

# Wives Maintenance as an Instrument of Gender Justice in Islam

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## ABSTRACT

Islam is a religion that provides comprehensive protection for women, one aspect of which is the obligation of *wives' maintenance*. Wives' maintenance is a mandatory duty of the husband and a recognised right of the wife, regardless of whether she is employed or otherwise. Nevertheless, neglect of wives' maintenance frequently occurs, particularly in cases involving women who have their own income. Fundamentally, the provision of maintenance functions as an instrument of gender justice. Gender justice here refers to the effort to situate the rights of men and women within the framework of equality sanctioned by the Shari 'aah, while also acknowledging their respective needs, responsibilities, and the innate differences that shape their social roles. Accordingly, this study pursues two main objectives: first, to examine the concept of wives' maintenance in Islam; and second, to analyse wives' maintenance as an instrument of gender justice within the Islamic tradition. This study adopts a qualitative approach through conceptual analysis and library-based research to reassess the Islamic principles governing wives' maintenance and its relationship to gender justice. The findings demonstrate that the provision of wives' maintenance constitutes a key mechanism for achieving gender justice in Islam.

**Keywords:** wives' maintenance, instrument, gender justice, Islam

## INTRODUCTION

The discourse on gender justice in Islam has gained increasing prominence within contemporary social and economic contexts, particularly as shifts in family structures, employment patterns, and rising living costs demand a reassessment of roles and responsibilities within the marital institution. Within the framework of Islamic family law, wives' maintenance constitutes a fundamental obligation designed to secure balance, protection, and well-being for women as rightful recipients of material support from their husbands (Rufaida & Nuryati, 2022). This obligation is not merely an economic duty; it reflects a principle of justice sanctioned by the shari 'ah and grounded in the objectives of Islamic law which emphasise the preservation of dignity, household stability, and a dignified standard of living.

In contemporary reality, however, the implementation of maintenance remains tied to traditional interpretations that often overlook evolving gender roles, increased female participation in the economic sphere, and social dynamics that call for a more equitable distribution of responsibilities. Legal constraints, enforcement challenges, and societal perceptions that regard maintenance as a routine practice or a technical requirement have left many women in vulnerable positions—particularly when facing marital conflict, divorce proceedings, or the post-marital period. The gap between the ideal principles articulated in Islamic legal sources and their practical application raises critical questions about the effectiveness of maintenance as a mechanism for gender justice.

This article seeks to rearticulate the role of wives' maintenance as a mechanism of gender justice in Islam by examining its legal foundations in the Qur'an, the Sunnah, and classical juristic discourse. It also evaluates the challenges of its implementation within the context of Malaysian family law.

## METHODOLOGY

In this study adopts a qualitative approach centred on conceptual and documentary analysis. Through this approach, data are gathered from primary sources such as the Qur'an, the Sunnah, and classical juristic works that discuss the obligation of wives' maintenance and the foundational principles of gender justice in Islam. These sources are examined to elucidate the principles, underlying rationale, and objectives of the shari 'ah concerning maintenance within the Islamic legal framework.

In addition, the study analyses legal documents, including the Islamic family law enactments in Malaysia, selected court cases, and relevant administrative guidelines pertaining to the implementation of maintenance. This documentary analysis aims to determine the extent to which current practices align with Shari 'ah principles and to identify the challenges encountered in the enforcement and protection of wives' rights.

The qualitative approach enables a comprehensive and in-depth explanation of the issue of wives' maintenance from both theoretical and applied perspectives, thereby supporting the formulation of recommendations that are more precise and responsive to contemporary needs.

## FINDINGS

Conventional interpretations of maintenance in Islamic family law remain constrained within a narrow reading of the male leadership paradigm, resulting in serious implications for efforts to advance gender justice. A concept originally intended to articulate a man's responsibility to protect and provide for his household has undergone significant distortion, to the point that it is frequently invoked to legitimise patriarchal dominance. Consequently, maintenance is no longer viewed as an inherent legal right guaranteed to women, but is often treated as an act of benevolence that may be withdrawn at will (Ozdemir, 2022). In today's social and economic reality where women increasingly serve as primary or co-breadwinners this traditional framework has drifted far from the principles of justice and equity upheld in Islamic teachings.

Moreover, contemporary Islamic family law mechanisms exhibit pronounced weaknesses in the implementation of maintenance, particularly for women who are divorced or abandoned (Nugraha & Aziz, 2024). The legal system's emphasis on minimum maintenance amounts, without effective enforcement instruments, has transformed maintenance claims into a lengthy bureaucratic process that burdens women emotionally and financially. The recurring issue of maintenance arrears reveals a substantial gap between statutory provisions and actual practice. The judiciary's failure to ensure compliance reflects a deeper structural problem that demands comprehensive reform.

Another major flaw in the discourse on maintenance is the persistent neglect of women's indirect contributions within the household. Domestic work, childcare, and emotional labour constitute essential forms of contribution to family stability, yet they remain economically invisible in maintenance assessments. The absence of recognition for unpaid labour continues to diminish women's economic and social standing. This demonstrates an epistemological weakness in understanding family justice holistically. Meaningful gender justice requires the explicit incorporation of domestic labour into maintenance considerations.

Accordingly, constructing an authoritative Islamic gender-justice framework demands a radical paradigm shift. Maintenance must be understood not merely as a formal financial obligation, but as a symbol of commitment to preserving women's dignity, economic security, and overall well-being. Only when interpretations and applications of maintenance genuinely reflect principles of justice, compassion, and holistic equity can it serve as a legitimate benchmark for assessing gender justice within Islamic family law. At present, this aspiration remains far from realised and necessitates deeper critical engagement.

The practical significance of this entire debate cannot be understated. The limitations of traditional interpretations still tethered to rigid models of male leadership have produced an ecosystem of prolonged injustice affecting Muslim women. Evidence from legal cases, women's advocacy reports, and lived experiences demonstrates that the failure to conceptualise maintenance as an economic right grounded in justice has generated far-reaching social consequences. Highly educated women who work diligently and contribute to household income can still fall into financial crisis immediately after divorce. This phenomenon does not reflect

personal shortcomings; rather, it is the result of *fiqh* structures and family law systems that continue to operate on anthropological assumptions from the second Islamic century assumptions that no longer correspond to contemporary realities. This is a systemic social tragedy, not an isolated coincidence.

More profoundly, excessive emphasis on authority within the concept of household leadership has obscured justice, which is central to Islam's ethical foundation. This prompts a crucial question: how did a concept originally intended to ensure responsibility, equity, and familial care become a basis for justifying socioeconomic inequalities? The tendency to preserve gender hierarchies on the basis of biological assumptions or social convention has hindered the development of discussions on women's economic rights in ways that correspond to contemporary conditions (Mohd Alif Jasni, 2024). This not only undermines the protective function of maintenance but also jeopardises the credibility of Islamic family law in upholding the justice principle that lies at the heart of the *maqasid* framework.

Current *fiqh* and family law systems also continue to rest on the assumption that men are consistently capable, stable, and willing to fulfil the duty of provision. Such an assumption is increasingly detached from the complexities of modern society, where women now frequently serve as joint or even primary providers. The mismatch between *fiqh* doctrine and contemporary social structures raises profound epistemological questions: to what extent does dominant *fiqh* today reflect a normative reading untested against lived realities? If *fiqh* fails to engage with reality, can it continue to serve as the sole foundation for determining women's economic rights? Or does the moment demand a more thorough reformulation through a broader, justice-based reinterpretation of Islamic principles?

As Hasan et al. (2014) indicate, the data and experiences of Muslim women particularly in divorce cases show that weak enforcement mechanisms not only create procedural obstacles but also generate structural injustices. The judiciary's inability to implement maintenance orders effectively forces many women into post-marital poverty. This signals a crisis of confidence in the capacity of Islamic family law to protect the most vulnerable. If a law designed to safeguard women ultimately places them in greater vulnerability, then reform is not merely desirable it is obligatory.

At the same time, maintenance frameworks that exclude the value of domestic work, childcare, and emotional labour reveal a profound academic and normative blind spot. Unpaid labour has long been the backbone of family and societal functioning, yet traditional maintenance frameworks continue to treat it reductively, as though its value were non-existent. This produces a subtle yet deeply entrenched form of injustice: women carry the moral and social responsibility of sustaining the household, yet their contributions remain unrecognised in the economic mechanisms intended to protect them. This shortcoming is not only unjust but economically irrational.

Therefore, reforming the concept of maintenance and the Islamic family law system can no longer be regarded as a peripheral or purely academic issue. It is an urgent necessity that speaks to the core of women's dignity, social protection, and economic well-being. Maintenance must be redefined as a right that cannot be violated, not as an obligation subject to a husband's willingness or perceived capability (Fatimah Ali, 2016). Such reform requires a profound paradigm shift, including recognising the value of all forms of labour paid and unpaid alongside restructuring enforcement mechanisms within the legal system.

Ultimately, if maintenance is to serve as a genuine measure of gender justice within Islamic family law, it must rest on comprehensive, responsive, and substantively just foundations. The reforms envisioned here extend beyond technical updates; they demand the reconstruction of the broader *fiqh* paradigm to align more coherently with lived realities and with Islamic values that emphasise human dignity and justice. Without such steps, the gender-justice gap within Muslim societies will continue to widen, and maintenance will remain a doctrinal ideal that fails to safeguard women in real life.

## CONCLUSION

A husband's neglect in providing maintenance to his wife fundamentally undermines the function of maintenance as an indicator of gender justice. This conceptual review clearly demonstrates that the dominant framework of Islamic family *fiqh* particularly one closely tied to the notion of male leadership has contributed

to a significant justice gap. This failure is not merely the result of traditional interpretations that have lost contemporary relevance, but reflects a systemic inability to adapt doctrine to shifting social and economic structures. Women today participate actively in economic sectors and social leadership; yet upon divorce, many are left in economically vulnerable positions, despite Islam's explicit legal guarantees regarding the right to maintenance. To continue placing hope in an illusion of justice that has never materialised for many women is an academic and moral negligence that can no longer be sustained.

Furthermore, the recognition of maintenance as a fundamental right not an act of benevolence must be foregrounded in legal discourse, public education, and societal narratives. A more dynamic and contextual understanding of family leadership is urgently needed, including full acknowledgment of women's economic contributions—whether through direct income generation or through domestic labour that forms the backbone of family stability. Without such comprehensive recognition, Islamic family law risks becoming a rigid, unresponsive legal structure that fails to embody the justice values at the heart of the Islamic tradition. These shortcomings not only disadvantage women but also erode the credibility of Shari 'ah-based legal systems and the moral integrity of Muslim societies as a whole.

The present analysis reaffirms that achieving genuine gender justice in Islamic family fiqh cannot be realised through superficial or cosmetic adjustments. It requires a paradigmatic shift that synthesises tradition with contemporary realities, interrogates foundational assumptions within fiqh, and boldly restructures legal mechanisms to ensure effective protection for women. Future research should prioritise empirical analysis of progressive maintenance-law reforms in other Muslim jurisdictions—such as Indonesia and Tunisia including their impact on women's post-divorce economic well-being, rates of maintenance compliance, and the effectiveness of enforcement innovations such as automatic salary deductions, national maintenance databases, or stricter civil penalties.

If these issues continue to be ignored, injustice against Muslim women will persist, weakening family structures, compromising children's welfare, and ultimately undermining the reputation of Islam as a religion that upholds justice and human dignity. The call for reform is not a rejection of tradition, but an effort to revive the authentic spirit of Islamic justice—one that is not merely inscribed in legal texts, but realised in the lived experiences of those most affected by the system.

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