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Economic Hegemony and the Marginalization of Wives' Non-Material Rights: A Socio-Legal Analysis of Islamic Family Law

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ABSTRACT

This study investigates how domestic economic hegemony operates to marginalize wives' non-material marital rights (*nafkah batin*), generating a state of *pseudo-harmony* where financial abundance is weaponized to compel passive acquiescence toward emotional and physical neglect. Employing an empirical socio-legal research design, this qualitative inquiry synthesizes primary field data—gathered through semi-structured interviews with three key expert informants selected via purposive sampling (an Islamic family law scholar, a local majelis ta'lim leader, and a functional religious extension officer in Hulu Sungai Utara Regency) with normative legal analysis of scriptural sources, classical Shafi'i jurisprudence, Law No. 1 of 1974 jo. Law No. 16 of 2019, and the Compilation of Islamic Law (KHI). Empirically, the findings reveal that financial provision in affluent households is frequently compartmentalized to mask acute emotional deprivation. Normatively, the legal analysis demonstrates that non-material rights (*al-haqq al-zawji*) maintain an autonomous legal standing under KHI Articles 77 and 80 alongside classical Shafi'i doctrines; financial maintenance (*nafaqah*) cannot commute or extinguish obligations of emotional and physical companionship rooted in *mu'asyarah bil ma'ruf*. Furthermore, jurisprudential deconstruction indicates that an aggrieved wife asserting her non-material rights or seeking judicial separation (*khul'*) does not constitute *nusyuz*, as legal fault (*tasbib*) under the doctrine of *dharar* primarily stems from the husband's breach of marital duties. Consequently, institutional frameworks—including BP4 counselors and Religious Court judges—must transition from financial-centric evaluations toward a model of relational justice, measuring marital health through the holistic, reciprocal fulfillment of marital rights.

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Introduction

The dynamics of marital discord and domestic breakdown in Indonesia have escalated alarmingly in recent years. Official data from Statistics Indonesia (BPS), sourced from the

Directorate General of the Religious Courts Body (Ditjen Badilag) of the Supreme Court, reveals that national divorce cases remain heavily driven by continuous disputes and the neglect of marital duties, accounting for 105,727 cases. Crucially, 79.1% of these petitions are *cerai gugat* (wife-initiated divorces) (Karimuddin et al., 2021). Empirically, this trend highlights a growing legal consciousness and agency among women seeking to exit marriages that fail to uphold their fundamental rights. Conventionally, scholarship and public discourse surrounding marital dissolution predominantly attribute the neglect of biological and emotional obligations (*nafkah batin*) to household economic instability (*nafkah lahir*). However, field realities uncover a far more complex, covert phenomenon: the systematic neglect of a wife's non-material rights occurring within conditions of high financial adequacy (Wardani, 2024). Material abundance in domestic relations frequently functions as an instrument of economic hegemony, suppressing the wife's bargaining position. Husbandly financial dominance fosters an implicit consensus that substantial material provision validates or offsets the neglect of other core marital responsibilities. This dynamic creates a state of *pseudo-harmony*—a household that appears outwardly prosperous and stable, yet harbors severe emotional deprivation and covert non-material neglect. Financial support, including separate allowances for household operations and personal leisure, is often weaponized as a bargaining tool to compel the wife's acquiescence toward the deprivation of affection, emotional security, and sexual intimacy (Al-Baihaqi, n.d.). To critically analyze this distortion, it is essential to return to the foundational philosophy of Islamic marital law: the principle of *mu'asyarah bil ma'ruf*. Grounded in Surah An-Nisa: 19 ("*And live with them in kindness/propriety*"), *mu'asyarah bil ma'ruf* is not a mere ethical recommendation, but the cardinal legal and moral bedrock upon which marriage as a sacred covenant (*mithaqan ghalizhan*) is established. Islam enacts *mu'asyarah bil ma'ruf* precisely to prevent marriage from degenerating into a purely transactional or economic exchange. The concept demands holistic, reciprocal, and dignified treatment between spouses, encompassing emotional intimacy, respect, protection from harm (*daf'u al-dharar*), and physical fulfillment. In the context of economic hegemony, *mu'asyarah bil ma'ruf* serves as a critical counter-framework: it posits that financial generosity can never substitute for or erase the fundamental obligation of emotional and biological reciprocity. When a husband uses material wealth to buy out or excuse his non-material negligence, he directly violates the core mandate of *mu'asyarah bil ma'ruf* (La Harisi et al., 2024). The failure to uphold *mu'asyarah bil ma'ruf* directly intersects with the misapplication and weaponization

of the concept of *nusyuz* (marital recalcitrance). Historically and socio-culturally, *nusyuz* has been asymmetrical, routinely invoked against wives who express dissatisfaction, demand their non-material rights, or seek legal remedies (Wahyuni & Kusrin, 2025). Under economic hegemony, this stigma becomes doubly coercive: a wife who receives abundant material provision yet complains about emotional or physical neglect is culturally and religiously shamed as an ungrateful, disobedient (*nusyuz*) wife risking divine retribution (Herisasono et al., 2024). However, an authentic reading of Islamic jurisprudence reverses this paradigm. Because *mu'asyarah bil ma'ruf* imposes an unconditional duty on the husband to treat his wife with holistic propriety, a husband's persistent and willful withholding of *nafkah batin* constitutes a primary breach of marital duty (*dharar*). Consequently, a wife asserting her non-material rights or seeking judicial dissolution (*khul'*) in response to emotional deprivation is not committing *nusyuz*; rather, she is asserting her legal right to exit a union where *mu'asyarah bil ma'ruf* has been structurally abandoned by the husband. This socio-religious contradiction is acutely visible in regional community dynamics, such as those in Hulu Sungai Utara, where religious extension workers and marital counselors frequently observe wives enduring silent emotional crises (Ma'arif, n.d.). Even when financial management is impeccably divided between household needs and personal allowances, the complete absence of emotional safety, affection, and intimacy generates profound relational instability, often culminating in extramarital affairs or silent breakdown. Wives remain entrapped in these *pseudo-harmonious* arrangements largely due to the internalized fear of *nusyuz* and social pressure to equate wealth with marital success. Previous socio-legal scholarship on Islamic family law has explored various facets of marital rights, yet significant analytical gaps remain. Extant studies on *nafkah batin* and marital rights predominantly examine their neglect in the context of structural poverty or as grounds for litigation in Religious Courts (Jamhuri, 2021). Similarly, research on domestic economic power has focused primarily on economic abuse among lower-income strata or the empowering effects of women's financial independence, largely overlooking how material abundance itself can be wielded by husbands as a hegemonizing tool. Furthermore, literature on *nusyuz* has extensively debated its gender-asymmetric interpretations in classical jurisprudence and its procedural application in divorce litigation, while scholars analyzing *mu'asyarah bil ma'ruf* often treat it as an abstract ethical ideal or a general guideline for marital counseling. Crucially, what remains insufficiently explored is the systemic intersection where high financial provision actively masks non-

material neglect, neutralizes wives' bargaining power, and weaponizes the stigma of *nusyuz* within affluent households. This study directly fills this research gap by offering a critical socio-legal inquiry into the relationship between domestic economic provision, non-material marital rights, and relational justice. The novelty of this research lies in its dual analytical contribution from both Islamic family law and socio-legal perspectives: *first*, it exposes the structural mechanics of domestic economic hegemony in constructing *pseudo-harmony*; *second*, it re-articulates *mu'asyarah bil ma'ruf* as a robust socio-legal counter-mechanism that deconstructs the misapplication of *nusyuz* and establishes the autonomous legal standing of *al-haqq al-zawji*. Ultimately, this study aims to delineate the anatomy of domestic economic hegemony, restore legal agency to wives facing covert non-material neglect, and formulate a reorientation of *mu'asyarah bil ma'ruf* for marital counseling and Islamic family law jurisprudence (Hayati, 2024).

Method

This study employs an empirical socio-legal research design, strategically synthesizing qualitative field research with normative-doctrinal legal analysis to critically investigate the structural intersection between domestic economic hegemony, the foundational Islamic mandate of *mu'asyarah bil ma'ruf*, and the fulfillment of wives' non-material marital rights (*nafkah batin*). A socio-legal framework is adopted precisely because a purely normative approach fails to capture how formal legal rules and religious doctrines are mediated, weaponized, or subverted within actual social structures. In this investigation, the socio-legal design operates as an analytical bridge between *das Sollen*—the normative ideal where Islamic jurisprudence and national legal frameworks mandate mutual respect, emotional reciprocity, and non-substitutable marital rights—and *das Sein*, the empirical reality wherein financial abundance is leveraged by husbands as an instrument of domestic power to compel wives' passive acquiescence toward emotional and physical neglect. The normative-doctrinal component of this research systematically examines a multi-tiered hierarchy of legal materials to establish the normative legal baseline (accounting for approximately 40% of the overall analytical corpus). First, primary scriptural sources were analyzed, focusing on Quranic injunctions—specifically Surah An-Nisa: 19 establishing the imperative of *mu'asyarah bil ma'ruf*—and authentic Hadith traditions asserting the inviolable, autonomous nature of marital rights (*al-haqq al-zawji*). Second, positive national legal frameworks were critically evaluated, centering on Law No. 1 of 1974 on Marriage as

amended by Law No. 16 of 2019, alongside the Compilation of Islamic Law (*Kompilasi Hukum Islam* / KHI). This statutory analysis specifically scrutinizes Articles 77, 80, and 84 of the KHI and relevant statutory provisions governing husband-wife mutual obligations, maintenance (*nafkah*), and the formal legal standards for declaring a wife *nusyuz* (recalcitrant). Third, these statutory norms were cross-analyzed against classical and contemporary *Fiqh Munakahat* literature (encompassing classic Sunni jurisprudence treatises and modern legal reformist discourses) to evaluate how jurisprudence conceptualizes the autonomy of non-material rights, the impermissibility of substituting financial wealth for emotional and sexual intimacy, and the legal application of *daf'u al-dharar* (the prevention of psychological and physical harm). Complementing this doctrinal foundation, the primary empirical stream (constituting approximately 60% of the research data) was conducted through qualitative field research designed to capture real-world operational dynamics and institutional observations within the local community context of Hulu Sungai Utara Regency. Rather than interviewing direct victims—which risks subjective bias and ethical sensitivities—data were gathered through purposive expert sampling involving key institutional and community actors who handle marital disputes and religious guidance daily. The informant matrix comprised three specialized groups: (1) Islamic Family Law scholars (*pakar Fiqh*) and local religious authorities (*pimpinan majelis ta'lim*) possessing deep jurisprudential authority to evaluate doctrinal reinterpretations; (2) experienced marital counselors from the Advisory Board for Marriage, Counseling, and Preservation (*Badan Penasihatan, Pembinaan, dan Pelestarian Perkawinan* / BP4); and (3) functional Islamic religious extension officers (*Penyuluh Agama Islam*) actively serving in sub-district administrative areas (such as Danau Panggang). These expert informants were selected because their professional vantage points provide direct observation of how economic dominance manifests during marital mediation, how wives articulate non-material grievances, and how the social stigma of *nusyuz* is culturally deployed. Data collection was executed through a dual-track protocol.(Maghfurrohman et al., 2024a) Normative data were gathered via systematic library research, textual mapping, and content analysis of statutory codes, jurisprudential texts, and peer-reviewed legal literature. Primary empirical data were collected using semi-structured, in-depth interviews guided by thematic interview protocols that explored four central analytical axes: (a) the structural differentiation between operational financial support and personal leisure allowances versus non-material emotional security; (b) the mechanism of financial hegemony in

silencing wives' bargaining positions; (c) institutional challenges in mediating *pseudo-harmonious* marriages; and (d) jurisprudential reinterpretations of *nusyuz* when husbands fail to provide *nafkah batin*. The collected data were processed using a qualitative descriptive-analytical technique grounded in thematic content analysis. The analytical workflow followed three systematic stages: data reduction (transcribing, filtering, and coding verbatim transcripts and legal texts into primary thematic nodes), data display (structuring findings into analytical matrices that juxtapose empirical expert narratives against statutory and scriptural clauses), and conclusion drawing via critical synthesis.(Naseh, 2024) To ensure analytical neutrality and the high methodological rigor required for top-tier journal publication, methodological and source triangulation was rigorously applied. Empirical field data generated from expert interviews were systematically tested and neutralized against the normative benchmarks of the Al-Qur'an, Hadith, Law No. 1 of 1974 jo. Law No. 16 of 2019, the KHI, and classical-contemporary Fiqh doctrines.(Chairina, 2021) By constantly cross-examining empirical field realities (*das Sein*) with normative jurisprudential standards (*das Sollen*), the methodology enables a robust socio-legal deconstruction: proving that under authentic Islamic law and national legal frameworks, financial abundance does not mitigate non-material neglect, and a wife's assertion of *al-haqq al-zawji* or pursuit of judicial separation (*khul'*) cannot be legally or religiously classified as *nusyuz*.(Risbyantoro et al., 2023)

Results and Discussion

Domestic Economic Hegemony and Pseudo-Harmony

Field investigation within the local community context of Hulu Sungai Utara Regency reveals a distinct structural distortion in how marital maintenance (*nafaqah*) is conceptualized and executed within affluent households. Empirical insights provided by functional Islamic religious extension officers demonstrate that financial provision in well-to-do families is frequently compartmentalized into two distinct financial streams: operational household capital and personal leisure allowances for the wife.(Hermanto & Subhan, 2025) While this division represents a high level of material adequacy (*nafkah lahir*), empirical observations from marriage guidance sessions indicate that material abundance

routinely fails to guarantee marital stability when detached from non-material support (*nafkah batin*).

Financial Dimension	Operational Reality	Psychological & Relational Outcome
Material Provision (Nafkah Lahir)	Abundant household operational funds and dedicated personal leisure allowances.	Creates outward appearances of prosperity and public household stability.
Non-Material Deprivation (Nafkah Batin)	Denial of physical intimacy, emotional security, mutual affection, and tranquility (sakinah).	Induces acute emotional vacuum, severe psychological distress, and relational rift.
Hegemonic Mechanism	Wealth deployed as an implicit substitute or justification for non-material neglect.	Establishes **pseudo-harmony**, compelling the wife into forced acquiescence and silence.
Systemic Risk	Long-term emotional estrangement and unaddressed domestic power imbalance.	Drives marital breakdown, hidden domestic crisis, or extramarital affairs (*perselingkuhan*).

In field reality, non-material maintenance encompasses essential psychological and physical dimensions, specifically sexual intimacy, emotional security, mutual affection, and psychological tranquility. When husbands weaponize financial generosity as an implicit justification for withholding physical intimacy and emotional companionship, a state of *pseudo-harmony* is generated. Under this dynamic, the household outwardly displays financial success, whereas internally, the wife suffers from acute emotional deprivation. This empirical reality stands in stark contrast to positive national law. Article 33 of Law No. 1 of 1974 on Marriage explicitly obligates spouses to afford mutual love, respect, assistance, and physical-spiritual companionship. Furthermore, Article 77 Paragraph (2) of the Compilation of Islamic Law (*Kompilasi Hukum Islam* / KHI) dictates that spouses are legally

bound to establish a solid moral and emotional foundation for the household. The empirical findings demonstrate that material abundance, when deployed as a mechanism of domestic hegemony, subverts these statutory mandates by reducing a holistic legal union into an asymmetric economic arrangement.(Maghfurrohman et al., 2024b)

Autonomous Legal Standing of Al-Haqq Al-Zawji

To counter the normalization of financial substitution, expert jurisprudential analysis establishes that non-material rights (*al-haqq al-zawji*) possess absolute, autonomous legal standing within Islamic law. In *Fiqh Munakahat*, the obligation of *nafkah batin* is an independent legal duty that cannot be commuted, offset, or extinguished through financial provision. A husband's assertion that substantial financial maintenance—such as the provision of real estate, luxury goods, and leisure funds—vacates his obligation to provide emotional and sexual intimacy is legally invalid under Islamic jurisprudence. This autonomous legal standing operates across three distinct normative pillars: scriptural foundations, classical Shafi'i jurisprudence, and Indonesian positive legal frameworks. From a scriptural foundation, this jurisprudential principle is anchored in the divine mandate of *mu'asyarah bil ma'ruf* in Qur'an Surah An-Nisa verse 19, which instructs husbands to cohabit with their wives in kindness and propriety.(Ismanto, 2021) Exegetical analysis (*tafsir*) demonstrates that "kindness" (*al-ma'ruf*) is not restricted to monetary distribution or material provisions; rather, it demands dignified interpersonal treatment, emotional safeguarding, respectful cohabitation, and the complete avoidance of harm (*dharar*). This normative imperative is further fortified by the authentic prophetic tradition recorded in *Sahih al-Bukhari* (Hadith No. 1968), where the Prophet Muhammad explicitly validated the principle that an individual's spouse holds an inviolable, independent legal right (*inna li-zawjika 'alayka haqqan*) that must be fulfilled alongside religious and physical obligations. Textually, this prophetic statement elevates non-material rights to an unalterable status, establishing that marital duties cannot be arbitrarily truncated into financial transactions or commodified through monetary allowances.(Handayani, 2023) Contemporary Islamic jurisprudence maintains that financial abundance does not reduce a husband's moral and legal culpability (*dosa*) for intentionally neglecting his wife's non-material rights without a valid legal excuse (*uzur syar'i*). Within classical Shafi'i jurisprudence (*Mazhab Syafi'i*), which serves as the primary doctrinal foundation for Indonesian Islamic legal thought, the distinction between material maintenance (*nafaqah*)

and non-material companionship (*mu'asyarah/istimta'*) is rigorously maintained as two separate legal regimes. In seminal Shafi'i treatises—including Imam al-Shafi'i's *Al-Umm*, Al-Nawawi's *Rawdat al-Talibin* and *Al-Majmu' Sharh al-Muhadhdhab*, and Ibn Hajar al-Haytami's *Tuhfat al-Muhtaj*—material maintenance (*nafaqah*) is classified as a financial obligation arising specifically from the wife's legal availability (*tamkin*), whereas sexual intimacy (*wathi'*) and equitable cohabitation (*qasm*) belong to the inviolable personal rights of marriage (*huquq al-zawjiyyah*). In Shafi'i legal doctrine, fulfilling financial *nafaqah* does not legally discharge, satisfy, or commute the duties of *istimta'*.(Bahri, 2024) While Shafi'i jurists acknowledge that the frequency of physical intimacy fluctuates based on a husband's physical capacity and valid impediments (*uzur syar'i* such as illness or physical incapacity), willful and prolonged deprivation inflicted without legal cause constitutes an unlawful act of harm (*idhrar*). Imam al-Nawawi in *Al-Majmu'* underscores that marriage is legally instituted to preserve chastity (*ihsan*) and emotional stability for both spouses; consequently, leveraging material wealth to withhold non-material rights directly subverts the underlying legal purpose (*maqasid*) of the marital contract. In the realm of Indonesian positive legal frameworks, this scriptural and jurisprudential autonomy is codified within national statutory regulations. Article 33 of Law No. 1 of 1974 on Marriage (as amended by Law No. 16 of 2019) explicitly mandates that spouses are bound by law to afford mutual love, respect, assistance, and physical-spiritual companionship. This statutory principle is further operationalized in Articles 77 and 80 of the Compilation of Islamic Law (*Kompilasi Hukum Islam* / KHI). Article 77 Paragraph (2) of the KHI dictates that spouses are legally obligated to maintain a solid moral and emotional foundation for the household, while Article 80 Paragraph (2) explicitly establishes that fulfilling non-material duties is a legal prerequisite for maintaining marital equilibrium.(Faizah, 2021) Under national family law, a husband's failure to provide non-material support constitutes an actionable breach of statutory duty, regardless of his financial generosity. When empirical field realities—such as those observed by BP4 counselors—encounter instances where wealth is weaponized to compel a wife's silence, positive law aligns with classical jurisprudence in asserting that

financial provision cannot insulate a husband from the legal consequences of non-material neglect.(Maghfurrohman et al., 2024c)

Deconstructing Nusyuz and Women's Legal Agency

A critical finding from field research concerns the psychological and ideological mechanism that enforces wives' silence under domestic economic hegemony. Field evidence indicates that wives enduring non-material neglect often refrain from seeking legal redress due to an acute, internalized fear of being labeled *nusyuz* (disobedient) and incurring divine condemnation (*Mutmainnah, personal communication, 2026*). Local socio-cultural discourses frequently misapply religious warnings regarding female marital disobedience, coercing women into believing that questioning a financially generous husband constitutes a grave spiritual transgression. Jurisprudential deconstruction definitively dismantles this asymmetric stigma. Under authentic Islamic legal principles, a wife who voices grievances or takes legal action regarding the deliberate neglect of her non-material rights cannot be classified as *nusyuz*.(Fahrezi, 2022) The legal fault (*tasbib*) in such scenarios resides squarely with the husband who breaches his primary obligation of *mu'asyarah bil ma'ruf*. In Shafi'i legal doctrine, *nusyuz* is strictly defined as an unjustified, unlawful refusal by the wife to fulfill her marital duties (*bighayri haqq*). Asserting an established legal right (*al-haqq al-zawji*) or seeking relief from psychological and physical distress (*dharar*) does not meet the legal threshold of *nusyuz*. When a husband persistently neglects *nafkah batin*, the wife possesses full legal agency under Islamic law to initiate judicial dissolution (*cerai gugat*) via redemptive divorce (*khul'*) through the payment of a financial consideration (*iwadh*). This legal agency is grounded in the foundational legal maxim *al-dhararu yuzal* ("Harm must be eliminated"). In Shafi'i jurisprudence, when cohabitation ceases to embody kindness and instead produces continuous harm (*su' al-'ishrah*), the legal mechanism of *khul'* or judicial dissolution (*fasakh*) serves as a statutory relief valve to protect the wife's spiritual, emotional, and physical integrity. Imam al-Shafi'i explicitly notes in *Al-Umm* that the legal system must not allow marriage to become a vehicle for subjugation (*idhrar*), wherein a husband retains a wife in a state of emotional suspense (*ka al-mu'allaqah*) while hiding behind financial maintenance.(Khalaf, 1938) Consequently, institutional bodies such as the Advisory Board for Marriage, Counseling, and Preservation (BP4) and Religious Courts (*Pengadilan Agama*) must reorient their counseling and adjudicative paradigms. Rather than deploying *nusyuz* as a tool to compel women to endure *pseudo-harmonious* marriages,

mediation procedures must adopt a framework of relational justice. This framework requires evaluating marital health not merely by financial receipts or material provision, but by the holistic, equitable fulfillment of reciprocal non-material rights guaranteed by scriptural mandates, Shafi'i jurisprudence, and positive national law.

Conclusion

This study directly addresses its core research objectives by establishing the socio-legal mechanisms through which domestic economic hegemony suppresses wives' non-material marital rights (*nafkah batin*) and by offering a jurisprudential framework to dismantle the misapplication of *nusyuz*. First, in answering the inquiry into domestic power dynamics, empirical and qualitative findings confirm that material abundance in affluent households is frequently weaponized to compel wives into passive acquiescence toward emotional and physical neglect. This dynamic creates a condition of *pseudo-harmony*—where public financial stability conceals severe internal relational crisis and emotional deprivation. Second, regarding the normative standing of non-material rights, doctrinal analysis across scriptural sources, classical Shafi'i jurisprudence (*Mazhab Syafi'i*), and Indonesian positive law (Law No. 1 of 1974 jo. Law No. 16 of 2019 and the Compilation of Islamic Law) proves that *al-haqq al-zawji* holds absolute, autonomous legal standing. Financial maintenance (*nafaqah*) cannot commute, substitute, or extinguish the fundamental duty of emotional and physical companionship. Consequently, an aggrieved wife who asserts her non-material rights or seeks judicial separation (*khul'*) does not commit *nusyuz*; legal culpability (*tasbib*) rests solely with the husband who induces *dharar* (harm) by breaching his primary obligation of *mu'asyarah bil ma'ruf*. Third, to fulfill the objective of policy and jurisprudential reform, this study demonstrates that the principle of *mu'asyarah bil ma'ruf* must be reoriented within institutional frameworks. Advisory Board for Marriage, Counseling, and Preservation (BP4) counselors, religious extension officers, and Religious Court judges must transition from financial-centric evaluations to a model of relational justice. Marital integrity must be measured by the holistic, reciprocal fulfillment of human rights rather than material provision alone.

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