

Implementation of Husband's Maintenance Obligations to Wife in the Perspective of Compilation of Islamic Law as an Effort to Protect Wife's Rights

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ABSTRACT

The gap between normative legal provisions and social practices related to the fulfillment of husband maintenance is still a challenge in ensuring the protection of the wife's rights. This research aims to examine the concept of sustenance from the perspective of Islamic law, examine its arrangement in the Compilation of Islamic Law, and identify its implementation in people's lives. This study uses a normative juridical method with a legislative and conceptual approach supported by literature studies. The results of the study show that the Compilation of Islamic Law has clearly regulated the husband's obligations in providing maintenance, both material such as clothing, food, and board, as well as non-material such as affection and protection. However, its implementation in the community still faces various obstacles, including economic factors, low legal awareness, and not optimal law enforcement. In addition, social dynamics in the modern family also affect the understanding of maintenance obligations. This condition has an impact on the maximum fulfillment of the wife's rights. Therefore, systematic efforts are needed through increasing legal literacy, strengthening law enforcement mechanisms, and the active role of judicial institutions and related institutions to realize justice and welfare in the household.

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1. INTRODUCTION

Marriage in Islam is an institution that has a very important religious and social dimension in human life. The purpose of marriage is not only limited to fulfilling biological needs, but is also directed to realize a harmonious family within the framework of *sakinah, mawaddah, wa rahmah* as taught in Islam. In this framework, Islam establishes a balance between the rights and obligations of husband and wife as the basis for the creation of a stable and just domestic life. One of the main obligations attached to the husband is to provide support to his wife as a form of leadership responsibility in the family.

The obligation of maintenance in Islamic law is a consequence of the existence of a valid marriage contract. Maintenance is not only interpreted as the fulfillment of material needs such as food, clothing, and shelter, but also includes non-material aspects such as attention, protection, and affection (Az-Zuhaili, 2007). Therefore, alimony has a strategic position because it is directly related to family welfare. From the perspective of Islamic law, this obligation is not only juridical, but also has a moral and religious dimension that must be fulfilled by the husband. Thus, the fulfillment of alimony is an important indicator in assessing the quality of domestic relationships based on Islamic values.

In the context of positive law in Indonesia, the regulation of maintenance obligations has been accommodated in various laws and regulations, especially in the Compilation of Islamic Law and Law Number 1 of 1974 concerning Marriage. Both regulations emphasize that the husband is obliged to meet his wife's needs according to his abilities. This provision shows the role of the state in providing protection for the rights of wives and ensuring the sustainability of a decent home life (Arifin, 2022). In addition, the arrangement also reflects the integration between Islamic legal values and the national legal system.

However, various previous studies have shown that the implementation of maintenance obligations in the community still faces a number of obstacles. Several studies reveal that the fulfillment of maintenance has not been running optimally because it is influenced by economic factors, low legal awareness, and weak law enforcement (Fauziyah, 2020). This condition shows that there is a gap between the applicable legal norms and the social reality in society. This gap has an impact on the maximum fulfillment of the wife's rights and has the potential to cause injustice in the household.

In addition, the issue of alimony is often one of the triggering factors for conflict in the household, even leading to divorce. In the practice of religious justice, the non-fulfillment of maintenance obligations is one of the reasons often proposed in divorce cases. This shows that the issue of alimony has far-reaching implications for family stability and harmony. In fact, in some cases, inability or negligence in providing support not only impacts the marital relationship, but also affects the welfare of the child and the overall quality of family life.

Furthermore, social dynamics in modern society also affect the understanding of maintenance obligations. Changes in roles in the family, in which wives also contribute to the economic aspect, often lead to a misperception of the division of maintenance responsibilities. In fact, from the perspective of Islamic law and positive law in Indonesia, the main obligation of maintenance remains with the husband. Therefore, a comprehensive understanding is needed so that there is no distortion of the concept of alimony itself.

Based on these conditions, it can be formulated that the main problem in this study is how to implement the husband's maintenance obligation to his wife based on the Compilation of Islamic Law and the extent to which it plays a role in the protection of the wife's rights. Thus, the initial hypothesis of this study is that the ineffectiveness of the implementation of maintenance obligations has an effect on the protection of wife's rights is not optimal.

This research aims to analyze the concept of maintenance obligation in Islamic law, examine its arrangement in the Compilation of Islamic Law, and evaluate its implementation in people's lives. In addition, this study also aims to assess the extent to which maintenance obligations can function as an instrument to protect the rights of wives, so that it is expected to make an academic and practical contribution to the development of Islamic family law in Indonesia.

2. METHODS

This research uses normative legal research methods or normative juridical which focuses on the study of the legal norms that apply in the Islamic legal system and positive law in Indonesia. In normative legal research, legal materials related to the husband's maintenance obligations to his wife are analyzed based on the provisions in the Compilation of Islamic Law and relevant laws and regulations (Auda, 2008).

This research uses two approaches, namely the legislative approach and the conceptual approach. The legislative approach is carried out by examining various regulations that regulate maintenance obligations in marriage, especially those contained in the Compilation of Islamic Law and Law Number 1 of 1974 concerning Marriage. Meanwhile, a conceptual approach is carried out by examining legal concepts related to maintenance obligations from the perspective of Islamic law and family law (Az-Zuhaili, 2007).

To obtain data in this study, a literature study was conducted, namely by examining various literature related to the research topic. The legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials. The compilation of Islamic Law and Law Number 1 of 1974 concerning Marriage is the primary legal material. Secondary legal materials include scientific books, journal articles, and the results of previous research relevant to Islamic family law and the husband's maintenance obligations to his wife (Arifin, 2022). The tertiary legal material consists of legal dictionaries and encyclopedias that support the understanding of legal terms.

The data collection technique is carried out by inventorying and reviewing various relevant library sources. Furthermore, the data that has been obtained is analyzed qualitatively using descriptive-analytical analysis techniques. This method is carried out by describing the legal provisions related to the husband's maintenance obligations to his wife, then analyzing them from the perspective of the Compilation of Islamic Law to assess their role in protecting the rights of the wife (Auda, 2008).

3. FINDINGS AND DISCUSSION

3.1 *The Theoretical Basis of Alimony Obligations in Islamic Law*

3.1.1 *The Concept of Maintenance in Islamic Law*

From the perspective of Islamic law, alimony is an obligation attached to the husband after the occurrence of a valid marriage contract. This obligation is not only administrative, but also reflects the husband's moral responsibility and leadership in the family. The husband is positioned as the responsible party in ensuring the survival and welfare of his family members (Syarifuddin, 2014).

The normative basis regarding maintenance obligations can be found in the Qur'an, one of which is in Q.S. Al-Baqarah verse 233 which emphasizes the father's obligation to provide the necessities of life to the mother properly. In addition, Q.S. At-Talaq verse 7 emphasizes that the provision of maintenance must be adjusted to the husband's economic ability without eliminating the obligation (Q.S. Al-Baqarah: 233; Q.S. At-Talaq: 7).

The reinforcement of this obligation is also contained in the hadith of the Prophet Muhammad PBUH which states that a person is considered a sinner if he abandons his dependents (HR. Abu Dawud). This shows that the obligation of maintenance does not only have a legal dimension, but is also closely related to moral values and religious responsibilities.

Thus, alimony can be understood as an obligation that is comprehensive, covering legal, ethical, and spiritual aspects of domestic life.

3.1.2 *Forms of alimony*

In the study of Islamic law, alimony is not only limited to the fulfillment of physical needs, but also has a wider scope. Scholars generally group sustenance into two main categories, namely material sustenance and non-material sustenance.

Material maintenance includes basic needs such as food, clothing, and shelter that must be met by the husband according to his economic conditions. These three elements are basic needs that are indicators of welfare in the household (Az-Zuhaili, 2007).

Meanwhile, non-material support includes emotional and psychological aspects, such as attention, affection, protection, and a good relationship between husband and wife. This concept is known in Islam as *mu'asyarah bil ma'ruf*, which is an interaction based on kindness and respect.

Thus, the concept of maintenance in Islam cannot be understood narrowly, but must be seen as a comprehensive responsibility that covers all aspects of family life.

3.1.3 Perspective of Maqashid Syariah

When viewed from the approach of maqashid sharia, the obligation of maintenance is closely related to the purpose of Islamic law in realizing benefits. Nafkah plays a role in maintaining fundamental aspects of human life, such as the protection of the soul (*hifz al-nafs*) and the sustainability of offspring (*hifz al-nasl*) (Auda, 2008).

Adequate maintenance will support family stability and prevent conflicts that can damage the social order. On the other hand, negligence in providing sustenance has the potential to cause various problems, both in the family and society.

Therefore, maintenance obligations not only have an individual dimension, but also contribute to maintaining social balance.

3.2 Arrangement and Implementation of Alimony Obligations

3.2.1 Maintenance Arrangements in Positive Law

In the Indonesian legal system, the husband's maintenance obligation to his wife has been clearly regulated in various regulations, especially in the Compilation of Islamic Law and Law Number 1 of 1974 concerning Marriage. Both rules affirm that the husband is obliged to meet his wife's needs according to his ability (Law No. 1 of 1974; KHI).

Although normatively this regulation is clear, in practice there is still a gap between the provisions of the law and its implementation. This shows that the existence of legal norms does not fully guarantee compliance in real life.

3.2.2 Implementation in the Community

In people's lives, the implementation of maintenance obligations often faces various obstacles. Economic factors are one of the main causes, especially when the husband has financial limitations. However, this condition does not remove the maintenance obligation, but only affects the amount given.

In addition, low legal awareness is also an important factor. Many husbands do not understand that maintenance obligations have legal consequences if ignored (Fauziyah, 2022).

In addition, social dynamics also affect the implementation of alimony obligations. In some conditions, changing roles in the modern family lead to a shift in economic responsibilities between husband and wife. This often leads to the erroneous perception that the maintenance obligation is no longer fully the responsibility of the husband, even though legally the obligation is still attached to the husband.

3.2.3 Examples of Cases in Practice

The problem of alimony is not only theoretical, but also real in judicial practice. A number of studies show that non-fulfillment of maintenance obligations is one of the main causes of divorce in religious courts (Rofiq, 2015).

In some cases, the husband does not provide maintenance for a long period of time, so the wife files a divorce lawsuit as a form of protection for her rights. On the other hand, there are also cases where the husband actually has economic ability, but still ignores these obligations.

This shows that the issue of maintenance is not only influenced by economic factors, but also by the level of legal awareness and individual responsibility.

3.2.4 The Role of Religious Courts

Religious courts have an important role in resolving disputes related to alimony. This institution is authorized to examine and decide cases related to rights and obligations in marriage.

In practice, the judge can determine the amount of alimony based on the consideration of the husband's economic ability and the wife's needs. However, the implementation of judgments often faces obstacles, especially in terms of execution. This shows that the effectiveness of the law still depends on the compliance of the parties.

3.2.5 Analysis of Court Decisions

Several court decisions show that alimony is an important factor in judges' considerations, especially in divorce cases. When it is proven that the husband does not fulfill his maintenance obligations within a certain period of time, this can be used as a reason to grant a divorce lawsuit.

However, there are variations in the determination of the amount of alimony that is decided. This shows that there is flexibility as well as inconsistency in the application of the law, so that its implementation is still casuistic.

3.3 Critical Analysis and Strengthening the Protection of Wives Rights

3.3.1 Critical Analysis of the Implementation of Maintenance

Even though it has been clearly regulated, the implementation of maintenance obligations still shows a gap between norms and reality. This reflects that ideal laws have not been fully implemented in people's lives.

One of the main problems is the narrow understanding of livelihood that is only associated with economic aspects. In fact, in Islamic law, alimony covers a wider dimension, including moral and emotional responsibility.

In addition, low legal awareness and weak law enforcement have also worsened this condition. Many wives do not take the legal route due to various obstacles, such as economic dependence and social pressures.

This finding is in line with Nurul Fauziyah's research which states that low public legal awareness is the main factor in the non-optimal fulfillment of maintenance obligations in the household (Fauziyah, 2018).

In addition, weak access to justice is also a factor that hinders the fulfillment of wives' rights. Not all women have the courage or ability to file a lawsuit in a religious court. Educational factors, economic dependence, and social stigma are often the main barriers. Therefore, a more inclusive approach is needed in the legal system so that the protection of the rights of wives can be felt equally by all levels of society.

3.3.2 Influencing Factors

The fulfillment of maintenance obligations is influenced by various factors, both from within the individual and from the social environment. Internal factors include legal awareness, moral responsibility, and psychological conditions. Meanwhile, external factors include economic conditions, community culture, and social environment.

This shows that the problem of alimony is complex and cannot be solved only through a legal approach alone.

3.3.3 The Role of the State in the Protection of Wives Rights

The state has a responsibility to ensure the protection of the rights of wives through the provision of regulations and legal mechanisms. However, the effectiveness of such protection is highly dependent on its implementation.

It is necessary to strengthen the law enforcement system and policies that support women's empowerment to have a more balanced position in the household (Soekanto, 2001).

3.3.4 The Urgency of Legal Education

Increasing public legal awareness is an important step in overcoming the problem of livelihood. Legal education can be done through various media, both formal and non-formal.

With a better understanding of rights and obligations, it is hoped that people can be more compliant with the law and be able to create a more harmonious domestic life.

3.3.5 Reconstruction of the Concept of Maintenance in the Modern Context

In the development of modern society, there has been a change in the division of roles between husband and wife, especially in the economic aspect. Many women contribute to meeting family needs.

Nevertheless, the main obligation of maintenance remains with the husband. This change shows the need for a more contextual understanding of the concept of alimony in order to remain relevant to the development of the times without eliminating its basic principles in Islamic law (Auda, 2008).

Thus, without strengthening the aspect of legal awareness and effective enforcement mechanisms, the provision regarding maintenance obligations has the potential to only become a formal norm that does not have coercive force in the reality of people's lives.

3.3.6 Effectiveness of Law Enforcement in Alimony Obligations

The effectiveness of law enforcement on maintenance obligations is still a fairly complex issue in judicial practice. Although normatively there are rules that clearly govern it, implementation in the field shows that not all court decisions can be implemented optimally. This is especially evident in cases where the husband does not have good faith to fulfill his obligations even though there has been a decision that has permanent legal force.

One of the main obstacles lies in the mechanism of execution of decisions that are not yet fully effective. In many situations, judgments related to alimony are declarative, so their implementation is highly dependent on the awareness and compliance of the parties concerned. As a result, even though the wife has obtained a legally favorable decision, this right cannot necessarily be realized in real life (Arifin, 2022).

In addition, the limitation of sanction instruments is also a factor that affects the weak force of law against violations of maintenance obligations. The absence of firm and direct sanctions causes some parties to tend to ignore these obligations without significant consequences. This condition shows that the existing legal system still needs to be strengthened, especially in the aspects of enforcement and supervision.

In this context, efforts are needed to reformulate legal policies that not only focus on normative regulation, but also on the effectiveness of their implementation. Strengthening the execution mechanism, providing stricter sanctions, and increasing the role of the judiciary are important steps in ensuring that the maintenance obligation can be truly enforced.

3.3.7 Social Implications of Unfulfilled Maintenance

The inability or negligence of the husband in fulfilling the maintenance obligation not only has an impact on the marital relationship, but also has wider social implications. In the family sphere, this condition can trigger conflicts, tensions, and even lead to divorce. This shows that alimony has a very strategic role in maintaining household stability.

Furthermore, the non-fulfillment of alimony can also have an impact on children's welfare and the overall quality of family life. Limitations in meeting basic needs have the potential to affect aspects of education, health, and psychological development of family members.

Thus, the problem of maintenance is not only private, but also has a social dimension that requires serious attention. In a broader perspective, the high cases of non-compliance with maintenance obligations can reflect the weak legal awareness in society (Soekanto, 2001).

Therefore, a preventive approach through increasing legal awareness is just as important as a repressive approach through law enforcement.

4. CONCLUSION

Based on the results of the discussion, the husband's maintenance obligation to his wife in Islamic law is a juridical, moral, and religious responsibility that cannot be ignored. The Compilation of Islamic Law and laws and regulations in Indonesia has clearly regulated this obligation as a form of protection for the rights of the wife. However, in its implementation, various obstacles are still found, such as economic limitations, low legal awareness, and not optimal law enforcement. This condition shows that there is a gap between normative provisions and practices in society. Therefore, comprehensive efforts are needed through increasing legal education, strengthening law enforcement, and optimizing the role of the state to ensure the fulfillment of wife's rights effectively and sustainably.

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