are still people who are ignorant about its bad implications. Because of this, the writer decided to write this paper with the title ‘Nusyuz and Its implication in Marital Relations’. Through this writing, the meaning of nusyuz, the causes of nusyuz, its characteristics and also its implication in marital relation are discussed in detail. The method used in writing this project paper is by observations, reading and data collection. The outcome of this writing shows that nusyuz gives a great implication to the Islamic marital relations. This would then give opportunities to each person to act positively and take effort to solve this problem from being spread widely. Besides, the writer hopes that this writing would give a lot of benefit and lesson to all of us and especially to the wives.

ملخص البحث

قد توسع النشوز وقوعها لدى مجتمعنا اليوم بدون الشعور الناس إليها . أتصفها الاسلام كأمر المقدوحة ومنع عليها بالشديد .قد تنوع الجهود من المسئلين لحلول هذه المشكلات بينما هناك النسيان لدى الناس بآثارها إليهم . تناول هذا البحث مفهوم النشوز وأسبابه وعوامله وآثاره من ناحية الأسراتية وأستفد الباحث قواعد التأمل ، والقراءة ، وحشر المعلومات لوصول إلى أهداف البحث . بالأضافة إلى البحث ، قام الباحث بالكتابة للتعرف على النشوز بوجه العميق . كنتيجة البحث ، كانت الشذوذ لها تأثير كبير لدى المجتمع في حياتكم وتكون بإقامة الوقاية عليها أمر الضروري لدفع الاستمرار من وقوعها لديهم .

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ABBREVIATIONS

AS	alayh al-salam
Comp.	Compiler/compiled by
Def.	Definition
Ed.	Editor/edition/edited by
H	hijriyyah
M	miladiyyah
n.a.	no autor/no artist
narr.	Narrated by
n.d.	no date/no year
n.pl.	no place
n.pb.	no publisher
p.	page
pp.	pages
perf.	Performers
trans	translator/translated by
RA	radiya Allah anhu / anha / anhum
Rev.	review/revision of
SAW	salla Allah alayh wa sallam
SWT	subhanahu wa taala
Vers.	Version
Vol.	Volume
Writ.	Written by

GLOSSARY

Hadith	The sayings and teachings of the prophet, the second source of information for Muslims concerning the right way to life.
Istighfar	Seeking forgiveness of God.
Mecca	The capital of Arabia and the most sacred city of the Muslims
Polygamy	The practice of allowing more than one spouse to an individual usually taken to mean a man having more than one wife.
Quran	The mother of Books. The collection of messages Allah reveal to the Prophet Muhammad over a period 23 years.
Soleha	A spiritually developed person. One who is in the right place at the right time.
Sujud	Bowing to earth in humility, the position of prostration, particularly in the prayer.
Syara'	The way of Islam
Ta'zir	To ensure or repel. That discretionary correction which is administered for offences for which had or fixed punishment has not been appointed.
Tahmid	The phrase "To You, O Lord, be all thanks"
Tasbih	Another word for Subhah. The praise and glorification of Allah.
Ulama	One who know, learned, a scholar

CHAPTER ONE

1.1 INTRODUCTION

Generally in the Malaysian Society especially among the Malay society, *Nusyuz* is not an alien word even though it comes from an Arabic word. When we talk about *Nusyuz*, our mind imagines the wrongdoings of a disobedient wife. But, the society is not clear enough about what is actually said as *nusyuz*. It is not limited to the wife only, but it can also happen among the husbands in a husband-wife relationship.

Nusyuz that happens among husbands is actually common in our Malaysian society but because of little knowledge of the society about the reality of *nusyuz*, so they tend to ignore it. As we already know, based on our Islamic Religion, a man is the leader or head of the family. Because of that he has total power towards members of his family. From that understanding, it causes the husband to freely do anything towards his wife without thinking whether it is good or bad. This can also lead to an example of *nusyuz* committed by the husband.

Beside that, every action which is done by the wife and opposes her husband's need such as disobey the husband's order or go out without his permission are clearly included as *nusyuz* however, there are exceptions to this.

Because of the above, the writer seeks explanations to clear up the haze and understand more about *nusyuz* including for what *nusyuz* actually is and also its effects to the marital relation while exploring other issues that are related to *nusyuz*.

1.2 BACKGROUND

In a family institution, the couple can't get away from facing a variety of problems. As the saying goes "to err is human, to forgive is divine". An example of a problem faced is the spouse's attitude either by the husband or the wife who behaves badly.

Every wife, has been given the responsibility by syarak to fulfill the husband's rights such as obey his orders, serves his rights rightly, protect his property and others. The context of obeying also has a wide meaning whereby every husband's rights must be fulfilled as long as they still follow the syarak principles. If the wife fails to do her responsibilities in a good manner without any justified reasons, it is considered as a sin and as a nusyuz.

The husband also cannot neglect his rights towards the wife such as giving maintenance physically and mentally and fulfilling other responsibilities. Besides, the husband must not be cruel to his wife that Allah has entrusted to him. If he fails, the husband can also be considered as nusyuz according to syara'.

If the situation above takes place nowadays, both parties can lodge a report at the Syariah Court.

1.3 CONCEPT

NUSYUZ BASED ON SYARAK

INTRODUCTION

Nusyuz is a common word in the society and it happens in family institutions. This word is more synonyms to women or wives especially when the wife has done something without the permission of her husband, disobeys him or denies his needs. All this are considered as being nusyuz. However not all of the wife's behaviour which is done without her husband's or not following the husband's need could be straightly considered as nusyuz

THE DEFINITION OF NUSYUZ

Nusyuz has a few meanings and explanations based on the ulama's point of view. Based on explanations by the ulama's the term nusyuz is described as the wife's behaviour and also the husband's behaviour.

THE LITERAL MEANING

The word Nusyuz is extracted from the Arabic word, nasyaza (نشز) which means high or some place higher than the earth.¹

¹ Muhammad Idris Abdul Rauf Al- Marbawi. n.d. Kamus Idris Al-Marbawi.(e.d) p.318

THE TECHNICAL MEANING

There are several explanations given by the ulamaks. Based on *Al-Qurtubi* in his interpretation, nusyuz means discontented². According to *Ibnu Al-Arabi*, it means unwilling³. While *Al-Baidhawi* stated that nusyuz is about neglecting of responsibilities and being obedient as a spouse⁴. Based on *Fakr-Al-Razi* in his interpretation, nusyuz is about disobediences of a wife⁵.

From the above interpretation, it is shown that nusyuz relates to a wife's behaviour who disobeys her husband and does not do her responsibilities towards her husband as has been entrusted by Allah. The above definitions generally do not have many differences between each other, except for the pronunciation and use of its term.

According to *Imam Syafie*, sometimes nusyuz happens in the form of word and behaviour. For example, in the form of words, the wife pronounces oral denial towards her husband. By behaviour for example, reaction of the wife denying the needs of the husband is actually considered as nusyuz too.

In *Mugh Al-Muntaj* it stated that a wife is considered as nusyuz when she disobeys from completing her responsibilities and discontents her husband. The term nusyuz does not only happen on the wife's side, but also to both when there is denial in their responsibilities as a spouse to the other.⁶

² Abdullah Muhamad Bin Ahmad Ansari Al-Qurtubi. 1967. Tafsir Al-Qurtubi. Qahirah. Daral Khatib, Al-Arabi. p.170.

³ Ibnu Arabi, Ahkamu Al-Quran. Beirut. Daral-Makrifah. p.417.

⁴ Al-Fakh Al-Razi. 1938. Al-Tafsir al-Kabir Li al-Imam al-Fakhr al-Razi.(e.d). Mesir.n.pb. p.90.

⁵ Sheikh Muhamad Ahmad Kah'an. 1984/1404. Al-Quran al-Karim Mawahib Al-Jalil Min Tafsir al-Baidhawi. (e.d).Beirut. Dar al-Lubnan. p.105.

⁶ Ahmad Pakhruddin Bin Deraman. 1992. Latihan Ilmiah.Konsep Nusyuz: Satu Kajian Kes di Mahkamah Syariah Kota Bharu. (kertas projek, Fakulti Syariah APIUM).n.pl.n.pb.

From the above definition, it could be summarized that nusyuz could happen to both husband and wife. A nusyuz wife is a wife who disobeys her husband's order, and a nusyuz husband is one who is cruel towards his wife. So this proves that nusyuz is not limited to wives only. Nusyuz is also not limited to only actions, but also to the words used.

THE TERM NUSYUZ

The term nusyuz has given rise to some differences in interpretation, especially in the context of our present day circumstances. In the Al-Quran, the word nusyuz is used in Surah An-Nisa, which states to the effect, that: -

... As to those women on whose part you fear disloyalty and ill-conduct (Nusyuz), admonish them (First), Next refuse to share their beds, and last beat them lightly: But if they return to obedience seek not against them means (of annoyance): For Allah is Most High, Great Above you all....⁷

The Quran also refers to nusyuz by the husband, and Surah An-Nisa which states to the effect that:

... And if a women has reason to fear ill-treatment from her husband or that he might turn away from her Nusyuz it shall not be wrong for the two to set things peacefully to rights between themselves: For peace is best and selfishness is ever-present in human souls. But if you do good and are conscious of him- behold Allah is indeed aware of all that you do...⁸

⁷ Al-Quran. An-Nisa 4:34

⁸ Al-Quran. An-Nisa 4:128

DALIL FOR NUSYUZ

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ
فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ
وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ
عَلِيمًا كَبِيرًا (34)

Meaning: “ Men are the protectors and maintainers of women, because Allah has given the most one more (Strength) Than the other, and because they support them from their means. Therefore the righteous women. Are devoutly obedient, And guard in (The husband's) absence. What Allah would have them guard. As to those women on whose part you fear. Disloyalty and ill-conduct, caution and warn them. (Against the specific faults, first) Refuse to share their beds, next Beat them (lightly at the very last). But if they return to obedience. Seek not against them means (Of Angering them) For Allah is Most-High, Great (above all of you) ”⁹

The above *verse* explained about the responsibility of a husband upon his wife and also explained in detail about the way that the husband could take to solve the problem of nusyuz of his wife.

1.4 COMPARATIVE DEFINITION

The Malaysian people commonly know the word nusyuz but there are some people who do not understand in detail because the word that is used is taken from an Arabic word. This word nusyuz has been interpreted with different meanings. In this research, the writer tries to explore on the variety of definition that have been explained by the chosen intellectual. That opinions and definitions comprises of:

⁹ Al-Quran. An-Nisa 4: 34

- Based on *Kamus Dewan*, *Nusyuz* means disobedience of wife in obeying husband's order as pleased by Allah.¹⁰
- *Kamus Melayu Global* explained that *nusyuz* means a wife who is discontented of her husband and has no right to receive any maintenance from her husband.¹¹
- Based on *A Basic Dictionary Of Islam* stated that *nusyuz* is Rebellion or ill-will. It means any kind of deliberate bad behaviour of a wife towards her husband or husband towards the wife, including mental cruelty and deliberate persistent breach of marital obligations.¹²
- Based on the books of *Panduan Lengkap Bakal Pengantin dan Keluarga Bahagia* stated that *nusyuz* means a wife who disobeys her husband and a wife who is considered as *nusyuz* is when she goes out from the house without husband's permission, does not to open the door for her husband and also refuses when a husband asked her to sleep with him.¹³
- Based on the books of *Bimbingan Hidup Suami Isteri*, *nusyuz* means a wife who does not want to perform her responsibilities towards her husband.¹⁴
- Based on the *Kamus Istilah Fiqh*, *Nusyuz* means discontented, that is when a wife or a husband neglects his responsibilities. By the wife's side, *nusyuz* means if she left her home without husband's permission, in another word, neglecting her husband. While on the husband's side, *nusyuz* means act badly towards his wife, did not want to sleep with his wife and also did not give any maintenance to his wife. If the wife is *nusyuz*, the husband must advised her in

¹⁰ Hajah Noresah Baharom. 2000. *Kamus Dewan*. Selangor. Percetakan Dewan Bahasa Dan Pustaka.

¹¹ Hasan Hamzah. 1997. *Kamus Melayu*. Selangor. Global.Piramid Perdana.

¹² Ruqaiyyah Waris Maqsood.. 2000. *A Basic Dictionary of Islam*. n.pl. Goodword Books.

¹³ Hj Zakaria b Haji Ahmad Wan Besar. 1995. *Panduan Lengkap Bakal Pengantin Dan Keluarga Bahagia*. n.pl. Pustaka Ilmi.

¹⁴ Hj Idris Ahmad S.H.1985. *Bimbingan Hidup Suami Isteri*. n.pl. Pustaka Antara.

a good manner and then separate their bedroom and if nusyuz still happens, the husband must beat her but not to injure her. And if she still does not change her attitude, the husband must forward this case to the peacemaker or *Juru Pendamai* who is HAKAM from both sides to discuss about something better for this spouse. Then, the final way in solving this problem is through divorce.¹⁵

- Based on the Books of *Manusia dan Islam*, nusyuz means the wife's action that could be explained as neglecting the need of the husband without no any syarak reason that could be accepted based on syarak. That action is considered as discontented. The examples comprise of:
 - A husband who has provided the suitable house but a wife does not want to move to that house or the wife left his house without her husband's permission.
 - A wife snarling at her husband in lawful family matter.
 - A wife who does not want to have sexual intercourse with her husband.¹⁶
- Based on the Books of *Perkahwinan dan Perceraian di bawah Undang-undang Islam*, nusyuz includes all kinds of deliberate bad behaviour of a wife towards her husband or husband towards his wife, including mental cruelty towards his wife. In this context, nusyuz on the wife means deliberately neglecting her responsibilities in marital obligations.¹⁷

¹⁵ M Abdul Mujieb, Mabruhi Tholhah. 1997. Kamus Istilah Fiqh. n.pl. Advance Publication..

¹⁶ Prof Dato' Dr Haron Din. 1999. Manusia Dan Islam. n.pl. AEE Publication

¹⁷ Nik Noriani Badlishah. Perkahwinan Dan Perceraian Di Bawah Undang-Undang Islam. International Law Book Service.

1.5 PREVIOUS EXAMPLES

Nusyuz could happen anytime. it can even happen all of a sudden. It could happen in several situations for example when a wife goes out without any relevant reasons.

Furthermore, nusyuz could also happen when the wife betrays her husband's order or ignored her responsibility. For example, as stated in the Al-Quran which tells about the stories of the wives who had betrayed their husbands. For instance, the wife of the Prophet Nuh a.s and her son, Kan'an. They ignored Allah's order and refused to board in the ship with her husband, the Prophet Nuh a.s. As a result, a great flood had sank them.

Besides that, wife of Prophet Hud a.s and also the wife of Prophet Lut a.s did the same thing. The wife of prophet Hud denied that a do'a of her husband would be received by Allah. In another word, she did not believe of the status of Hud a.s as a Prophet. The wife of Prophet Lut was nusyuz by practicing the homosexuality and having a lesbianism life.

1.6 STATUTORY PROVISIONS AND DECIDED CASES IN MALAYSIA

It is well- established that a lawful wife is entitled to maintenance from her husband as long as she is not Nusyuz and the statutory provisions in modern legislations reflect this position. For instance, section 59 (1) of the Islamic Family Law (Federal Territories) Act 1984 provides that the court may, subject to Hukum Syara' order a man to pay maintenance to his wife. Section 59(2) provides that subject to Hukum Syara' and confirmation by the court, a wife shall not be entitled to maintenance when she is nusyuz or unreasonably refuse to obey the lawful wishes and commands of the husband example: When she withholds her association from her husband or when she leaves her husband's home against his will or when she refuses

to move with him to another home or place without any valid reason according to Hukum Syara'.

In Section 59(3) of the same Act it provides that as soon as the wife repents and obeys the lawful wishes and commands of the husband, she ceases to be nusyuz. In Section. 48(2) of the Kelantan Islamic Family Law Enactment 1983 provides that subject to the provisions of Hukum Syara' and the approval of the court, a wife shall not be entitled to maintenance if she is nusyuz provided that as soon as the wife repents and agrees to follow the lawful wishes and orders of the husband, she shall no longer be regarded as nusyuz. The Kelantan Enactment however does not provide instance of what is to be regarded as nusyuz by the wife.

In the Kelantan case of *Haji Ali Bin Hussein v Aishah Bt Yusof*¹⁸ the wife claimed maintenance from her husband. The parties had been married in 1972 and had lived for about a year when the wife left the husband to live in a different house and then with her mother. She claimed that she was forced to leave because of the differences with the first wife of the husband. She claimed that the husband had not paid her maintenance or gone to live with her since 1975. She claimed maintenance from 1975. The defence of the husband was that the wife had left him to go back to her mother's house and had refused to return to him. The learned chief Kadi gave judgement for the wife and ordered the husband to pay the sum of RM1710.00. The husband appealed. The appeal Board allowed the appeal. It was held that two important matters were not considered at the trial:

- (a) Whether in leaving the house the wife was guilty of nusyuz or not and
- (b) Whether the husband was able to give maintenance to the wife, as the evidence showed that he was old and ill and had no income or property.

The Appeal Board ordered that the matter be retried before another Kadi.

¹⁸ (1981) 2 Jurnal Hukum 241.

CHAPTER TWO

2.1 CAUSES OF NUSYUZ

Most Malay or Muslim women nowadays ignore their duties and responsibilities in building up an actual Muslim family. There are many factors which leads to nusyuz for example it comes from the husband's attitude which is not responsible, the wife's attitude herself, influences from family and also the environment.

2.1.1 CAUSES FROM THE HUSBAND

One of the reasons that caused nusyuz to a wife is an irresponsible husband. The wife would feel dissatisfied and lost her respect towards her husband. For example, when the husband ignored his responsibility such as in giving maintenance to his wife and children and having other social relationships.¹⁹

Besides, the natural habit of the husband which lacks religious knowledge and does not pray and fast forces the wife to be nusyuz.²⁰

In addition, when the husband is younger than his wife this also allows nusyuz to happen. The husband likes to go out freely to suits to his young soul.

Besides that, there are many other factors that causes nusyuz to happen from the husband such as influence by the family, lack of marital knowledge and others.

¹⁹ Mustafa Hj Daud. 1997. *Institusi Kekeluargaan Islam*. n.pl. Dewan Bahasa Dan Pustaka.

²⁰ Maznah Taufik. 2000. *Bagaimana Menawan Hati Isteri*. n.pl. Putrajaya Publication.

2.1.2 CAUSES FROM THE WIFE BEHAVIOR

There are a few reasons why the wife is always nusyuz to her husband. First, since they were teenagers, they always ignored religious matter. Because of this, when they got married, they brought together their common bad attitude in the past. For example, they assumed that going out without husband's permission is a human right for anyone to go anywhere without prohibition from anybody including their husband.

Then, the wives behavior is always neglecting her responsibilities towards her husband. It is because the social status of the wife is higher than her husband's social status, the wife is richer than the husband, the wife is cleverer than the husband, the character of the wife is harder than her husband's character and the wife also didn't understand her status besides the husband.

For example in the case of neglecting the sexual needs of the husband. The wife always refused to fulfill the sexual need of her husband because she gives priority on her career more than to her responsibility towards her husband. Because she thought that materialistic is very important compared to religion. The wife also took more priority on the sexy appearance. Based on her assumption, some wives think that when she is always fulfilling the sexual needs of her husband, so it would destroy the freshness of her body. This kind of woman has assumed that her husband is just as a thing to cover her embarrassment if she still not married.²¹

2.1.3 CAUSES FROM THE FAMILY

The family plays an important role in marital relationship. This is because the family will developed the personal attitude of someone. The destruction of the family causes a lot of negative problems to exist in the society nowadays. A happy family is a family that follows the Islamic System.

²¹ Muhammad Thalib. 1997. 20 Kesilapan Isteri. Siri Keluarga Gemilang. n.pl. Darul Nu'man.

If we restrained the guided rules given by syara' the family would be destroyed.

Besides, a family who does not care about their children's problem also causes nusyuz to happen. For example, the parents let their children to act badly even towards their husbands.

2.1.4 ENVIRONMENTAL CAUSES

The coming of the new millennium has made women busier. Because of that situation, sometimes women ignore their responsibilities as a wife and as a mother. For example, a high-income career woman always ignore her responsibility towards her family. She gives a hundred percent duty to manage her husband and children to the housemaid. She ignores that her husband's feeling and also her children's heart must be appreciated. When a wife behaves like that, a husband would feel lonely whereas her children would feel that their mother do not want them anymore. They would cause something bad. Because of this, nowadays the social-ills has been increased day by day. This kind of attitude of the wife has contravened the Islamic Syariat and can bring to nusyuz.²²

Beside that, many environmental factors could influence the attitude and behavior of the wife. For example, the improvement of new high technology and a lot of beautiful, attractive thing and others.

²² Nor Atiqah Bt Ghazali. 2001. *Wanita Muslim Di Alaf Baru*.n.pl. Zafar Publication Sdn Bhd.

2.2 20 CHARACTERISTIC OF NUSYUZ

Nowadays, many people assume that a wife could become disloyal to her husband, because the assumption is that the person who would be valued is normally the wife, not the husband. Although this assumption is true, but it is not fair. Because of that, there must be an explanation which could be made as a basic about what have been done by the wife which considered as disloyal to her husband. The basic that have been used by Islam is the permanent of the right of the husband guided by Allah and His Messenger which is universal and permanent. This permanency is not influenced by the society and certain cultures and certain era.

Islam also has made a same permanency of the offences by the couples, either the disloyalty of the wife to her husband or the husband to his wife. The assessment is fair because the justice in Islam is very important. This fair permanency is for the wife to care about her husband's right and the husband cares about his wife's right. Islam gives the same importance to both sides. The assumption that Islam is not care about the women's rights is not true. This bad assumption of Islam could be avoided with the evidences of the permanency of the fair allocation towards the both sides.

2.2.1 Disregard of the importance of the husband's right.

It is said in the following hadith meaning:

From Aisyah R.a, The Prophet Muhammad has said: “ *If I ordered someone to do a ‘Sujud’ to another person, so I would ordered a wife to do a ‘Sujud’ to her husband. If the husband ordered his wife to move a red hill to white hill and from the white hill to red hill, so it is a responsibility to obey it* ”²³

²³ Maulana M.Ashiq Elahi madani.2001. A Gift For Muslim Women. pg 482.

The highest responsibility in the marriage is a husband's right. A wife must obey all her husband's order. The basic of this rule is done as a guideline for the husband and the wife to fulfill their responsibilities. If the wife has disobeyed her husband's right, so it is considered as disloyal deed. As Allah Mentioned means:

*"The men are the leader for the women because Allah give more priority on them and because they give maintenance for the women...."*²⁴

The men in the above sentence are referred to the husbands and the women are referred to the wives. Allah has decided that the husbands are the leaders to their wives. Allah has given more priority to the husbands than the wives because he gives maintenance to his wife and children. Nowadays, the wives also go to work. So, may be the wives could also be considered as leaders.

If we think like this, we should come back to the basic as has been allocated by Allah for the human beings to keep on their lives. For example, we took a research on the human body. The center of human body is the brain that has a lot of nerves that control other parts of human body. If the brain is not well and can't function well, so is that the feet that placed the head's function?

The wives behaviour that always neglect her responsibilities towards the husband is because:

1. The social status of the wife is higher than her husband's social status.
2. The wife is richer than the husband
3. The wife is cleverer than the husband
4. The wife character is harder than her husband's character
5. The wives come from the culture that has placed the woman in control everything more than the man.

²⁴ Al-Quran. An-nisa 4:34.

6. The wife didn't understand her position next the husband.

The background of the wife must be put aside and she must do all her best to her husband. All these offences done by the wife have created a lot of bad effects, a few of examples are:

- The husband got angry towards her.
- There are quarrel because the husband felt that his wife neglected his right.
- The peace of the family is destroyed because the wife's family didn't appreciate him.
- The children do not have a leader in the family. They do not know to follow. As a result, the children become stressful.

The husband must try to advice his wife. If the husband accepts all these behaviours, he is considered as disloyal to Allah because he lets his wife do all the sins and that sins would be burdened onto his shoulders too.

2.2.2 Disobey husband's order

A wife must obey all her husband's order if it does not oppose to the allocations that have been guided by Islam. The *hadith* explained that if the wife has follows all her husband's order, she is actually obeying Allah. Because of that, she is considered as disloyal if she neglects her husband's right and she was actually sinful because she does not fulfill the right of Allah.

The husband who has a disloyal wife, must make the efforts to change his wife's bad attitude step by step.

1. Advised her by looking at her background of attitude
2. Asked for help from the religious teacher to advise her.
3. Lock her in the bedroom
4. Beat her with a slow beat.(just to teach her a lesson)
5. Send her to her parents temporarily
6. If she doesn't changed anymore, he could divorce her with one talak and if she has changed, then they would unite again.

2.2.3 Neglecting the sexual needs of the husband

A wife must understand that marriage is arranged as to allow the couple to perform halal sexual intercourse. So it could develop the generation by the way which Allah likes.

Allah has created human beings of man and woman to continue the generation or heredity. This is clearly stated that fulfilling the sexual need factor is the main factor of a marriage.

The wife must know her responsibilities to serve the sexual need of the husband. Islam has allocated that the wife who refuses the need of the husband means has opened the door of the hell for her. If the wife has neglected this right, so it means that she has done a great disloyalty towards her husband.

If the husband does not try to avoid quarrel and then married again and neglected the sexual needs of the wife, so it is not the right way. He could marry again, but taking a revenge on his wife is sinful.

As a conclusion, they must sit together and discuss about all the problems existed peacefully. They must ask for forgiveness to each other. The husband has a responsibility to tell or to teach his wife about the religious education. Generally, they must always discuss either it is a small matter or it is a big matter. They must base the solution to their problems onto Islam.

2.2.4 Refuse to sleep with the husband

Generally, sleeping is at night. Night is the time to rest after hard work on the whole day. The husband would want his wife to accompany him to get peace and freshness.²⁵

As Allah mentioned means:

“And the signs of his powerful, he has created for you the wives from your tribes so that you would feel attracted and feel peaceful with them and has been created by him, the love and Merciful. Truly, there are the signs (His Powerful) for the group who think about it” (Ar-Ruum : 21)

If the wife wanted to sleep by herself and the husband is at home at night, she must ask for his permission. Because the husband has a right on the bed.

2.2.5 Over used husband’s budget

Allah has ordered a husband to be responsible in giving the alimony to his wife, as suitable to his ability. The wife must be objective in seeing the husband’s ability and could not be subjective as to fulfill her needs.²⁶

²⁵ Muhammad Abdul Halim. n.d. Isteri Yang Membahagiakan Suami. n.pl. Pustaka Ilmi.

²⁶ Muhammad Thalib.1997. 20 Kesilapan Isteri.Siri Keluarga Gemilang. n.pl. Darul Nu'man.

2.2.6 Do not want to beautify herself for husband.

In the one of hadith explained that the husband who leave home for a long time must not come back home suddenly. so that the wife could beautify herself. In another word, her husband has the right in asking his wife to beautify herself for his comfort.

Another hadith also explained that during the menstrual period, the wife must beautify herself. She could use the henna which picturized that the wife has beautified herself for her husband even though they cannot have a sexual intercourse. Aisyah wife of Prophet Muhammad was said to have used the henna a menstrual period is the best way as long as it's only for her husband. But if the wife has beautified herself when she wants to go out, it's a betrayal towards Allah and her husband.

Any women who do not cover their *aurat* when going out from their house, that is in front of another man, so Allah SWT would turn down his certain.

The wife must always think about their husband's right. They are also must try to satisfy their husband'.²⁷

2.2.7 Destroying the religious life of the husband

In a family, the wives have been ordered to help their husbands to build up the religious life, whereas the husbands have been ordered to facilitate their wives in carrying out the religious life. This means that the wives who are not helping their husbands in the religious life such as they themselves do not want to carry out the order from Allah, so their husbands would be deemed to hell.

²⁷ Anisa M. Busra. 1999. Panduan Isteri Mendampingi Suami. n.pl. Darul Nu'man.

The great rewards are rewarded to the human being who has these is four items:

1. His heart is always grateful to Allah.
2. His tongue is used to recite *zikir, tasbih, Tahmid, tahlil, istighfar* and to read Al-Quran.
3. He has a patient heart in facing problems
4. He has a faithful wife who behaves herself and her husband.

2.2.8 Neglecting the right of the husband

The husband is very important to the wife compared to her mother. The wife must give priority on her husband and then the second one on her mother or father even they are her own family.

Nowadays, in our society it is not considered as important. For example, the husband asked for food from his wife and at the same time their children asked for food too. It always happens that the wife will serve their children first and later, her husband. It is a sin and she must get the permission from her husband first when she wants to serve her children first.

2.2.9 Going out without husband permission

A wife has responsibility to care for her husband's need. The husband is the leader of the family. When she wants to go out, she must ask the permission of her husband. The wives who have done that kind of attitudes must think deeply about the bad effects that could bring to quarrel or divorce.²⁸

²⁸ Anisa M. Busra. 1999. Panduan Isteri mendampingi Suami. n.pl. Darul Nu'man.

2.2.10 Leaving the husband's house

Rasulullah SAW has explained in *hadith* that a wife cannot leave home without permission of her husband. For example, a staff of an office must not leave the office without permission of his boss. In the case of marriage, it is classified as betrayal if a wife has done it.

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Generally, the kind of bad attitude happens when the wives lack religious knowledge and surrounded by bad environment.

2.2.11 Accepting a male guests whom her husband dislikes

The wife must take care of the rights of her husband. The wife cannot allow anybody whom her husband dislikes to be in their house. The wife also cannot allow anybody whom her husband dislikes to come into their house.

The matters are related to jealousy of her husband. Because a home is a place where a husband has total power upon it. So, anything she wants to do must get the permission from her husband.

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2.2.12 Allowing by another man to touched her

Rasulullah SAW explained that wife who let herself being touched by another man could be divorce. This shows that the action by that wife is a betrayal towards her husband. Because Rasulullah does not permitted someone to divorce his wife just like that if it is not a betrayal. Because a wife must have a good characteristics.

2.2.13 Il-treating the husband when he is sick.

The wife has a responsibility to treat her sick husband. The wife must not avoid in treating her husband. Even though she does not have much time and busy with her work, she must not avoid it. How about if the wife does not want to treat her husband but she wants to give her money to pay someone else to treat him? Islam has allocated that the wife must treat her sick husband even though she much lick the pus from her husband's body. In conclusion, there is no reason for a wife not to treat her husband. A few reason which have been given by the wife if she does not want to treat her husband are:

- Working in an office
- Treating her small children
- She felt pity and sad to see her sick husband
- Her husband has been treated by a doctor or nurse
- She is still treating her sick parents at the same time
- She is working because her sick husband does not work

2.2.14 Optional fasts without husband's permission

Rasulullah SAW has said that if a husband is angry of his wife, so Allah also is angry of her. Furthermore, it is clearly stated that when a husband does not permit the wife to fast when he is at home, Allah SWT does not accept that fast and it is a betrayal towards her husband.²⁹

2.2.15 Describing physical appearance of another woman to her husband

A man has extra imagination compared to a woman. Because of this it is enough for him to picturize the appearance of the woman that is only heard by his

²⁹ Dr.Muhammad Muhsin Khan.1984. The Translation of the meanings of Sahih Bukhari Arabic & English. New Delhi. n.pb.

ears. An imagination of the woman's body could destroy the attention and concentration of the husband.

If a wife has been asked whether she likes if her husband always imagine about another woman? The answer is no. So, why the wife did such a fool thing? The answer is foolishness. A wife must be careful so that she does not do such a bad deed.³⁰

2.2.16 Refusing the attendance of the husband for her turn

A wife of a husband who practices a polygamy still has a responsibility to behave well to her husband when he comes home for her turn. Otherwise, Allah would curse her.

2.2.17 Obeying the order of someone else in her husband's house.

In a family, a husband is a great leader at home. Allah has mentioned this in Al-Quran surah An-Nisa of the verse 34. The meaning of the verse is that the husbands are the leader of their wives. Everything that she wants to do must get the permission from her husband.

2.2.18 Ordering her husband to divorce his other wife

Allah SWT has given the right for a man to practices polygamy until 4 wives. This is stated in the *hadith*. The wife must realize that the husband has the right to marry 4 wives. Because of that, she has no right to order her husband to divorce another wife.

³⁰ Muhammad Thalib. 1997. 20 Kesilapan Isteri. Siri Keluarga Gemilang. n.pl. Darul Nu'man.

2.2.18 Asking for divorce without any reasonable reasons.

A wife who ask for divorce from her husband must have the permitted reason by the Islamic Syariat. The reasons are:

- The husband destroyed the religious life of the wife
- The husband has not given maintenance for her and children.
- The husband always abuses her.
- The husband always does unlawful things such as fornication, drinking liquor and gambling.

The wife, who asks for divorce with the concrete reasons that are permitted by Islamic Syariat, is not assumed as betrayal towards the husband. But if she still wants to divorce even though there are no concrete reasons that are permitted by Islamic Syariat is considered as betrayal towards the husband.³¹

2.2.20 Using the husband's properties without his permission.

The property of the husband which automatically being the wife's right is what have been given as maintenance. This maintenance includes food and clothes.

The wife must know about the Islamic allocation of the husband's properties because she would create a few bad effects such as the husband will not believe his wife anymore and the husband would feel confuse to keep his money at home, until he believes more in someone else than his wife.³²

³¹ Muhammad Thalib. 1997. 20 Kesilapan Isteri. Siri Keluarga Gemilang. n.pl. Darul Nu'man.

³² Muhammad Bin Abdul Aziz Al Musnad. n.d. Islamic Fatawa Regarding Women. Saudi Arabia. Darussalam. Pg 214.

3.1 ISLAMIC VIEW ABOUT NUSYUZ AND THE ISLAMIC PENALTY

3.1.1 Nusyuz Wives and The Meaning of Nusyuz Based On The Shafie's School View.

The Meaning Of Nusyuz

As discussed in the beginning of this paper, *nusyuz* means to disobey. The meaning of *Nusyuz* is a wife who has disobeyed or betrayed her husband and portrays a rude attitude towards her obligation to Allah in obeying her husband³³.

Allah S.W.T commanded:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ
فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ
وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ اطَّعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ
عَلِيمًا كَبِيرًا (34)

Meaning: * Men are the protectors and maintainers of women, because Allah has given the one more (Strength) Than the other, and because they support them from their means. Therefore the righteous women. Are devoutly obedient, and guard in (The husband's absence). What Allah would have them guard. As to those women on whose part you fear. Disloyalty and ill conduct caution and warn them. (Against the specific faults, first) Refuse to share their beds, next beat them (lightly at the very

³³ Abu Khairi Al-Latifi.2000.Fiqh Perkahwinan Menurut Mazhab Imam Asy-Syafie.(e.d.1).Kuala Lumpur.AI-hidayah.