

# The Relevance of the Obligation of Maintenance in Islamic Family Law to the Socio-Economic Changes of Modern Families

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## ABSTRACT

This study analyzes the relevance of the obligation of maintenance (maintenance/support) in Islamic family law to the socio-economic changes of modern families. This study aims to analyze the regulation of the maintenance obligation in Islamic family law and Indonesian positive law, examine its relevance to the changing socio-economic conditions of modern families, and analyze the reinterpretation of maintenance obligations in achieving family justice and welfare. The study uses a normative legal method with statutory, conceptual, and analytical approaches by reviewing primary and secondary legal materials from the 2019–2024 period. The results show that the maintenance obligation remains the main responsibility of the husband based on Islamic law, Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, and the Compilation of Islamic Law (KHI). Socio-economic changes demand a more contextual interpretation of maintenance, especially regarding education, health, and family welfare needs. A reinterpretation based on *maqāṣid al-syarī'ah*, justice, and family partnership is necessary without eliminating the husband's primary responsibility.

**Keywords:** *Islamic Family Law; Justice; Maqāṣid al-Syarī'ah; Nafkah; Reinterpretation.*

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## 1. | INTRODUCTION

Marriage in Islamic family law is not only a religious and social bond, but it also gives rise to a set of legal rights and obligations between husband, wife, and children. One of the most fundamental obligations is maintenance (*nafkah*). In the construction of Islamic law, maintenance is a consequence of the marriage contract (*akad*) that places the husband as the party with the primary responsibility to meet the living needs of the family. This obligation includes basic needs such as food, clothing, housing, as well as other needs required to decently sustain family life. Faizah (2020) explains that maintenance is a logical consequence of marriage, while Ismanto (2021) demonstrates that the measure of maintenance in jurisprudence (*fiqh*) is not always determined nominally, but relates to the husband's condition and the family's needs.

In the context of Indonesian positive law, this obligation is reinforced through Law Number 1 of 1974 on Marriage. Article 34 paragraph (1) specifies that the husband is obliged to protect his wife and provide all household living necessities according to his ability. This provision remains applicable after the amendment to the Marriage Law via Law Number 16 of 2019. The 2019 amendment was mainly directed at the minimum age limit for marriage equalizing the minimum age limit for men and women to 19 years thereby leaving the substance of Article 34 regarding the husband's maintenance obligation unchanged.

For Muslim families, this regulation is strengthened through the Compilation of Islamic Law (KHI), specifically Article 80. The KHI provides a more detailed regulation by charging the husband with the responsibility for maintenance (*nafkah*), clothing (*kiswah*), residence, household expenses, maintenance and medical care for the wife and children, and children's education in accordance with his ability and income. Thus, there is a distinct character difference between the Marriage Law and the KHI. The Marriage Law provides general norms regarding the husband's obligations, while the KHI provides a more specific formulation for Muslim families. Religious court practices also utilize these provisions when considering maintenance rights in family cases.

Issues arise when this concept of maintenance confronts the socio-economic changes of modern society. Families today face increasing costs of education, health, housing, transportation, and technology needs. At the same time, women's participation in economic activities is rising. Wives are no longer solely in the position of being maintenance recipients; in many families, they contribute to household income. Maghfurrohman, Fajariyani, and Mujib (2024) indicate that although the husband is still viewed as the primary responsible party for maintenance, social conditions can encourage wives to play a role in fulfilling the family's economic needs.

These changes give rise to legal and conceptual issues. A wife's economic contribution should not automatically eliminate the husband's legal obligation of maintenance. Conversely, a husband's economic inability needs to be understood

proportionally based on actual ability, family needs, and the principle of public interest (*maslahah*). Hidayat and Fathoni (2022) show that the concept of maintenance can undergo an expansion of meaning in line with evolving family needs, while Nofiyanti and Kamaludin (2022) emphasize that the husband's maintenance obligation retains a strong foundation in Islamic law and Indonesian marriage law.

Developments in contemporary family law also demonstrate the need to situate marriage norms within the context of societal change. Miftahuddin and Nafi'ah (2024) emphasize the importance of applying the KHI through the perspective of *maqāṣid al-syarī'ah*, while Rahmasari (2024) views the reconstruction of family law as a necessity in contemporary family law. Wirastri and Van Huis (2024) also show that Indonesian marriage law continues to undergo reform through legislative changes and judicial practice developments. Thus, the maintenance issue cannot be analyzed solely based on normative texts; it also needs to be examined based on legal objectives, family structure changes, and societal needs.

Based on this background, this study proposes three research questions RQ1: How is the husband's maintenance obligation regulated under Islamic family law and Indonesian positive law? RQ2: What is the relevance of the husband's maintenance obligation to the socio-economic changes of modern families? RQ3: How can the husband's maintenance obligation be reinterpreted to achieve justice and family welfare without eliminating Islamic legal principles? These three questions form the basis of the analytical study connecting Islamic legal norms, positive law, and modern family dynamics.

### 3. | RESEARCH METHOD

This study utilizes a normative legal research method (*yuridis normatif*), which is legal research that positions norms, principles, concepts, and statutory provisions as the primary objects of analysis. This method was chosen because the research focuses on examining the husband's maintenance obligation based on Islamic family law and its relevance to the socio-economic changes of modern families. The study does not use surveys or interviews; instead, it analyzes legal materials directly related to maintenance and family law issues. The research is also aimed at discovering interconnections between applicable legal norms and evolving family needs, enabling the formulation of a contextual legal understanding without ignoring the core principles of Islamic law.

The approaches used consist of the statutory approach (statute approach), conceptual approach (conceptual approach), and analytical approach (analytical approach). The statutory approach is used to examine provisions regarding the husband's obligations in Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, the Compilation of Islamic Law, and Law Number 23 of 2004 on the Elimination of Domestic Violence to the extent that it pertains to domestic neglect. Law No. 16 of 2019 is a valid amendment to Law No. 1 of 1974, and its main modification relates to

the minimum marriage age, not the elimination of the husband's maintenance obligation.

The analysis of legal materials was conducted qualitative-prescriptively. Legal materials were identified, classified based on source and relevance, and then systematically interpreted to answer the three research questions. The analysis also incorporates the *maqāṣid al-syarī'ah* perspective to assess whether the application of maintenance obligations effectively achieves family welfare amidst changing socio-economic conditions. Furthermore, the results of the interpretation were compared among jurisprudence (*fiqh*) norms, positive law provisions, and modern family needs. Conclusions were drawn deductively to construct a formulation of maintenance obligations that remains grounded in Islamic legal principles while remaining responsive to the socio-economic changes of families. This approach is expected to produce an analysis that is not merely normative, but also provides a legal formulation relevant to contemporary family dynamics.

#### 4. | RESULTS AND DISCUSSION

##### **Maintenance Obligations under Islamic Family Law and Indonesian Positive Law**

The maintenance obligation in Islamic family law has a strong normative foundation. The Qur'an provides the basis for the responsibility to provide maintenance, including through Surah al-Baqarah verse 233, which links the father's obligation to providing suitable food and clothing. Surah an-Nisa verse 34 also positions men as *qawwam*, with economic responsibility being one of the underlying reasons for this position. This foundation demonstrates that maintenance is not merely a voluntary contribution, but a legal and moral consequence of the marital relationship. Faizah (2020) describes maintenance as a logical consequence of marriage, while Idin and Mustaming (2023) place maintenance as an important obligation in Islamic law arising from marriage.

In *fiqh*, the scope of maintenance basically covers the essential needs of the wife and family. Food, clothing, and housing constitute primary needs, although their scale and form may change according to circumstances. Ismanto (2021) explains that jurists (*fuqaha*) consider the husband's condition, the wife's condition, or both in determining the standard of maintenance. The KHI places greater emphasis on the husband's ability as a basis for determining maintenance. This conception demonstrates that Islamic law provides flexibility in determining the amount of maintenance without eliminating the primary obligation of the husband.

In Indonesian positive law, Article 34 paragraph (1) of Law No. 1 of 1974 stipulates that the husband is obliged to protect his wife and provide all household necessities according to his ability. This provision remains part of Indonesian marriage law following the amendment of Law No. 1 of 1974 by Law No. 16 of 2019. However, Law No. 16 of 2019 mainly amended Article 7 concerning the minimum marriage age, establishing the age of 19 years for both men and women. Therefore, it did not alter or reduce the husband's maintenance obligation.

The Compilation of Islamic Law (KHI) has a distinct position because it is not an Act or statute, but a legal guideline for Islamic family law established through Presidential Instruction Number 1 of 1991. Article 80 of the KHI provides more detailed rules concerning maintenance, clothing, residence, household expenses, medical care and treatment for the wife and children, and educational costs for children according to the husband's income. Religious Court practice continues to refer to these provisions when resolving maintenance and divorce cases.

The difference between the Marriage Law and the KHI reveals two layers of regulation. The Marriage Law establishes a general norm applicable to citizens, while the KHI provides a more specific elaboration for Muslims within the framework of Islamic family law. The KHI consequently complements the general provisions of the Marriage Law by detailing the husband's obligations. This finding is consistent with Nofiyanti and Kamaludin (2022), who explain that maintenance obligations have a simultaneous foundation in Islamic law, the KHI, and national marriage law.

The regulation of maintenance is also connected with legal protection against family neglect. Law No. 23 of 2004 on the Elimination of Domestic Violence includes domestic neglect as a form of domestic violence. Neglect may occur when a person fails to fulfill obligations to provide life, care, or maintenance to persons within the household or those who are economically dependent on them. Thus, under certain circumstances, failure to meet family needs may carry moral, civil, and legal consequences.

Judicial practice further demonstrates that maintenance obligations do not remain abstract legal principles. Religious Court decisions use Article 34 of the Marriage Law and Article 80 of the KHI as legal bases for evaluating the husband's obligations. Decision Number 58/Pdt.G/2024/PA.Prob, for example, referred to Article 34 paragraph (1) of the Marriage Law and Article 80 paragraph (4) of the KHI to reaffirm the husband's duty to provide maintenance according to his capabilities and income.

Thus, the answer to RQ1 indicates that the husband's maintenance obligation has a multilayered foundation consisting of the Qur'an and Hadith, fiqh, the Marriage Law, and the KHI. The husband remains the primary responsible party while the amount and form of maintenance are determined according to capability and family needs.

### **The Relevance of Maintenance Obligations to Socio-Economic Changes in Modern Families**

Socio-economic changes have significantly altered the structure of family needs. While classical fiqh generally constructed maintenance requirements around food, clothing, and shelter, modern families face more complex needs. Education, healthcare, transportation, communication, technology, housing costs, and child development have become integral parts of household expenditure. Therefore, the principle of maintenance according to ability needs to be interpreted contextually. The husband's capability cannot be separated from the actual needs of the family and reasonable living standards.

Ismanto (2021) shows that *fiqh* considers various factors in determining maintenance standards, while the KHI places greater emphasis on the husband's condition or income. This difference provides space for adaptive interpretation. Maintenance does not necessarily have to be understood as a fixed monetary amount applicable to every family. Rather, it should be understood as the fulfillment of decent living needs based on economic capability and family requirements.

The concept of maintenance therefore remains relevant because its core objective is the protection of family welfare. Although the form of family needs changes, the legal objective remains constant. Children's education, for example, may not have been formulated in classical *fiqh* in the same form as contemporary educational expenses, but the KHI expressly includes children's education as part of the husband's responsibility. Similarly, healthcare and medical treatment have become recognized components of the husband's obligation under Article 80 of the KHI.

Another significant change is the increasing participation of women in economic activities. Modern wives may work as employees, entrepreneurs, professionals, or informal sector workers. Their economic contribution can strengthen family resilience but also raises questions about whether a wife's income reduces the husband's legal duty. Normatively, it does not automatically do so. The husband's maintenance obligation derives from the marital relationship and the responsibility imposed by law.

Maghfurrohman, Fajariani, and Mujib (2024) demonstrate that Islamic legal thought generally continues to position the husband as the primary party responsible for maintenance, although under certain circumstances wives may take on economic roles when husbands cannot fully meet family needs. A wife's economic contribution can therefore be understood as *ta'āwun* or mutual assistance. Bahri (2024) similarly discusses the relationship between Islamic maintenance obligations and income-earning wives, emphasizing that modern economic realities do not always follow traditional divisions of family roles.

A distinction must therefore be made between legal obligations and economic cooperation. The husband's legal obligation remains, while the practical fulfillment of household expenses can occur collaboratively. When husband and wife agree to use joint income for household needs, such an arrangement may constitute *ta'āwun*. However, this cooperation should not automatically modify the foundational legal norm that establishes the husband as the responsible party for maintenance.

Another important issue concerns the husband's economic incapacity. Islamic legal principles do not require maintenance without consideration of actual capability. A husband experiencing job loss, reduced income, or serious economic hardship should be assessed according to his objective circumstances. Ismanto (2021) emphasizes the husband's condition as an important factor in determining maintenance standards. Nevertheless, the principle of ability must not become an excuse to evade responsibility. Capability should be assessed based on real conditions and good-faith efforts to meet family needs.

Social changes have also influenced the understanding of husband-wife relationships. Modern families increasingly emphasize communication, cooperation, division of tasks, and shared decision-making. Miftahuddin and Nafi'ah (2024) emphasize the importance of interpreting the KHI through a *maqāṣid al-syarī'ah* perspective so that family law does not merely apply textual rules but also achieves public welfare. Rahmasari (2024) similarly emphasizes the need for family law reconstruction in response to contemporary social developments. Within this framework, maintenance should function as an instrument of family protection rather than merely a symbol of economic dominance.

The legal consequences of neglect further demonstrate the continuing relevance of maintenance. Law No. 23 of 2004 shows that families have legal protection against the abandonment of basic needs. Maintenance is therefore not merely a private matter between husband and wife but also has a legal protection dimension when negligence causes suffering or unreasonable economic dependency.

Accordingly, the answer to RQ2 is that the husband's maintenance obligation remains highly relevant in modern families. What has changed is not the fundamental principle of responsibility but the form of needs and the context in which the obligation is fulfilled. Modern maintenance should cover basic needs and other reasonable necessities that support family welfare, including education, healthcare, and child development. The economic participation of wives can strengthen family resilience, but it does not automatically eliminate the husband's legal obligation.

### **Reinterpretation of Maintenance Obligations to Achieve Family Justice and Welfare**

Reinterpreting maintenance obligations is necessary not to dissolve Islamic legal principles but to ensure that these principles continue to achieve the objectives of Islamic law under changing socio-economic conditions. The most relevant framework is *maqāṣid al-syarī'ah*, particularly the protection of life (*hifẓ al-nafs*), lineage (*hifẓ al-nasl*), and property (*hifẓ al-māl*). Within the family context, maintenance should be directed toward guaranteeing survival, child development, economic security, and household welfare.

Miftahuddin and Nafi'ah (2024) emphasize applying the KHI through the lens of *maqāṣid al-syarī'ah*. This perspective indicates that family law should not focus solely on preserving formal rules but should also consider the objectives those rules seek to achieve. In maintenance matters, the objective is to ensure that family members do not lose their right to a decent standard of living. Changes in family needs should therefore not be used to artificially restrict the scope of maintenance when those needs are reasonably connected to family welfare.

The first reinterpretation concerns the substance of maintenance needs. Modern maintenance requirements cannot be rigidly restricted to food, clothing, and housing. Children's education, healthcare, transportation, and technology supporting education or work may constitute reasonable family needs. Article 80 paragraph (4) of the KHI

already provides a legal basis for this broader interpretation by including maintenance, medical care, and children's education within the husband's responsibility.

The second reinterpretation concerns the principle of the husband's capability. The phrase "according to ability" should be understood as a principle of proportionality rather than a basis for eliminating the husband's duty. A husband with a high income carries a different degree of responsibility from one experiencing economic constraints, but both retain the obligation to fulfill family needs according to their actual capacity. Maintenance should correspond to reasonable family needs rather than excessive demands, while economic hardship cannot be used as an excuse to ignore basic needs when the husband still possesses the capacity to fulfill them.

The third reinterpretation concerns the economic contribution of wives. In modern families, a wife's contribution is appropriately viewed as family cooperation. Maghfurrohman et al. (2024) demonstrate that working wives represent an increasingly common social reality. Such contribution may constitute *ta'āwun* when undertaken by mutual agreement and directed toward family welfare. However, cooperation must be distinguished from a transfer of legal duties. A working wife does not automatically become legally responsible for supporting the family. Family justice therefore does not require mathematically equal economic contributions but requires a fair allocation of responsibilities based on rights, duties, capacities, and agreements.

This approach also strengthens the understanding of the *qawwam* concept. *Qawwam* should not be interpreted solely as male dominance or authority over the wife but as leadership accompanied by responsibility, protection, and family support. The greater responsibility assigned to the husband entails a corresponding duty to ensure the welfare and protection of family members. Such an interpretation prevents *qawwam* from being understood in a purely dominative manner.

The fourth reinterpretation connects maintenance with legal protection against family neglect. Law No. 23 of 2004 demonstrates that failure to fulfill life and maintenance obligations may fall within the concept of domestic neglect. Fulfillment of maintenance is therefore part of protecting family members who are economically dependent. This reinforces the understanding that maintenance is not merely a religious obligation but also has consequences within the national legal protection system.

The structural relationship between the Marriage Law and the KHI also needs to be maintained in the reinterpretation process. Law No. 16 of 2019 amended Law No. 1 of 1974 but did not alter the substance of Article 34 concerning maintenance. The KHI remains a guideline containing more detailed provisions concerning the types of maintenance. Therefore, the appropriate formulation is Law No. 1 of 1974 as amended by Law No. 16 of 2019.

Rahmasari (2024) and La Harisi and Abdullah (2024) emphasize the importance of developing Islamic family law in response to contemporary social challenges through a *maqāṣid* approach. Such development does not necessarily require statutory amendment. Legal doctrine, judicial decisions, and contextual interpretations of

existing norms can also function as mechanisms of legal development. Hadi, Saputra, and Faozan (2024) further connect Islamic family law with human rights by emphasizing that fulfillment of family needs is closely related to respect for human dignity. Muchtar and Sutarso (2021) also demonstrate differences among scholars concerning maintenance in conditions of *nusyuz*, showing that maintenance law in the fiqh tradition is not entirely monolithic and therefore provides room for contextual legal interpretation.

Consequently, reinterpretation of maintenance obligations should not diminish the wife's rights or remove the husband's responsibilities. Three principles should remain central: the husband remains the primary party responsible for maintenance; the amount and form of maintenance are determined proportionally according to ability, family needs, and socio-economic conditions; and the wife's economic contribution is viewed as family cooperation rather than an automatic waiver of the husband's legal duty. Based on RQ3, the *maqāṣid al-syarī'ah* approach provides a strong foundation for maintaining the relevance of maintenance while adapting its application to modern life. Reinterpretation is therefore a process of contextualizing Islamic legal norms, not rejecting them, with the ultimate objective of achieving family justice, dignity, protection, and welfare.

## 5. | CONCLUSION

This study demonstrates that the husband's maintenance obligation in Islamic family law maintains strong relevance to the socio-economic changes of modern families. Based on RQ1, maintenance obligations possess multi-layered foundations across the Qur'an, Hadith, *fiqh*, national marriage law, and the Compilation of Islamic Law. Article 34 paragraph (1) of Law Number 1 of 1974 as amended by Law Number 16 of 2019 continues to position the husband as the responsible party for providing household living necessities according to his ability. Meanwhile, Article 80 of the KHI provides more detailed rules regarding maintenance, clothing, housing, household expenses, health, medical care, and children's education. Based on RQ2, socio-economic changes do not remove maintenance obligations, but alter the form and complexity of family needs. Modern needs encompass education, healthcare, transportation, technology, and other elements supporting family welfare. Increased economic contributions by wives also do not automatically negate husbands' obligations; such contributions are more appropriately understood as cooperative partnership (*ta'āwun*).

Based on RQ3, reinterpreting maintenance obligations should be executed through *maqāṣid al-syarī'ah*, proportionality, and fairness frameworks. Husbands remain primarily responsible, but maintenance amounts must account for actual ability, family needs, and socio-economic conditions. Thus, the relevance of maintenance lies in its ability to preserve family welfare without compromising core Islamic legal principles. This reinterpretation also reinforces connections between Islamic family law and the protection of family welfare and human dignity. The implications of this study suggest that enforcing maintenance obligations should focus on fulfilling family needs

equitably and proportionally, rather than relying strictly on fixed nominal figures. This approach can assist judges in resolving maintenance disputes by weighing the husband's economic capacity, the family's actual needs, and broader socio-economic shifts. For society, reinterpreting maintenance fosters an understanding that family duties remain grounded in Islamic law while execution adapts to real conditions to achieve family welfare.

Future research is encouraged to develop empirical studies on maintenance obligation enforcement across diverse socio-economic family backgrounds. Studies can examine maintenance determination practices in religious court decisions, perspectives of judges and legal practitioners, as well as family experiences in meeting household needs. Additionally, future research could compare maintenance concepts across various Islamic jurisprudence schools (*madhhabs*) and international Islamic family law systems to gain broader perspectives on *maqāṣid al-syarī'ah*-based maintenance reinterpretations, justice, and family welfare.

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The authors declare that there is no conflict of interest.

### **Ethical Approval and Originality Statement**

Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

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The data that support the findings of this study are available from the corresponding author upon reasonable request.

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