

The Substance and Relevance of the Concept of Maintenance in the Family: A Thematic- Holistic Combination Study

*Nur Hayati Aulia*¹; *Moh. Fawwaz Khitam Romadloni*².

*Faculty of Sharia and Law, Universitas Islam Negeri Sunan Kalijaga, Indonesia.*¹

*Faculty of Sharia and Law, Universitas Islam Negeri Syarif Hidayatullah, Indonesia.*²

E-mail: 24203011049@student.uin-suka.ac.id, nabhanfawwaz99@gmail.com

Manuscripts received : 23/01/2026, Revision and Review : 17/02/2026, Approved 25/02/2026

Abstract

This study discusses the concept of family livelihood with a thematic-holistic approach to explore its substance and relevance in the context of contemporary life. Livelihood is an important obligation in the family institution regulated in the Qur'an, Hadith, and reinforced by the views of scholars and legal systems in various Muslim countries. Thematic studies explore verses and hadiths related to livelihood to formulate a complete understanding, while the holistic approach emphasizes the importance of considering universal Islamic values in the practice of providing livelihood. The results of the study show that the concept of livelihood is not only material, but also a moral responsibility that aims for the sustainability of household life and its fulfillment is interpreted flexibly based on the agreement of husband and wife and is very relevant in answering the dynamics of modern families. Amidst changes in social structures and gender roles, the principles of justice, responsibility, and equality remain at the core of Islamic teachings on livelihood. This study emphasizes the importance of reinterpreting basic Islamic values to maintain family harmony in the modern era.

Keywords: Livelihood, concept, thematic-holistic, relevance.

A. Introduction

Marriage has binding legal implications between husband and wife, namely the existence of rights and obligations that must be fulfilled by each other, one of which is the husband's maintenance obligation for his children and wife. The fulfillment of maintenance in the family is an important foundation in building family welfare, harmony, and resilience.¹ In the Indonesian context, regulations regarding maintenance obligations have been regulated in several laws and regulations such as the Compilation of Islamic Law (KHI) and the Marriage Law, which affirm the husband's responsibility for natural and mental

¹ Samsul Bahri, "Maintenance Obligations in the Family (A Comparative Study of Islamic Law and Law in Indonesia Against Wives Earning Livelihood)," *Yustisi, Journal of Islamic Law & Law*, Vol: 11: NO.1 (2024). p. 68.

maintenance. However, the practice of providing alimony is often challenged, both due to economic problems, imbalance of roles in the household, and ignorance of the applicable rules.

This problem does not only occur in Indonesia, but also becomes a concern in various other Muslim countries that have diverse family law characteristics, such as Egypt, Tunisia, Morocco, Malaysia and Brunei Darussalam. Each country has its own approach to alimony regulations, both in terms of scope, the type of alimony required, and sanctions for violations. The existence of differences in regulations in various Muslim countries cannot be separated from the influence of Islamic family law reform. This comparison is important to obtain comparative understanding and solutions that are relevant to the conditions of Indonesian society.

On the other hand, the views of madhhab scholars such as Hanafiyah, Malikiyah, Shafi'iyah, and Hanabilah also make a great contribution in explaining the principles of fiqh regarding sustenance. They have distinctive opinions regarding the limitations, conditions, and responsibilities of alimony, both towards wives and children. This difference in ijtihad shows the breadth and flexibility of Islamic teachings in regulating family life.

Given the complexity of this issue, a thematical-holistic approach is needed that not only examines normative postulates (nash) textually, but also examines the social, economic, and cultural contexts of modern society. Through this approach, the concept of alimony is not only interpreted as a legal obligation, but also as an instrument of social justice and a form of protection for the rights of women and children in the family. Therefore, it is important to conduct an in-depth analysis of the concept of alimony, both historically, juridically, and its relevance in facing the challenges of contemporary Muslim families.

Some of the research that discusses the concept of alimony in the family includes, Nurholis' writing² that alimony in Islamic law and law have the same substance and relevance, namely to form a household with full responsibility in order to create a family that is *sakinah, mawaddah, and rahmah* based on a functional structural analysis in which husband and wife in the modern era today cooperate with each other in fulfilling the family economy. Meanwhile, Nandang Fathurrahman's writing³ explains that the position of alimony according to Islamic law is the priority of the husband in meeting the primary needs of his family, while the position in positive law, alimony is given on the basis of fulfilling the rights and obligations of husband and wife. The husband is obliged to provide maintenance according to his ability to the wife, even though the wife already has her own

² Nurholis, "The Substance and Relevance of the Concept of Maintenance in Various Contemporary Islamic Family Law Legislation (Functional Structural Analysis), *Al-Qadlaya Journal of Islamic Family Law*, Vol. 1: No.2 (June 2022), p. 8.

³ Nandang Fathurrahman, "Comparison of Maintenance Obligations from the Perspective of Islamic Law and Positive Law in Indonesia," *Al-Ahwal Al-Syakhisyah, Journal of Family Law and Islamic Justice*, Vol. 3: No.2 (2022), p. 200.

income. Then Samsul Bahri⁴'s writing explains that according to positive law and Islamic law, the obligation of maintenance remains the absolute obligation of the husband to his wife. If the wife works and has her own income, alimony does not abort the husband's obligation to provide alimony, but the wife's obligation to take care of the household must still be carried out.

Based on the previous research above, there is a gap to conduct further research, that the study has not discussed the concept of alimony based on a thematical-holistic combination study, but only examines the general concepts contained in laws and regulations in Indonesia and Islamic law. Therefore, the author is interested in continuing the previous research by completing the analysis using a thematical-holistic study of the concept of alimony which aims to explain the concept of alimony in the family in accordance with the current context by using a thebal-holistic combination study, namely understanding nash contextually.

B. Research Method

This research is a type of library research⁵, which is research conducted by collecting, analyzing, and concluding data from various written sources such as books, books, laws and regulations, journal articles, theses, theses, and other sources of documents related to the substance and relevance of the concept of sustenance in the family. The subject of this research is the concept of alimony in the family, the object of this research is codification in Indonesia and other countries about alimony, the postulates of the Quran and hadith, as well as the opinions of scholars about alimony.

This research is descriptive-analytical. The data analysis technique used in writing articles is Data Collecting or data collection is a systematic process of obtaining information from various sources about the concept of sustenance in the family to be used in research, analysis, or decision-making/conclusions. The author also uses data interpretation, which is the process of analyzing, understanding, and giving meaning to the data that has been collected so that it can be used to draw conclusions about the relevance and substance of the concept of sustenance in the family.⁶

Data Collecting: collecting articles that discuss alimony in the Marriage Law and the Compilation of Islamic Law, collecting verses related to the concept of alimony in the family, and collecting material on the concept of alimony from marriage law books. Data interpretation: understanding all the material that has been collected, then analyzed and interpreted into research results on the concept of sustenance in the family

C. Results and Discussion

⁴ Samsul Bahri, "Maintenance Obligations in the Family (A Comparative Study of Islamic Law and Law in Indonesia Against Wives Earning Bread," *Yustisi, Journal of Islamic Law & Law*, Vol. 11: 1 (February 2024), p. 75.

⁵ Farida Nugrahani, *Qualitative Research Methods in Language Education*, (Surakarta, 2014), p. 46.

⁶ *Ibid.*, p. 124.

a. Konsep Nafkah Menurut Kodifikasi di Indonesia

Alimony according to codification in Indonesia is regulated in Law No. 1 of 1974 concerning Marriage and also the Compilation of Islamic Law (KHI) which is a modification and codification of the concept of conventional fiqh that is adjusted to the circumstances of Indonesian society. The maintenance must be given by the husband to his wife and children because he is the head of the family who has financial responsibility for his family. Article 34 paragraph (1) of the Marriage Law discusses the obligation of the husband to his wife, namely to protect and provide everything for the needs of domestic life according to his ability. Meanwhile, the wife's obligation is to manage household affairs as well as possible.⁷ Article 80 paragraph (4) of the KHI states that in accordance with his income, the husband bears a. alimony, *kiswah*, and place of residence for the wife, b. household expenses, treatment costs and medical expenses for the wife and children, c. education costs for the children.⁸

Husband and wife bear a noble obligation to uphold a *sakinah*, *mawaddah* and *rahmah* household because the family is the basic joint of the structure of society. A righteous household/family is a family that has peace, tranquility, and happiness. To realize a healthy family, husband and wife must have an understanding of the fulfillment of each other's rights and obligations such as loving each other, respecting each other, and giving each other inner birth assistance. Before carrying out the marriage, there was an effort to provide premarital guidance carried out by KUA called Marriage Guidance (Binwin) which was previously called the Bride-to-be Course (Suscatin). This program aims to educate couples to get to know more about matters related to the foundation of the *Sakinah* family, reproductive health, conflict management, as well as the rights and obligations of husband and wife, and so on.⁹ With this marriage guidance, it is hoped that there will be fewer divorce cases in Indonesia.

Regarding post-divorce alimony rights, in KHI Article 149 it is regulated regarding the rights of post-divorce *talak* wives that is, the ex-husband is obliged to provide *mut'ah*, *mastan* and *kiswah* maintenance during *iddah* and is not sentenced to *talaq bain* or *nusyuz* and in a state of not being pregnant. The obligation to provide support to the ex-wife during *iddah* is mandatory to pay off the dowry owed, and it is mandatory to provide *hadhanah* costs to children who are not yet 21 years old. SEMA No. 3 of 2018 regulates the rights of wives after divorce to be able to sue for *madhiyah* alimony, *iddah* alimony, *mut'ah* and child support as long as the wife is not proven *nusyuz*, based on the principles of justice and propriety by considering the economic

⁷ Law Number 1 of 1974 concerning Marriage, Article 34 paragraph 1

⁸ Compilation of Islamic Law, Presidential Instruction No. 1 of 1991, Article 80 paragraph 4

⁹ Nur Hotimah, "The Implementation of the Marriage Guidance Program in Minimizing Divorce (Case Study of KUA Kota District, Pamekasan Regency)", *Syiar: Journal of Islamic Communication and Broadcasting*, Vol. 1: No.1 (2021), p. 52.

ability of the husband and the living needs of children and wives.¹⁰ Then SEMA 2 of 2019 explains that the wife can sue her rights to the court regarding madhiyah alimony, iddah and mut'ah alimony and child support as stipulated in SEMA No. 3 of 2018 and the ex-husband/defendant must pay it before taking the divorce certificate.¹¹ The two SEMA above accommodate the rules of PERMA No. 3 of 2017 concerning Guidelines for Adjudicating Women's Cases, where there is an update on family law regarding the rights of wives after divorce lawsuits, which were previously not regulated in the KHI. This regulation reflects the reform in family law in Indonesia based on the principles of equality and justice for every woman in talaq divorce and lawsuit divorce.¹² The difference is that, in a lawsuit divorce, the wife must first sue for her right to the court, and it can be granted if it is not proven nusyuz, while in a talaq divorce, the right to iddah and mut'ah maintenance is directly given and decided by the court without any lawsuit first.

b. The Concept of Alimony According to the Laws of Other Muslim Countries

1. Egypt

Egypt regulates alimony law through the Personal Status Law (Qanun al-Ahwal al-Syakhshiyyah), specifically in Law No. 24 of 1920 which was later amended by Law No. 100 of 1985. This law adopted many aspects of the Hanafi madhhab, which was the basis of family law in Egypt. The first article of the law emphasizes that the husband is obliged to provide maintenance to his wife since the marriage contract is made even though the wife has her own wealth, as long as the wife does not perform nusyuz and lives in the same house with her husband. The alimony in question includes food, clothing, shelter, and other basic needs that are in accordance with the wife's social level and the husband's ability.¹³ If the husband is negligent in fulfilling this obligation without a justified reason under shari'a, the wife has the right to sue for divorce through the courts.¹⁴

2. Tunisia

Tunisia has a more revolutionary family law system than other Arab countries because it adopted a strong secular approach through the 1956 Code du Statute of Personnel (CSP). Although it is generally based on the Maliki madhhab, this law also incorporates some principles derived from other madhhabs¹⁵. In article 39 of the CSP,

¹⁰ SEMA No. 3 of 2018 concerning the Implementation of the Formulation of the Results of the 2018 Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, p. 14.

¹¹ SEMA No. 2 of 2019 concerning the Implementation of the Formulation of the Results of the 2019 Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, p. 5.

¹² PERMA No. 3 of 2017 concerning Guidelines for Adjudicating Women's Cases Facing the Law.

¹³ Egypt, Law No.24 of 1920 (Amended by Law No. 100 of 1985), On Personal Status, Pasal 1.

¹⁴ Anderson, *Islamic Law in The Modern World*, (New York: NYU Press, 1959), hlm. 57.

¹⁵ Khoiruddin Nasution, *Marriage and Inheritance Law in the Modern Muslim World*, (Yogyakarta: Academia, 2012), p. 138.

it is emphasized that the husband is responsible for the maintenance of his wife and children. The husband is obliged to provide maintenance after intercourse and during the 'iddah period for the divorced wife. Article 41 states that the wife is allowed to spend her personal property with the intention of asking for compensation from her husband, and the amount is based on the husband's ability and reasonable living expenses.¹⁶ In practice, the burden of maintenance can be divided between husband and wife, especially if the wife contributes financially. This approach is a reflection of state policies that support gender equality. Tunisia does not rigidly follow a particular madzhab, but rather prioritizes the principles of justice and equality in family relations.¹⁷ Therefore, in certain cases, the court may decide that the wife also has a share in providing support to the children if she has an income.

3. Marocco

Family law in Morocco underwent a significant transformation through Mudawwanah al-Usrah (2004) which reflected the efforts to codify Islamic law with a more modern and gender-responsive emphasis. Based on articles 194-196 of the Mudawwanah, husbands are obliged to bear all forms of family maintenance including food, shelter, clothing, medicine, and children's education in accordance with the family's socio-economic capabilities and conditions.¹⁸ If the husband does not carry out this obligation, the wife has the right to claim alimony through the court or even file for divorce. These reforms emphasized the importance of shared responsibility and protection for women and children, while maintaining the normative framework of Islamic law.¹⁹

4. Brunei Darussalam

As a country that formally implements Islamic law, Brunei regulates alimony through the Islamic Family Law (1999) and the Alimony Order 2000. Based on this law, husbands are obliged to provide support for their wives and children according to their ability and social position, in line with the dominant teachings of Madzhab Shafi'I in the country. Article 52 of the 2000 Maintenance Order gives the authority to the Sharia Court to issue maintenance orders against the husband, including determining the amount and period of payment. In cases of negligence, the court may order a deduction of salary as it is considered a debt or even detention against the husband as a sanction for failure to fulfill the obligation.

5. Malaysia

Malaysia regulates alimony law through the Islamic Family Law Act which is enforced in each state, with one of the main references being Act 303 (Federal Territories). In article 59 of this deed it is stated that the husband is obliged to provide maintenance for his wife and children, which includes shelter, clothing, food,

¹⁶ *Ibid.*, p. 52.

¹⁷ Code Statut Personnel, Tunisia, 1956, Pasal 39.

¹⁸ Mudawwanah Al-Usrah (Family Code 2004)

¹⁹ Welchmen, Lynn, *Women and Muslim Family Law in Arab States*, (Amsterdam: AUP, 2007), hlm. 63.

medicine, and education. If the husband fails to fulfill this obligation, the wife can file a lawsuit with the Shari'ah Court which has the authority to issue an order to pay alimony or deduct salary from the husband as a guarantee for the implementation of the decision. This shows Malaysia's seriousness in ensuring the protection of the rights of women and children in the family through the judiciary.

To make it easier to read the comparison of the concept of alimony in the 5 countries above, the author will make a grouping table, as follows:

Country	Rules	Types of alimony	Sanctions
Egypt	Qanun al-Usrah (Law No. 100/1985)	food, clothing, shelter, and other basic necessities, medicine, education	Lawsuit by wife/Court decision
Tunisia	Personal Status Code (CSP)		
Morocco	Mudawwanah al-Usrah Year 2004		
Brunei Darussalam	Islamic Family Law Act 1999	shelter, clothing, food, medicine, and education.	Can be prosecuted as a debt, detention.
Malaysia	Act 303 (Federal Territories Islamic Family Law)		Court rulings, confiscation of property.

The concept of alimony in Islamic family law is basically derived from shari'a principles that oblige husbands to bear the basic needs of their wives and children. However, its application in various countries shows variations influenced by the fiqh schools adhered to, socio-political conditions, and the approach to legislation in each country.

1. Similarities in Basic Principles

The five countries analyzed both recognize the husband's obligation to provide for his wife and children. This is a basic principle in Islamic family law which is universal, sourced from Qur'anic verses such as QS. Al-Baqarah verse 233 and QS. At-Talaq verse 7. In all of these countries, living includes basic necessities such as food, clothing, shelter, and medicine. This shows the existence of normative uniformity in terms of maintenance responsibilities, although it differs in the implementation aspect.

2. Differences in Madzhab Approach and Legislation

Countries such as Egypt, Brunei Darussalam, and Malaysia are more inclined towards traditional fiqh approaches. Egypt, for example, bases its family legal system on the Hanafi school, while Brunei and Malaysia adhere to the Shafi'i school. Consequently, emphasis is still placed on the position of the husband as the main party

who is obliged to provide for his wife, while the wife's right to claim alimony remains available through the courts. In contrast, Tunisia and Morocco show a reformist and progressive approach. Tunisia adopts a secular legal model and tends to depart from the provisions of certain sects, by allowing room for the division of alimony responsibilities between husband and wife. Morocco, through the Moudawwanah reform in 2004, recognizes the role of wives in helping household finances in certain situations, while still affirming the husband's primary responsibility in providing maintenance. Both countries prioritize substantive justice and gender equality, which is in line with the spirit of maqashid al-shari'ah to safeguard the family and human dignity.

3. Enforcement and Sanctions Mechanism

In terms of law enforcement, Brunei Darussalam and Malaysia have a formal mechanism that is quite strict to ensure that the maintenance rights of wives and children are enforced. Both countries give the authority to the Sharia Court to issue maintenance orders, set amounts, and impose administrative sanctions such as salary deductions or detention of defaulting husbands. This shows the state's alignment with women's protection in the domestic context. Meanwhile, Egypt, Tunisia, and Morocco rely on the divorce lawsuit as a form of enforcement in the event of neglect of alimony. In this context, the wife can sue for divorce (tafriq or talaq) in a religious court. However, the effectiveness of this law enforcement is highly dependent on women's access to the legal system and the socio-cultural support available.

4. Reform Trends and Responses to Social Change

Tunisia and Morocco appear to be more responsive to social change, especially with regard to the increasingly economically active role of women. In their legal system, there is an explicit recognition of the reality that women often bear the burden of the family, so the legal approach becomes more adaptive. Meanwhile, countries such as Brunei and Malaysia still maintain traditional roles divisions, but are beginning to make room for court orders as a tool to protect the rights of wives.

e. The Concept of Conventional Fiqh and the Opinions of Madzhab Scholars on Maintenance

In the study of Islamic law, a valid marriage gives rise to rights and obligations between husband and wife, including the wife has the right to receive maintenance from her husband, as stated in the salam Surah Al-Baqarah verse 233 which explains that there is an order from the husband to provide maintenance security to his wife which includes three types of maintenance, namely food, clothing, and shelter. There are several postulates of the Qur'an and hadith that underlie the concept of sustenance in Islam, namely:

Surah An-Nisa verse 34 which reads:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

"Men are leaders for women, because Allah has given some of them

more than others, and because they provide for a portion of their wealth."²⁰

The above verse explains the prohibition of the husband to be rude to his wife, the word leader or qawwam in the verse is not a meaning to make the husband a superior who dominates the role in the family, so that he can arbitrarily treat his wife. Islam teaches to always do good (*muasyarah bil ma'ruf*) to husband and wife because to create a family that is sakinah, mawaddah, and rahmah in accordance with the purpose of marriage.

Surah At-Talaq verse 7 which reads:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قَدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

Let the one who is free (his sustenance) provide according to his ability, and the one who is limited in sustenance, let him earn his sustenance from what Allah has bestowed upon him. Allah does not burden a person except in accordance with what Allah has bestowed upon him. Allah will grant spaciousness after narrowness. (QS. At-Talaq:7)

It was narrated by Ibn Abi Hatim from Mujahid, that this verse came down about a poor man who divorced his wife, but he was unable to provide for his ex-wife. So this verse came down as a guide to continue to provide for ourselves according to our ability. Another narration states that this verse is a solace for husbands who have difficult economic conditions, so as not to be disproportionately burdened in providing maintenance after divorce.²¹

Surah Al-Baqarah verse 233 which reads:

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلِّفُ نَفْسٌ إِلَّا وُسْعَهَا :

It means: "It is the duty of the father to bear their food and clothing in a proper manner. A person is not burdened, except according to his ability."

According to Al-Wahidi, this verse is to regulate the relationship between divorced parents but have small children. This verse emphasizes that even in the event of a divorce, the responsibility for child support remains on the father's shoulders, while the mother can still breastfeed in appropriate remuneration without coercion.²² This verse is the basis that the rights of children will not be lost and should not be ignored even in the event of divorce and the responsibilities of both parents must be maintained fairly and proportionately.

²⁰ Asbabun Nuzul this verse was narrated by Ibn Mardawaih from Ali bin Abi Talib where he said, "A man came with his wife to the Prophet PBUH and then the wife said to the Messenger of Allah, "O Messenger of Allah, indeed he (my husband) has slapped me in the face so that he left a mark," then the Prophet said, "indeed he is not worthy to do that." Then God sent down His words: "The men are the leaders of the women..." See Imam As-Suyuthi, *Asbabun Nuzul, The Causes of the Descent of Qur'anic Verses, translated by Andi Muhammad Syahril, Yasir Maqasid*, (Jakarta: Pustaka Al-Kautsar, 2014), p. 137.

²¹ Al-Wahidi, *Asbabun Nuzul, translated by Bahrin Abu Bakar*, (Jakarta: Gema Insani, 1999), p. 468.

²² *Ibid*, p. 42.

Hadith Narrated by Muslim

وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ

"And their (wives') right over you is that you provide for them and clothe them in a ma'ruf way." (HR. Muslim, No. 1218)²³

Hindu Hadith on Nafkah

يَا رَسُولَ اللَّهِ، إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ، وَلَيْسَ يُعْطِينِي مَا يَكْفِينِي وَوَلَدِي، إِلَّا مَا أَخَذْتُ مِنْ مَالِهِ بغير علمه، فَهَلْ عَلَيَّ فِي ذَلِكَ مِنْ جُنَاحٍ؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: خُذِي مِنْ مَالِهِ بِالْمَعْرُوفِ مَا يَكْفِيكَ وَوَلَدَكَ.

Hindun bint 'Utbah, the wife of Abu Sufyan, said to the Prophet PBUH: 'O Messenger of Allah, Abu Sufyan was indeed a stingy man. He does not provide enough for me and my son, unless I take from his property without his knowledge.' So the Prophet PBUH said: 'Take what is enough for you and your children in a ma'ruf (good/as needed) way.'²⁴

Some of the verses of the Qur'an and Hadith above affirm the existence of the husband's maintenance obligation for his wife and children which is based on the principles contained in the nash-nash. In the concept of conventional fiqh, the obligation to provide for wives and children is the main form of responsibility of the husband as the head of the family (leader). This principle of responsibility and leadership is in line with QS. An-Nisa verse 34 which states that men are *qawwam* or leaders for women who are also protectors for their families. This verse is the main basis that the husband's responsibility is not just a financial obligation, but part of a structural role in the household. Fiqh views this responsibility as a moral and social obligation inherent in the position of a man as the head of the family without depending on the wife's economy

The principles of propriety and justice in alimony are found in QS. At-Talaq verse 7 states that a person who is able should provide according to his ability, while a person who is in difficulty in earning a living should give according to the limits of his ability. This shows that fiqh does not set the standard size of alimony, but is adjusted to the social and economic conditions of each family. Justice in this case is not understood in terms of quantitative equality, but as proportionality and fairness. This principle shows the flexibility of Islamic law that is contextual and adaptive to the reality of society.

The principle of protection, one of the important dimensions of the obligation of maintenance in fiqh is the protection of wives and children as more vulnerable family members. Livelihood includes the fulfillment of basic needs such as food, clothing, shelter, and medicine. Thus, alimony is not only material, but also a

²³ This hadith is part of the sermon of the Prophet PBUH on Hajj Wada', which is conveyed to Muslims as an important will. At that time, the Prophet conveyed the rights and obligations of husband and wife in the household. His main focus is on justice in providing for and treating his wife in a good way. See Ibn Hajar Al-Asqalani, *Bulughul Maram: Translation and Syarah of Legal Hadiths*, (Jakarta: Darul Haq, 2000), p. 266.

²⁴ Asbabul wurud this hadith is when Hindun bint Utbah complained to the Prophet about not providing enough for her and her children, because she was worried that if she took her husband's money without permission she would get the same sin as theft, she asked the Prophet. The Prophet replied that it is permissible for the sake of subsistence by taking enough with reasonable needs. See Sayyid Sabiq, *Fiqh Sunnah*, Translation Moh. Thalib, (Jakarta: Pustaka Azzam, 2003). p. 205.

husband's commitment to provide welfare to his family. Therefore, if a husband and wife divorce and leave children, then the father still has full responsibility in providing alimony. Likewise, when the husband divorces his wife's talaq, the wife is still entitled to the right to alimony during iddah. If the husband is negligent in fulfilling the rights to his wife and children, then the wife can sue him in the judicial institution because it is included in domestic neglect.

The principle of worship, the obligation to provide for itself not only has a social aspect, but also a spiritual aspect. Providing support to the family is considered a form of worship that is worth the reward. This is emphasized in the hadith of the Prophet PBUH which states that the maintenance given to the family is the greatest reward compared to other forms of almsgiving. The quality of the maintenance that the husband gives to his wife and children must be the same quality as the maintenance for himself, it should not be differentiated. So the conclusion of some of the above nash based on thematic understanding is that the husband is obliged to provide for the family, the husband provides for his family according to his ability, and the husband who provides for his family must be of the same quality as the maintenance for himself.

Meanwhile, madzhab scholars differ in taking the law from these postulates. As stated by Wahbah Az-Zuhaili in his work *al-Fiqh al-Islami Waadillatuh* in the writings of Satria Effendi, there are several differences among scholars regarding sustenance:

The Hanafiyah community argues that the reason a husband is obliged to provide for his wife is in exchange for the husband's right to limit his wife's space of movement.²⁵ When the marriage contract is pronounced, there is a wife's freedom that is limited such as not being allowed to travel without permission from her husband.

The majority of scholars among Malikiyah, Shafi'iyah and Hanabilah are of the opinion that the reason why the husband provides for his wife is because of the relationship between husband and wife (*al-'alaqat az-zawjiyyah*).²⁶ In other words, the wife's willingness to surrender herself to her husband because she is bound by a valid marriage, the wife must obey her husband, do housework, conceive a child, and take care of him, then the husband's obligation to provide for her is mandatory. The majority of scholars emphasize that there must be a division of duties between husband and wife in taking care of the household and raising children, not only charged to the wife but there is cooperation between the two.

Another consequence of the existence of a valid marriage contract is the obligation of a father to provide for the legitimate child of the marriage. The existence of a nasab relationship between father and son makes him have an obligation to provide for him. The obligation to support children is given to according to their conditions, as

²⁵ Khoiruddin Nasution, *Marriage Law 1 Complemented by a Comparison of Contemporary Muslim State Law*, (Yogyakarta: Academia, 2013), p. 193.

²⁶ Satria Effendi, *Contemporary Islamic Family Law Problems Analysis of Jurisprudence with an Ushuliyah Approach*, (Jakarta: Kencana, 2004), p.155.

long as the child is still not independent and immature or not working. A child who is an adult but in a state of poverty and desperation for sustenance or other circumstances that do not allow him to earn a living (disabled) is obliged to be supported by his father.²⁷

The Hanafi school stipulates that child support is the responsibility of the father as long as the child is not able to earn his own living. If the child is poor and incapable, then the father is still obliged to provide for him even though the child has reached puberty. In Hanafiyah's view, this maintenance obligation does not disappear unless the child is able to be financially independent.

The Maliki school is of the view that child support must be borne by the father as long as the child has not reached puberty. After puberty, the father is still obliged to provide for himself if the child is studying or is not able to work. Even in the context of women, even though they have reached puberty, maintenance remains the responsibility of the father until he gets married.

The Shafi'i school requires fathers to provide support for their children who have not reached puberty and are not yet able to afford it. After puberty, the obligation to maintain remains as long as the child is unable to work, sick, disabled, or still in education. This confirms that the main benchmark is a child's ability, not just age or puberty status.²⁸

Hanbali's view is in line with Shafi'i, that fathers are obliged to provide for their children until puberty and are able. If the child is not able to do so after puberty, the obligation still applies. However, if the child is able, then the obligation is lost. Hanbali also acknowledged the transfer of alimony obligations to relatives if the father is absent or incapable.

From the comparison of the four schools, it can be seen that child support is an obligation that is not solely limited by age or biological maturity, but by the economic ability and actual condition of the child. This approach is in line with maqashid al-shari'ah in maintaining hifz al-nasl (continuity of offspring) and hifz al-nafs (preservation of the soul).

The Shafi'i and Hanbali schools are more inclusive by considering the actual condition of the child, including when he is a student. Meanwhile, the Hanafi school emphasizes that children who have reached puberty and are able to afford it are no longer covered. The Maliki School shows more attention to girls, who remain married until they reach puberty. These views reflect the flexibility of fiqh in responding to the needs of child support, and leave room for the state or shari'a judges to determine who is most liable in a given social context. In the modern family law system, especially in Muslim countries, the Shafi'i view seems to be most widely adopted because it provides

²⁷ Satria Effendi, *Contemporary Islamic Family Law Problems Analysis of Jurisprudence with the Ushuliyah Approach*, (Jakarta: Kencana, 2004), p.159.

²⁸ Mustika, "Limitations on Child Maintenance from the Perspective of the Compilation of Islamic Law and Madzhab Shafii and Its Application in Pelakat Village, Semende Darat Ulu", *IAIN Curup Undergraduate Thesis*, (2021), p. 70.

stronger protection for underprivileged children, without too rigid age restrictions.

c. Asbabun Nuzul Makro

1. Geographical Conditions of Arabia at the Time of Revelation

The geographical conditions of the Arabian Peninsula at the time of revelation were characterized by areas that were mostly barren and rocky deserts, such as the Rub' al-Khali Desert and the Nafud Desert, with very low rainfall and limited natural resources. This dry and arid climate makes agricultural activities difficult, except in certain regions such as Yemen or the oasis in the Hijaz. Therefore, the majority of Arab men pursue trade, caravan trading, and pastoralism as their main livelihoods, while women tend to stay at home and are not actively involved in economic activities outside the home. The ²⁹ social system that developed was also patriarchal, in which men were fully responsible as the head of the family and the breadwinner. It is in this context that the Qur'an stipulates that husbands are obliged to provide support to their wives as a consequence of their position as *qawwam* (family leaders), as affirmed in QS. An-Nisa: 34. This designation not only reflected the dominant social structure at the time, but also responded to the geographical and economic conditions of Arab society that demanded a balanced and natural division of roles. Therefore, the responsibility of maintenance on the husband is part of the life system that is relevant to the environment and the social reality of Arab society at that time.

2. Conditions of the Arab Legal System at the Time of Revelation

The condition of the Arab legal system at the time of revelation had three characteristics, including:

Racial, namely the existence of excessive pride (ultra nationalism) and tribalism (*ashabiyah*) so that people in Arabia will desperately defend people from *their qabiah*. The Arabs felt that they were higher and respected than other nations (*ajam*) so there is a hadith about Nu'man's rejection of the Persian proposal for a princess, he refused because he considered the Arabs to be a nation of higher status than the Persians

So if his daughter marries the Persian man, it will degrade the status of the Arabs.

Feudalism is the domination or superiority of the rich/nobles over the poor and weak. The majority of the people in Arabia at that time were merchants and they only put material welfare ahead of themselves so that they occupied positions of power. It is evidenced by the existence of slavery, where slaves are considered very low-level people, can be traded and treated anything by their owners and do not have human rights like humans today.

Patriarchy is the assumption that men are superior in rank and have full power over all aspects of life. Women are treated discriminatory, unfairly and even considered a symbol of poverty and immorality. Women are also considered a

²⁹ Abdul Hafiz Sairazi, "Geographical, Social, Political and Legal Conditions in Makkah and Medina in the Early Period of Islam", *Journal of Islamic and Law Studies*, Vol. 3:1 (June 2019), pp. 119-146.

disgrace in their families so that baby girls born will be buried alive, and women are also considered as goods and not as human beings.³⁰

Then, the emergence of Islam reformed the Arab legal system to become more egalitarian by equating the position of women with men in various aspects of life. The regulation of women's rights gradually collapses the system of domination, discrimination and exploitation carried out by men against women, especially in the family sphere.

There are rules regarding the husband's obligation to earn a living because it is a protection and social security for the wife. Islam teaches to respect and love others, not to be discriminatory and not to act rudely towards others. Islam is formed based on several universal principles, namely the principle of justice, the principle of affection and love, the principle of responsibility and trust, the principle of equality (musawah), the principle of deliberation and agreement, the principle of protection of the weak, and the principle of ma'ruf treatment between husband and wife.³¹ These principles are also the basis for analyzing maintenance obligations in the family, where the role of women in the modern era has developed and has a lot of contributions in the public, especially in the economic sector, especially in the fulfillment of maintenance. Many career women help their husbands in meeting their daily needs. The next discussion will discuss the analysis of the concept of alimony based on a holistic thematic combination study approach.

d. Analysis of the Concept of Maintenance Based on a Thematic-Holistic Combination Study Approach

The thematic-holistic combination approach is an analytical method in Islamic studies that combines a thematic approach (maudhu'i) and a holistic approach (kaffah). This method aims to understand an Islamic theme or issue comprehensively, systematically, and relevant to the contemporary context. The thematic approach seeks to collect and study verses of the Qur'an and hadith related to certain themes, such as the theme of alimony. All related verses are then classified and analyzed to find the whole doctrinal substance in the theme. This method is an alternative to the tahlili tafsir approach which interprets verses sequentially based on mushaf.³²

Meanwhile, a holistic approach is oriented towards a comprehensive understanding of Islamic law, not only based on the text (nash) but also considering the benefits, socio-historical context, scholarly opinions, and positive law. The goal is that the interpretation of the law is not partial, but integrative and applicable to the reality

³⁰ Abd Rahim Amin, "Islamic Law and the Social Transformation of Jahiliyah Societies (A Historical Study of the Egalitarian Character of Islamic Law)," *Journal of Dictum Law*, Vol.10:1 (January 2012), p. 7.

³¹ Masdar Arif Mas'udi, *Islam and Women's Reproduction Rights, Dialogue of Empowerment Fiqh*, Cet.II, (Bandung: Mizan, 1997), pp.29-30.

³² Sahiron Syamsuddin, *Methodology of Tafsir Maudhu'i: An Introduction*, (Yogyakarta, UII Press, 1996), p. 22.

of modern society.³³

Based on the macro nuzul asbabun that has been explained earlier, the evidence about the husband as a breadwinner is related to the geographical conditions and legal system of the Arab country at that time, where men worked because indeed the work at that time required strong physical strength or muscles, unlike the modern era today, women also play an important role in fulfilling daily needs because the needs are always increasing such as the need for clothing, food, board, and children's education costs. The fulfillment of alimony can be understood contextually in the modern era that the fulfillment of alimony aims to ensure the continuity of domestic life, alimony can be flexible, husband and wife have an agreement in fulfilling daily alimony. So it can be understood that the context of the husband as a breadwinner is temporal in accordance with the agreement between married couples.

The improvement of women's skills in various aspects of life puts their position on par with men, especially in the economic sector, where many women become leaders in a company and earn higher salaries than their husbands. The fulfillment of this maintenance is one of the family functions, namely economic functions. As written by Khoiruddin Nasution, there are 10 family functions in the review of family sociology, namely, reproductive functions, socialization functions, affection functions, protection functions, economic functions, religious functions, educational functions, recreational functions, status determination functions, and maintenance functions.³⁴ The economic function here is interpreted as an economic tool to earn a living and organize the family to meet daily needs such as production and consumption activities. This economic function is also related to the educational function where parents must educate and provide a good education for their children, so that children's personalities are formed to be able to socialize with their surroundings.

1. Universal Values of Islamic Family Law

As for some of the universal values of family law, if synchronized with findings with thematic understanding based on the nash-nash that have been explained above about alimony, it can be described as follows:

2. The Principle of Justice,

If analyzed using universal values in the family, namely the principle of justice, justice in question is justice in the family, husbands and wives must carry out their respective rights and obligations fairly, do not dominate each other, must cooperate in taking care of housework. In the context of alimony, the principle of justice emphasizes that the husband as the main person in charge of alimony must be fair to his wife and children, both materially and emotionally. This justice can also be interpreted as the conformity between obligations and

³³ M. Amin Abdullah, *Religious Studies: Normativity or Historita?*, (Yogyakarta, Pustaka Siswa, 2007), p. 125.

³⁴ Khoiruddin Nasution, *Marriage and Inheritance Law in the Modern Muslim World*, (Yogyakarta: Academia, 2012), p. 283.

abilities, so that if the wife helps financially, it is based on deliberation, not coercion.

3. The Principle of Compassion and Love

Affection is the basis of husband and wife relationships, including in the matter of providing support. Husbands provide support not just as an obligation, but as a form of love for their family. A wife who helps financially is also a manifestation of love and understanding in the domestic bond.

4. Principles of Responsibility and Trust

The obligation to provide maintenance is a sharia trust attached to the husband since the marriage contract. This mandate includes the fulfillment of the basic needs of wives and children such as clothing, food, board, and education. Violations of the alimony mandate can be the basis for a divorce lawsuit as stated in KHI Article 80 paragraph (4).

5. Principle of Equality of Husband and Wife

Husband and wife in carrying out their role are equal in the family, equality in the fulfillment of rights and obligations. Household management must be shared fairly not only with the wife playing a full role in domestic work, but the husband must also participate in it so as not to create a double burden on the wife.³⁵

6. The Principle of Deliberation

Husband and wife must deliberate in all policy determinations in the family. Consideration of the ability of the husband and wife to be able to work in what field and what their income will be used for, whether to build a house, prepare children's education, savings and so on. The property produced in the marriage is called joint property.

7. Principles of Protection Against the Weak

The husband as the leader and head of the household is obliged to protect his wife and children in the family. The obligation to provide maintenance is basically imposed on the husband, however, if the husband experiences a condition that does not allow him to earn a living, then the wife can voluntarily replace him because of the flexibility of the concept of maintenance today.

8. The Principle of Proper Treatment between Husband and Wife

Husband and wife must treat each other in a good way/ma'ruf. We should not hurt each other mentally or psychologically, because this is the main principle that must be implemented in order to achieve a harmonious family.

d. The Relevance of the Concept of Livelihood in the Modern Era

The concept of maintenance in the family remains highly relevant in the modern era despite various social, economic, and cultural changes. When associated with the

³⁵ Nasaruddin Umar, *Argument for Gender Equality from the Perspective of the Qur'an*, (Jakarta: Paramadina: 1999), p. 139.

definition, conditions, goals, and principles of marriage, it can be concluded that the existence of alimony in domestic life is a means to ensure the survival of domestic life itself.³⁶ Maintenance, which includes the fulfillment of basic needs such as clothing, food, board, education, and health, is an important foundation for family welfare and household stability, the fulfillment of maintenance is carried out flexibly based on the agreement of husband and wife. Breadwinners can be agreed between husband and wife based on the considerations owned by husband and wife, so that the concept of husband shouldering the obligation to earn a living can be expanded by cooperation between husband and wife in meeting their maintenance needs. The participation between husband and wife in the search for a living will produce joint property, namely the property that the husband or wife has obtained since the marriage contract. There are several important points in the relevance of alimony in the modern era today, namely:

Changing Gender and Economic Roles

In the modern era, many wives work and contribute to the family economy. However, this does not remove the husband's obligation to provide maintenance. Instead, the concept of alimony must be interpreted as a form of moral and legal responsibility of the husband to ensure that the basic needs of the family are met. Gender equality does not mean the elimination of roles, but the equitable division of responsibilities.

1. Expansion of the Meaning of Alimony

In the contemporary context, alimony is not only understood materially, but also includes non-material aspects such as attention, affection, emotional support, and protection. One of the functions of the family is an economic function that is indispensable for the sustainability of a family's life because of the various demands of life that are increasing, children's education must also be considered by parents, so that with the expansion of the meaning of alimony, it can open cooperation between husband and wife in earning a living by relying on the skills or abilities that each has to find a job.

2. Legal and Social Challenges

The emergence of various cases of family neglect, divorce, and domestic poverty shows the importance of law enforcement related to maintenance obligations. The modern legal system needs to strengthen the reporting, enforcement, and sanctions mechanisms for those who neglect these obligations, including through the digitization of family data and the support of women and child protection institutions.

3. Women's Contribution Does Not Remove Alimony Rights

The work of a wife does not necessarily abort her right to alimony from her husband. This is affirmed both in Islamic law and positive law in Indonesia. This

³⁶ Khoiruddin Nasution, *Marriage Law 1 Complemented by a Comparison of Contemporary Muslim State Law*, (Yogyakarta: Academia, 2013), p. 222.

shows the importance of respecting the roles and contributions of each family member without neglecting the inherent basic obligations.

4. Strengthening the Value of Justice and Family Welfare

The concept of subsistence in the modern era must be interpreted as a means of achieving justice, family welfare, and social harmony. In this context, alimony is not merely a burden, but a form of responsibility and love that binds in the family institution, so that the fulfillment of alimony aims to guarantee the survival of the household. The fulfillment of maintenance by the husband or wife does not affect their position and relationship as an equal couple (musawa and partnership) in the family so that they need each other, help each other, take care of each other and complement each other.

D. Conclusion and Recommendations

The concept of alimony in the family, if studied thematically-holistically, shows that Islamic teachings not only emphasize the material obligations of husbands to wives and children, but also prioritize the principles of justice, responsibility, and welfare in the household as a whole. The postulates of the Qur'an and Hadith scattered in various verses and histories, if collected thematically, give a complete picture that alimony is part of the trust, worship, and a form of protection of the rights of family members. The husband is obliged to provide for his family, provide for his family according to his ability, and provide for his family must be of the same quality as the maintenance for himself.

The holistic approach shows that alimony is not only a legal obligation, but also contains universal Islamic values such as the principle of justice, the principle of compassion and love, the principle of responsibility and trust, the principle of equality (musawah), the principle of deliberation and agreement, the principle of protection of the weak, the principle of ma'ruf treatment between husband and wife. Maintenance includes the fulfillment of basic needs, emotional attention, and efforts to maintain the honor and survival of the family. In the modern context, this substance remains relevant because it answers the challenges of changing gender roles, family economics, and the demands for justice and equality in the household. Thus, understanding the concept of alimony is not only important as a normative provision in Islamic law and positive law, but also as a means of realizing a family that is sakinah, mawaddah, and rahmah.

References

A. Laws and Regulations

- Code Statut Personnel, Tunisia, 1956.
Egypt, Law No.24 of 1920 (Amended by Law No. 100 of 1985), On Personal Status.
Compilation of Islamic Law, Presidential Instruction No. 1 of 1991.
Mudawwanah Al-Usrah (Family Code 2004).
PERMA No. 3 of 2017 concerning Guidelines for Adjudicating Women 's Cases Facing the Law.
SEMA No. 3 of 2018 concerning the Implementation of the Formulation of the Results of the 2018 Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court.
SEMA No. 2 of 2019 concerning the Implementation of the Formulation of the Results of the 2019 Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court.
Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage.

B. Books

- Al-Wahidi, *Asbabun Nuzul*, translated by Bahrin Abu Bakar, (Jakarta: Gema Insani, 1999.
Anderson, *Islamic Law in The Modern World*, New York: NYU Press, 1959.
Arif Mas'udi, Masdar, *Islam and Women's Reproduction Rights, Dialogue of Fiqh Empowerment*, Cet.II, Bandung: Mizan, 1997.
Effendi, Satria, *Contemporary Islamic Family Law Problems Jurisprudence Analysis with an Ushuliyah Approach*, Jakarta: Kencana, 2004.
Ibn Hajar Al-Asqalani, *Bulughul Maram: Translation and Syarah of Legal Hadiths*, Jakarta: Darul Haq, 2000.
Imam As-Suyuthi, *Asbabun Nuzul, The Causes of the Descent of Qur'an Verses*, translated by Andi Muhammad Syahril, Yasir Maqasid, (Jakarta: Pustaka Al-Kautsar, 2014).
M. Amin Abdullah, *Religious Studies: Normativity or Historita?*, Yogyakarta, Pustaka Siswa, 2007.
Nasution, Khoiruddin, *Marriage Law 1 Equipped with a Comparison of the Law of the Contemporary Muslim State*, Yogyakarta: Academa, 2013.
———. *Marriage and Inheritance Law in the Modern Muslim World*, Yogyakarta: Academia, 2012.
Nugrahani, Farida, *Qualitative Research Methods in Language Education*, Surakarta, 2014.
Sabiq, Sayyid, *Fiqh Sunnah*, Translated Moh. Thalib, Jakarta: Pustaka Azzam, 2003.
Syamsuddin, Sahiron, *Methodology of Tafsir Maudhu'i: An Introduction*, Yogyakarta, UII Press, 1996.
Umar, Nasaruddin, *Argument for Gender Equality Perspective of the Qur'an*, Jakarta: Paramadina: 1999.
Welchmen, Lynn, *Women and Muslim Family Law in Arab States*, Amsterdam: AUP, 2007.

C. Journals

- Amin, Abd Rahim, "Islamic Law and the Social Transformation of Jahiliyah Societies (A Historical Study of the Egalitarian Character of Islamic Law)," *Journal of Dictum Law*, Vol.10:1 (January 2012). Pp. 1-10.
- Bahri, Samsul, "Maintenance Obligations in the Family (A Comparative Study of Islamic Law and Law in Indonesia Against Wives Earning Bread)," *Yustisi, Journal of Islamic Law & Law*, Vol: 11: NO.1 (2024). pp. 63-80.
- Fathurrahman, Nandang, "Comparison of Maintenance Obligations from the Perspective of Islamic Law and Positive Law in Indonesia," *Al-Ahwal Al-Syakhisyah, Journal of Family Law and Islamic Justice*, Vol. 3: No.2 (2022). Pp. 193-206.
- Hafiz Sairazi, Abdul, "Geographical, Social, Political and Legal Conditions in Makkah and Medina in the Early Period of Islam", *Journal of Islamic and Law Studies*, Vol. 3:1 (June 2019). pp. 119-146.
- Hotimah, Nur, "The Implementation of the Marriage Guidance Program in Minimizing Divorce (Case Study of KUA Kota District, Pamekasan Regency), *Syar: Journal of Islamic Communication and Broadcasting*, Vol. 1: No.1 (2021). pp. 45-66.
- Mustika, "Limitations on Child Maintenance from the Perspective of the Compilation of Islamic Law and Madzhab Syafii and Its Application in Pelakat Village, Semende Darat Ulu", *IAIN Curup Undergraduate Thesis*, (2021).
- Nurholis, "The Substance and Relevance of the Concept of Maintenance in Various Contemporary Islamic Family Law Legislation (Functional Structural Analysis), *Al-Qadlaya Journal of Islamic Family Law*, Vol. 1: No.2 (June 2022). Pp. 1-14.