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THE HUSBAND'S OBLIGATION IN PROVIDING *NAFAQAH* TO THE WIFE DURING THE PANDEMIC HARDSHIP: AN ANALYSIS FROM AN ISLAMIC PERSPECTIVE

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ABSTRACT

In mid-2020, the International Monetary Fund reported the effects of Covid-19 pandemic to have significantly contributed to severe financial difficulties, leading to delays in husbands providing financial support (nafaqah) to their wives. Financial challenges have emerged as the second most significant issue following health concerns during the COVID-19 pandemic, causing the husbands to face obstacles in meeting their obligation to support their wives financially. Consequently, to resolve this confusion, this paper aims to investigate the husband's role as a custodian of rights in delivering financial support to his wife amid the pandemic from the Islamic perspective. Furthermore, it seeks to address inquiries and apprehensions regarding husbands who do not fulfil this

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responsibility, while also examining the concept of spousal maintenance from an Islamic viewpoint. This research is qualitative in nature. The method used in this study is library research, gathering information from both primary and secondary sources. The data will be organised using a thematic approach. The study found that the husband's obligation to provide maintenance does not cease even during a pandemic; instead, it becomes a debt owed to the wife. However, the wife has the option to either remain in the marriage or seek a divorce. This finding clarifies misunderstandings and confusions within the community about the status of maintenance, aids husbands in understanding their responsibilities, demonstrates Islam's flexibility in addressing the maintenance issues and encourages wives to exercise patience during difficult times, as this is one of the strengths of marriage.

Keywords: *husband's responsibility, financial support, nafaqah, COVID-19 pandemic, Islamic overview*

INTRODUCTION

The COVID-19 pandemic has profoundly impacted human life. Among the various repercussions, financial stability has emerged as a critical concern, especially for households striving to maintain their livelihood. In an Islamic context, providing for household needs, including financial maintenance (*nafaqah*), is a fundamental marital obligation that a husband must fulfill towards his wife. This responsibility is well-established in Islamic jurisprudence, where the husband is recognized as the executor of rights, the provider, and the guardian of his wife and family structure. However, the economic downturn caused by the pandemic had significantly hindered the ability of many husbands to meet this obligation. Sudden job losses, salary reductions, and depleted savings have severely affected men, preventing them from fulfilling their religious duty of providing *nafaqah*. Despite various efforts, the inability to meet this responsibility has left many husbands grappling with feelings of guilt. This situation has raised numerous questions about the status and implications of such failures from an Islamic perspective. Therefore, this paper seeks to explore the husband's responsibility in fulfilling marital obligations, specifically in providing financial support to his wife. It aims to clarify questions about *nafaqah*, clarify the status of spousal maintenance, and elucidate the legal implications

of failing to meet these obligations from an Islamic viewpoint. This paper will address the challenges faced and will promote marital harmony by enhancing understanding of religious duties, particularly during times of crisis. Through a comprehensive analysis of Islamic principles and contemporary realities, this paper endeavours to provide insights for navigating financial responsibilities amidst ongoing uncertainties. This study differs from other works on *nafaqah* in several keyways and will primarily focus on the contemporary context, particularly the COVID-19 pandemic.

1. Contextual Analysis of Pandemic-Related Challenges

This article specifically addresses the challenges faced by husbands during the pandemic, which have caused many to fail in fulfilling their religious obligation of providing *nafaqah* (maintenance) to their wives. It discusses the rulings on *nafaqah* while also examining the deferral of maintenance obligations during times of crisis, from both the Islamic legal perspective and the courts' practical implementations. Unlike traditional discussions that primarily focus on the general and timeless obligation of *nafaqah*, this article delves into the unique challenges posed by the COVID-19 pandemic and the way it affected the husband's ability to meet his religious duties. This contextual approach makes the discussion more relevant to the global situation. Additionally, the article explores the flexibility and adaptability of Islamic jurisprudence during times of hardship. It explains how Islamic law accommodates evolving circumstances and allows for temporary adjustments, deferred payments, or alternative forms of support, taking into account the husband's financial condition during a crisis. This approach fosters principles of compassion, fairness, and mutual understanding.

2. Application of Flexibility within Islamic Jurisprudence

This article differs from previous works, which often emphasize the husband's fixed duty to provide *nafaqah*, by exploring the flexibility and adaptability afforded in Islamic law during difficult times. It discusses how Islamic law allows for temporary adjustments, deferred payments, or alternative support mechanisms, depending on the husband's financial situation during a crisis, reflecting the law's capacity to respond to genuine hardships.

3. Incorporation of Contemporary Legal and Ethical Perspectives

While much of the existing literature focuses predominantly on classical fiqh rulings, this article integrates both classical Islamic jurisprudence and contemporary legal and ethical considerations. It provides a dual perspective by discussing how modern socio-economic realities and legal frameworks intersect with Islamic teachings, offering a balanced view that is responsive to current challenges faced by Muslim families.

The article also addresses the legal provisions for resolving overdue *nafaqah* payments, offering guidance to husbands in navigating their financial struggles while promoting marital harmony. In addition, it stresses the importance of maintaining open communication, empathy, and tolerance between spouses, as advocated in Islamic teachings, to foster mutual understanding during difficult times.

4. Incorporation of Real-Life Case Studies

To enhance the practical applicability of the discussion, the article incorporates real-life case studies and examples of couples who have managed their *nafaqah* obligations creatively and justly during the pandemic. This approach helps provide concrete insights and solutions for families grappling with *nafaqah* issues, offering tangible resolutions to real-world problems.

In conclusion, this article goes beyond the theoretical foundations of *nafaqah* to examine how these rulings can be practically applied during modern crises such as the COVID-19 pandemic. It uniquely integrates contemporary challenges, institutional responses, and practical solutions, providing a holistic view that is both grounded in Islamic teachings and relevant to current socio-economic realities.

RESEARCH PROBLEM

The COVID-19 pandemic has introduced unprecedented financial and social challenges, disrupting the ability of many husbands to fulfil their Islamic obligation of providing nafaqah to their wives. This issue has raised complex questions about the intersection of religious obligation nd economic realities during period of crisis. While classical Islamic jurisprudence extensively outlines the husband's duty as provider, there is a lack of comprehensive analysis addressing how these principles can be applied flexibly the context of contemporary crisis, such as global pandemic. Additionally, the financial

hardships caused by job losses, economic downturns, and rising living costs during the pandemic have left many husbands unable to meet their obligations, leading to marital discord and unresolved legal disputes. This raises an urgent need to explore the challenges faced by husbands in fulfilling their financial roles during the pandemic, the application of Islamic rulings to such circumstances, and the adequacy of institutional responses to support affected families.

RESEARCH METHODOLOGY

This study adopts a qualitative approach, utilizing library research for data collection. It encompasses both primary and secondary sources. Primary data, including the al-Qur'an and hadith, will be employed to gather foundational information. Secondary sources such as books, scholarly articles, journals, contemporary works (including rulings, *fatwa*s, and legal texts), newspapers, and online resources will be used to obtain relevant information.

Data collection was conducted using relevant primary and secondary sources. For primary data, Qur'anic verses related to the obligations of husbands and matters concerning maintenance (*nafaqah*) will be examined. Similarly, hadiths related to the responsibilities of husbands and maintenance will be gathered and analyzed. This includes explanations from scholars of how these Qur'anic verses and hadith are applied in real life, particularly during the pandemic. For secondary data, information will be gathered by reviewing previous studies and literature related to the research topic, specifically the responsibilities of husbands and maintenance. This includes fiqh books, scholarly articles, journals, contemporary works, newspapers, and online sources. Subsequently, the collected data will be analyzed and systematically organized according to thematic styles, such as the definition of *nafaqah*, the obligations of husbands, pandemic challenges, and Islamic perspectives. Therefore, this method will result in a comprehensive and in-depth study on the husband's obligation to provide maintenance to the wife during pandemic hardship.

AN OVERVIEW OF THE COVID-19 PANDEMIC

COVID-19, scientifically known as SARS-Cov-2 is an infectious disease causing acute and severe inflammation of the lungs, commonly referred to

as viral pneumonia.[3] It originates from a novel coronavirus first identified in Hubei Province, Wuhan, China, through common symptoms of fever, dry coughs, and sore throat suffered by an ordinary 55-year-old man.[4] Until 2024, the World Health Organization has reported 775 million cases worldwide, which equals approximately 9.8% of the world population.[5] The first imported case of COVID-19 in Malaysia was detected on 24th January 2020, through the arrival of Chinese Singaporean citizens via the Johor border for tourism purposes.[6] A day after, the residing Health Minister of Malaysia, Dr Zulkefly Ahmad confirmed the previous unverified allegation of an outbreak from the positive result of a COVID-19 test undergone by the said group.[7] On 4th February 2020, additional cases were reported involving a 41-year-old man from Selangor who had returned from Wuhan, and a China citizen arriving at Kuala Lumpur International Airport ("**KLIA**").[8] A significant primary event contributing to the spike of reported infections in

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3 World Health Organization, 'What Is COVID-19', World Health Organization, 28 March 2023, https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/coronavirus-disease-covid-19, accessed on 14 July 2024.

4 Thuaibah Aslamiah Nadzri, 'COVID-19: Apa Itu COVID-19?', Sekolah Pengajian Siswazah, Universiti Putra Malaysia, 30 Ogos 2020, https://sgs.upm.edu.my/artikel/covid_19_apa_itu_covid_19-58177, accessed on 18 July 2024.

5 World Health Organization, 'COVID-19 Epidemiological Update', World Health Organization, 15 July 2024, https://www.who.int/publications/m/item/covid-19-epidemiological-update-edition-169, accessed on 12 July 2024.

6 Mohd Zaki bin Abdul Rahim et al., *Edisi Khas COVID-19: MyHealth* (Putrajaya: Kementerian Kesihatan Malaysia, June 2020), https://www.moh.gov.my/moh/resources/Penerbitan/Rujukan/Umum/e-Magazine_Jun_1.2020_.pdf, accessed on 11 July2024.

7 Harits Asyraf Hasnan, 'Kes Pertama Koronavirus Di Malaysia, Tiga Warga China Kini Dirawat Di Hospital Sungai Buloh', Astro Awani, 25 Januari 2020, https://www.astroawani.com/berita-malaysia/kes-pertama-koronavirus-di-malaysia-tiga-warga-china-kini-dirawat-di-hospital-sungai-buloh-228989, accessed on 15 July 2024.

8 Bernama, 'Kronologi Covid-19 di Malaysia sehingga 16 Mac 2020', Harian Metro, 2020, https://www.hmetro.com.my/mutakhir/2020/03/555424/kronologi-covid-19-di-malaysia-sehingga-16-mac-2020, accessed on 9 July 2024

Malaysia was the Tablighi Jamaat religious gathering.[9] It was held at Masjid Seri Petaling from 28th February to 1st March 2020, attracting an active participation of approximately 16,000 attendees.[10] By 16th March 2020, the COVID-19 outbreak had escalated enormously, with a substantial proportion of cases linked to the Tabligh cluster and close contacts of attendees.[11] This surge increased the cumulative number of positive COVID-19 cases to 553 which continued to rise, reaching 900 confirmed cases within 16 days.[12] These unprecedented numbers of incidents prompted the residing Prime Minister, Tan Sri Muhyiddin Yassin, to enforce and declare the Movement Control Order ("**MCO**"), effectuated on 18th March 2020.[13] It involved mainly the drastic employment of a set of stringent regulations and immediate deployment of national security authorities to compel public compliance with the recent preventive measures.[14]

1. The Government's Preventive Mechanisms of Movement Control Order ("MCO")

There were four types of MCOs previously enforced within the duration of the pandemic, named: 1) the MCO, 2) the Conditional MCO ("**CMCO**"), 3) the Recovery MCO ("**RMCO**"), and 4) the Enhanced MCO ("**EMCO**").[15] In general, the regulations alter the main aspects of social tranquility. It includes, yet is not limited to, restrictions to move across districts or states with few exceptions such as emergencies, health-related reasons,

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9 Rohaniza Idris, 'COVID-19: Kes di Masjid Seri Petaling Kluster Baharu', Berita Harian Online, 12 March 2020, https://www.bharian.com.my/berita/nasional/2020/03/664769/covid-19-kes-di-masjid-seri-petaling-kluster-baharu, accessed on 16 July 2024

10 Bernama, 'Kronologi Covid-19 di Malaysia sehingga 16 Mac 2020'.

11 Bernama, 'COVID-19: Kluster Terbesar Jemaah Tabligh Seri Petaling Tamat - KP Kesihatan', Utusan Borneo Online, 8 July 2020, https://www.utusanborneo.com.my/2020/07/08/covid-19-kluster-terbesar-jemaah-tabligh-seri-petaling-tamat-kp-kesihatan

12 Bernama, 'COVID-19 Cases in Malaysia', Ministry of Health Malaysia, 6 October 2022, https://covidnow.moh.gov.my/cases/, accessed on 15 July 2024; Asita Elengoe, 'COVID-19 Outbreak in Malaysia', *Osong Public Health and Research Perspectives*, vol. 11/3 (2020): 93-100, https://doi.org/https://doi.org/10.24171/j.phrp.2020.11.3.08.

13 Bernama, 'Kronologi Covid-19 di Malaysia sehingga 16 Mac 2020'.

14 Kementerian Kesihatan Malaysia, 'PKP Seluruh Negara', Kementerian Kesihatan Malaysia, 23 Jun 2021, https://covid-19.moh.gov.my/faqsop/sop-perintah-kawalan-pergerakan-pkp, accessed on 14 July 2024.

15 Bernama, 'Kronologi Covid-19 di Malaysia sehingga 16 Mac 2020'.

vaccination, economic activities, and work. The MCO's framework also banned all forms of social gatherings and events, participation in sports and recreational activities, and dining at restaurants and eateries, including convergences for learning and education purposes.[16] From the health and wellness aspects, The General Director of the Ministry of Health announced several measures to be adopted specifically by healthcare personnel and the public at large. Among them are: the encouragement to adhere to the TRISS guidelines, which stand for Test, Report, Inform, and Isolate.[17] Both entities are strongly advised to wear face masks in crowded and confined areas, and high-risk individuals are encouraged to undertake vaccines and boosters to strengthen the weakened body immunities.[18] As of December 2022, the total number of COVID-19 cases in Malaysia had surpassed 5 million cases, with 36,831 deaths attributed to the virus.[19] These staged and strategized MCO measures were primarily aimed at reducing the huge number of infection cases and minimizing the risk for the healthy Malaysian citizens of being exposed to the virus.[20] At this point, it is significant to note that the enforced MCO which served as a mechanism to control the spread of the virus, has critically altered the normal norm of the Malaysian lifestyle from all crucial social aspects.[21] If, previously, the public possessed an absolute freedom of choice to move, gather, and make a living, then during the pandemic, the freedom seemed to be categorically revoked. The public was compelled to abide by the sanctioned regulations despite contradicting the free will of freedom of choice. Particularly, such prevention tools caused several economic implications and challenges to Islamic family institutions. To achieve the article's objective, this discussion will attempt to narrow the discussion into challenges faced particularly by Muslim husbands.

2. Challenges Faced by Muslim Husbands in Navigating Conflicting Obligations During the Pandemic.

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16 Kementerian Kesihatan Malaysia, 'PKP Seluruh Negara'.

17 Kementerian Kesihatan Malaysia, 'Langkah-Langkah Pencegahan Covid-19', Kementerian Kesihatan Malaysia, 15 April 2023, https://covid-19.moh.gov.my/semasa-kkm/2023/04/langkah-langkah-pencegahan-covid-19, accessed on 11 July 2024.

18 Kementerian Kesihatan Malaysia, 'Langkah-Langkah Pencegahan Covid-19'.

19 Nurul Huda Husain, 'Keseluruhan Kes Covid-19 di Malaysia Lepasi Lima Juta', Sinar Harian, 25 Disember 2022, https://www.sinarharian.com.my/article/237708/khas/covid-19/keseluruhan-kes-covid-19-di-malaysia-lepasi-lima-juta, accessed on 16 July 2024

20 Asita Elengoe, 'COVID-19 Outbreak in Malaysia'.

21 Asita Elengoe, 'COVID-19 Outbreak in Malaysia'.

Contextually, husband is the pivotal member responsible to provide financial support within the Islamic family institution. They are expected to earn a living and are responsibly obligated to maintain their family.[22] There happened to be numerous challenges that husbands faced in the era of the pandemic which restrained them from carrying out their responsibility. It was categorically portrayed in the financial aspect which this article will attempt to address through the following issues of retrenchment, salary reduction, shorter working hours, high cost of living and expenses, and low household savings. The stipulated issues have been found to have caused the husbands to lose a greater amount of money, including the emergency funds, that resulted in a severe state of financial distress within the maintained family.

a) Retrenchment and the employers' survival policy effects on the husbands

Retrenchment, or contextually understood as the removal of employees due to technical administration instances or *force majeure*[23], has been reported to become the root of financial distress to occur. Generally, husbands find it difficult to provide financial support as they lose their jobs unexpectedly. Yet from the employers' perspective, they are compelled to exercise retrenchments to reduce business operational costs.[24] It was commonly reported during the COVID-19 pandemic that business owners are struggling to survive and sustain as they are unable to operate due to the enforcement of MCO, including the desperation to reduce operational costs. The entities that previously generated significant profits, such as hospitality, education, aviation, and tourism sectors, were reported to face severe

[22] Naemah Hamzah, 'Covid-19: Hak dan Tanggungjawab Suami Isteri', Tinta Minda, 23 April 2021, https://www.bernama.com/bm/tintaminda/news.php?id=1954601, accessed on 18 July 2024

[23] 'force majeure' is a Latin term, legally connotes an occurrence of an unprecedented event caused by the act of God such as a natural disaster or a disease outbreak. See Cambridge Dictionary, 'force majeure', Cambridge University Press and Assessment, 2024, https://dictionary.cambridge.org/dictionary/english/force-majeure, accessed on 15 July 2024.

[24] Mohd Azlim Zainury, 'Pasca PKP: Majikan Terkesan, Pekerja Hilang Kerja', Sinar Harian, 1 Mei 2020, https://www.sinarharian.com.my/article/81403/khas/wacana/pasca-pkp-majikan-terkesan-pekerja-hilang-kerja, accessed on 17 July2024.

undefined losses, found to be critically detrimental to the cause of sustaining the business for a longer period.[25]Therefore, numbers of husbands working in these sectors found themselves to be suddenly unemployed due to the unexpected retrenchment policy[26], rooted in the stipulated economic instability. Husbands under the age of 40 particularly tend to face higher risks of retrenchment with a salary of less than RM 4,000.[27] The B40, which mainly referred to factory workers, food assistants, and self-employed small traders, reported to be deeply overwhelmed due to the pandemic's domino economic effects.[28] The state of distress gradually conquers small business owners particularly, given that they are restricted from exercising normal working routines. It prohibits them from earning the necessary amount of stipends within the period of the pandemic.[29] This resulted in difficulties for these low-income husbands to meet and fulfil basic needs such as rent payments, food, clothing, vehicles, children's school necessities, and other daily expenses. To a greater extent, this state of distress hinders their ability to allocate some of the earnings into stashes of emergency or potential long-term investments which is economically unhealthy for the long-term sustenance of living.[30]

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[25] Mohd Shazwan Yusop, 'Covid-19 Jejaskan Sektor Perniagaan', Kosmo Online, 2 Ogos 2020, https://www.kosmo.com.my/2020/08/02/covid-19-jejaskan-sektor-perniagaan/, accessed on 16 July 2024.

[26] Bernama, 'Lebih 40,000 Hilang Kerja', Harian Metro Online, 7 September 2021, https://www.hmetro.com.my/mutakhir/2021/09/752076/lebih-40000-hilang-kerja, accessed on 11 July 2024

[27] Bernama, 'COVID-19: 3 Daripada 5 Hilang Pekerjaan Berusia Bawah 40', Berita Harian Online, 14 Jun 2020, https://www.bharian.com.my/berita/nasional/2020/06/700243/covid-19-3-daripada-5-hilang-pekerjaan-berusia-bawah-40

[28] Raiham Mohd Sanusi, 'Cabaran Keluarga Ketika Pandemik Covid-19', Sinar Harian, 15 Oktober 2020, https://www.sinarharian.com.my/article/105378/khas/quranhour/cabaran-keluarga-ketika-pandemik-covid-19, accessed on 18 July 2024.

[29] Khatijah Othman, 'Cabaran dan Impak Pandemik Covid-19 Terhadap Institusi Kekeluargaan di Malaysia', *International Journal for Studies on Children, Women, Elderly and Disabled*, vol. 14/12 (2021): 187-196.

[30] Norhanizah Johari, "Mendepani Cabaran Kewangan Rumah Tangga," Astro Awani, 14 Jun 2023, https://www.astroawani.com/berita-bisnes/kolumnis-mendepani-cabaran-kewangan-rumah-tangga-423860, accessed on 6 July 2024

b) Salary reductions: Depletion of emergency funds and non-affordability of living expenses

For most employers, salary reductions were viewed as one of the effective mechanisms capable of assisting them to survive in the markets. Fifty-three percent of workers were reported to have experienced undignified and compulsory pay cuts during the pandemic.[31] Employers had been dependent on the government economic stimulus package of PRIHATIN, PENJANA, and PEMERKASA to maintain the subsistence of business and minimize the foreseen layoffs due to existing social restrictions. Contextually, this scenario has resulted in husbands being technically compelled to work with low monthly salaries. New graduates saw a consequential decrement in monthly salaries, with the majority earning between RM 1001 and RM 1500 in 2020, compared to RM 2001 to RM 2500 in 2019 on average.[32] With Malaysia's high cost of living, such a salary range is deemed insufficient to support the expenses needed by the family. Another extreme yet effective mechanism employed by the employers was the imposition of a short-working hours policy to reduce operating costs. It was viewed as an appropriate reasonable measure to avoid layoffs as widely recommended in corporate harmony procedures or the Code of Conduct. The measures extended to limiting overtime work, reducing the number of working days per week, or reducing the amount of work per week.[33] However, for some employers in the related sectors, it is due to the MCO's framework that they are compelled to implement and enforce a similar policy in their company. This resulted in the necessity for the husbands working in the related sectors to work for shorter periods, being paid hourly, or assigned to other less financial gain operations to ensure business or sector survival. In some exceptional scenarios, some private employers alleged to have caused the employees to take unpaid leave unwillingly. Some are even threatened with pay cuts given they are directed to undergo a two-week quarantine, to satisfy

[31] Harian Metro, "Covid-19: Ramai Rakyat Malaysia Dipotong Gaji," Harian Metro, 17 November 2021, https://www.hmetro.com.my/bisnes/2021/11/778223/covid-19-ramai-rakyat-malaysia-dipotong-gaji, accessed on 15 July 2024

[32] Bernama, "COVID-19: Gaji Lebih Rendah, Majikan Kekurangan Aliran Kewangan," Astro Awani, 3 April 2021, https://www.astroawani.com/berita-malaysia/covid-19-gaji-lebih-rendah-majikan-kekurangan-aliran-kewangan-291410, accessed on 11 July 2024

[33] Bernama, 'Majikan Disyor Had Kerja Lebih Masa, Kurangkan Hari Bekerja', Sinar Harian, 1 Mei 2020, https://www.sinarharian.com.my/article/81434/berita/nasional/majikan-disyor-had-kerja-lebih-masa-kurangkan-hari-bekerja, accessed on 9 July 2024

the mandatory COVID-19 prevention procedure.[34] Here, the husbands faced serious and material risks in the loss of income, salary reductions, and unpaid unconsented leaves during quarantine periods.

During the pandemic, the emergency funds were viewed to be critically assisting the husbands' financial hardship. Yet in Malaysia, the majority of the general public commonly fails to comprehend the said benefits and thus ceases to venture into such remunerative practices. From the view of personal financial risk management, nearly half of the population struggles to save as pittance as RM1000 for emergencies despite the amount's insufficiency to cover even one month of expenses.[35] Around 70 to 80 percent of couples reported seeking assistance due to insufficient savings, with some husbands admitting their available funds to last only for a week's expenses.[36] The unambiguous challenges to commit and save for emergencies due to the high cost of living or fulfilling a luxurious lifestyle affect survival during a period of crisis, in which it is most required to exist at such material time. It is pertinent to note at this point that living costs have been one of the timeless issues yet to be resolved despite changes of government and reforms in fundamental policies. Previously, the cost of living has commonly been reported to increase alongside the rising average food prices. At the time of crisis, the loss of hundreds of thousands of jobs due to the above policies and business survival exacerbates financial hardship, especially for those of lower income.[37] Husbands are compelled to think and execute desperate measures on the issues of limited food, medication availability, medical equipment, and other miscellaneous expenses.[38] During the COVID-19 pandemic, there were notable increases in expenses for hygiene tools and personal care, communication, and

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[34] Ambrose Rirang, 'Gaji Dipotong Jika Kuarantin?', Utusan Borneo Online, 24 Mei 2021, https://www.utusanborneo.com.my/2021/05/24/gaji-dipotong-jika-kuarantin, accessed on 15 July 2024.

[35] Bernama, '30 Peratus Rakyat Malaysia Berasa Hutang Membebankan', Harian Metro, 13 Februari 2023, https://www.hmetro.com.my/bisnes/2023/02/935515/30-peratus-rakyat-malaysia-berasa-hutang-membebankan, accessed on 10 July 2024

[36] Raiham Mohd Sanusi, 'Cabaran Keluarga Ketika Pandemik Covid-19'.

[37] Rahimi Yunus, 'Cost of Living Worsens with Covid-19', The Malaysian Reserve, 22 March 2021, https://themalaysianreserve.com/2021/03/22/cost-of-living-worsens-with-covid-19/, accessed on 14 July 2024.

[38] Abdul Rashid Abdul Aziz, Nurhafizah Mohd Sukor & Nor Hamizah Ab Razak, 'Wabak Covid-19: Pengurusan Aspek Kesihatan Mental Semasa Norma Baharu', *International Journal of Social Science Research*, vol. 2/4 (2020): 156-174, https://myjms.mohe.gov.my/index.php/ijssr/article/view/11594.

nutritional products and utilities.[39] Given that families abided to stay at home during the pandemic; utility bills of water, electricity, heating, air conditioning, phone bills, television, and internet services were reported to be the second-largest expenses, rising at 39% on average compared to normal instances.[40] With declining income yet increased expenditures, husbands face scant possibilities to survive during the pandemic.

c) Severe economic distress: Increment in debts and health challenges

Within the existing challenges, husbands with a large amount of debt are reported to face a severe level of economic distress due to never-ending commitments to satisfy monthly contractual installments. Excessive debt is exceptionally burdensome and reduces the ability to save or invest for the future.[41] With the existing burden of debts such as education loans, car loans, monthly house payments, and so on, the pressure faced is worsening.[42] The study also indicates that one in three Malaysians feels burdened by debt, despite the majority of them belonging to the middle-income group.[43] Financial challenges can also arise if a family member faces health issues requiring high treatment costs due to serious illness. Unexpected events such as job loss or property damage also add to the financial burden of existing households. These additional costs can disrupt the financial balance and require unplanned additional financial resources. Health insurance does not

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[39] Bilal Celik, Kemal Ozden & Senol Dane, 'The Effects of COVID-19 Pandemic Outbreak on the Household Economy', *Journal of Research in Medical and Dental Science*, vol. 8/4 (2020): 51-56.

[40] Rajeshni Naidu & Ghelani, 'Cost of Living: Majority Say Cost of Food, Goods and Services Have Increased since COVID-19 Began', LPSOS, 2 July 2020, https://www.ipsos.com/en-my/cost-living-majority-say-cost-food-goods-and-services-have-increased-covid-19-began, accessed on 16 July 2024.

[41] Łukasz Kurowski, 'Household's Overindebtedness during the COVID-19 Crisis: The Role of Debt and Financial Literacy', *MDPI Risks*, vol. 9/ 4 (2021): 62.

[42] Mohamad Ashyiq Haqimi, 'Tekanan Kewangan Antara Punca Keganasan Rumah Tangga', Harian Metro, 9 Mei 2022, https://www.hmetro.com.my/mutakhir/2022/05/840129/tekanan-kewangan-antara-punca-keganasan-rumah-tangga, accessed on 12 July 2024

[43] Omar Ahmad, 'Rakyat Malaysia Bersikap Jangka Pendek Dalam Menguruskan Wang' - Gabenor BNM', Harian Metro, 28 Oktober 2023, https://www.hmetro.com.my/mutakhir/2023/10/1024583/rakyat-malaysia-bersikap-jangka-pendek-dalam-menguruskan-wang-gabenor-bnm, accessed on 17 July 2024

fully cover healthcare costs during the covid 19 pandemic, partly because it did not account for many out-of-pocket expenses paid by patients.[44]

ISLAMIC CONCEPT OF HUSBAND'S RESPONSIBILITIES IN PROVIDING *NAFAQAH*

Allah created men and women as pairs and companions, meant to complete, rather than compete with, each other. Providing *nafaqah* or financial maintenance is a fundamental requirement that husbands must fulfill towards their wives and children. Essentially, it is a responsibility that arises from the existence of marriage and the marital relationship. In Islamic jurisprudence, the concept of *nafaqah* plays a crucial role in defining a husband's obligation and responsibilities within a valid contractual marriage. Rooted in the teachings of the Qur'an and hadith, the obligation to provide *nafaqah* encompasses a comprehensive understanding of the husband's role as the primary provider and protector of the family. Therefore, it is pertinent for the Islamic concept of the husband's duty to be deeply comprehended to address the contemporary challenges faced by Muslim families. It is due to the existing association of the principles of *nafaqah* with the broader Islamic ethos of familial harmony and stability.

1. The Concept of *Nafaqah* in Islam

Before delving further into the legal rulings on a husband's maintenance obligations towards his wife, it is essential to understand the true meaning of maintenance or *nafaqah* from both linguistic and terminological perspectives. Linguistically, the term '*nafaqah*' is derived from the Arabic word '*anfaqa*', which signifies expenditure or disbursement. It originates from the root word na-fa-qa, with its plural form being '*infaq*'. *Nafaqah* is taken from the Arabic word '*nafaqah*' which means expenses in the form of monetary provisions that are rightfully due to those entitled to receive them.[45] From a terminological perspective, *nafaqah* has different meanings according to the views of the four major Islamic schools of thought: Hanafi,

[44] Jonathan E. Leightner, 'Covid-19, out-of-Pocket Medical Expenses and Consumption', *Journal of Financial Economic Policy*, vol. 13/4 (2021): 462-478.

[45] Abū Jayyib, *al-Qāmūs al-Fiqhi Lughatan wa Istilāhan* (Bayrut: Dār al-Fikr, 1988).

Maliki, Shāfi'ī, and Hanbali.[46] For the Hanafi school, *nafaqah* refers to what a person spends on something to sustain its existence. It encompasses all necessary expenditures for the survival and well-being of those under one's care. The Malikis perceive *nafaqah* as what is needed to maintain a person's usual and customary state without extravagance. It includes necessities that support a moderate and acceptable standard of living. Shāfi'ī school of thought deliberatively connotes the same, that *nafaqah* shall involve the provision of food by the husband for his wife and her servant, as well as for other dependents, such as children, slaves, and animals. It entails providing sufficient food and essential needs for each dependent. For the Hanbalis, the gist of its nature is substantively similar. It was stipulated that *nafaqah* is the provision of adequate bread, condiments, clothing, shelter, and other necessary items for those under one's care. This includes ensuring that dependents have sufficient food, clothing, and housing, along with all necessary support services. However, there exist some jurists who possess distinguished opinion on the definition of *nafaqah* from the four primary schools of thought. For instance, Ibn 'Ābidīn describes *nafaqah* as the provision of necessities by the responsible party to sustain the life of those under their care[47] which is fundamentally similar to the deliberation given by Imam Malik bin Anas.[48] For the former, *nafaqah* was particularly submitted as the procurement of necessities without extravagance, connoting the assessment of necessities as the yardstick to determine the exact amount of *nafaqah* accounted against the husband.[49] For al-Sharqawi, however, *nafaqah* simply stands for supplication of a specific amount of food that must be provided by the husband or father to his wife and children.[50] Apparently, there are numerous shreds of evidence articulated in Qur'an and hadith discussing the issue of the obligation of maintenance, which imposes the duty of its implementation on the husband. In al-Baqarah: 233, the verse states:

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[46] Muhammad Hasan Abu Yahya, *Ahkām al-Ziwāj fī al-Shari'ah al-Islamiyyah* ('Omān: Dār Yafa al-'Ilmiyyah, 2011).

[47] Ibn 'Abidin, *Hashiyah Radd al-Muhtar*, vol. 3 (Misr: Shirkah Maktabah wa Matba'ah Mustafa al-Babi al-Halabi, 1996).

[48] Imam Malik Ibn Anas, *al-Muwatta'* (United Kingdom: Diwan Press, 2014).

[49] Abu 'Abd Allah Muhammad al-Khurashi, *al-Khurashi 'ala Mukhtasar Khalil* (Bayrut: Dar al-Fikr, 1317H).

[50] Al-Sharqawī 'Abd Allah, *Hāshiyah al-Sharqawī 'alā Tuhfah al-Tullab Sharh Tahrīr Tanqih al-Libab li Zakariyā al-Ansārī*, vol. 2 (Egypt: al-Husayniyyah, 1891).

۞ وَٱلْوَٰلِدَٰتُ يُرْضِعْنَ أَوْلَٰدَهُنَّ حَوْلَيْنِ كَامِلَيْنِ ۖ لِمَنْ أَرَادَ أَن يُتِمَّ ٱلرَّضَاعَةَ ۚ
وَعَلَى ٱلْمَوْلُودِ لَهُۥ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِٱلْمَعْرُوفِ ۚ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۚ
لَا تُضَآرَّ وَٰلِدَةٌۢ بِوَلَدِهَا وَلَا مَوْلُودٌ لَّهُۥ بِوَلَدِهِۦ ۚ وَعَلَى ٱلْوَارِثِ مِثْلُ ذَٰلِكَ ۗ فَإِنْ
أَرَادَا فِصَالًا عَن تَرَاضٍ مِّنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا ۗ وَإِنْ أَرَدتُّمْ أَن
تَسْتَرْضِعُوٓا۟ أَوْلَٰدَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُم مَّآ ءَاتَيْتُم بِٱلْمَعْرُوفِ ۗ وَٱتَّقُوا۟
ٱللَّهَ وَٱعْلَمُوٓا۟ أَنَّ ٱللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ﴿٢٣٣﴾

"Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]. Upon the father is their [i.e., the mothers'] provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. And upon the [father's] heir is [a duty] like that [of the father]. And if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do".

(Surah al-Baqarah, 2: 233)

The above verse indicates an unequivocal principle that providing maintenance for the wife is an absolute obligation upon the husband, as the wife bears children, and the husband is responsible as the father to provide sustenance and housing for the wife, "and the pronoun refers back to the wife". In another verse of Surah al-Nisa': 34, it stipulates that:

ٱلرِّجَالُ قَوَّٰمُونَ عَلَى ٱلنِّسَآءِ بِمَا فَضَّلَ ٱللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَآ أَنفَقُوا۟ مِنْ
أَمْوَٰلِهِمْ ۚ فَٱلصَّٰلِحَٰتُ قَٰنِتَٰتٌ حَٰفِظَٰتٌ لِّلْغَيْبِ بِمَا حَفِظَ ٱللَّهُ ۚ وَٱلَّٰتِى تَخَافُونَ
نُشُوزَهُنَّ فَعِظُوهُنَّ وَٱهْجُرُوهُنَّ فِى ٱلْمَضَاجِعِ وَٱضْرِبُوهُنَّ ۖ فَإِنْ أَطَعْنَكُمْ فَلَا
تَبْغُوا۟ عَلَيْهِنَّ سَبِيلًا ۗ إِنَّ ٱللَّهَ كَانَ عَلِيًّا كَبِيرًا ﴿٣٤﴾

"Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient,

guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand".

(Surah al-Nisa', 3: 34)

This verse conveys men's explicit position of authority over women, and due to that, they are given preference, and imposed upon them the undisputed obligation of providing maintenance for their respective wives. In Surah al-Talaq, verse 7, it affirms the husband's undisputed obligation to provide maintenance. It states in verbatim that:

لِيُنفِقْ ذُو سَعَةٍ مِّن سَعَتِهِۦۖ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُۥ فَلْيُنفِقْ مِمَّآ ءَاتَىٰهُ ٱللَّهُۚ لَا
يُكَلِّفُ ٱللَّهُ نَفْسًا إِلَّا مَآ ءَاتَىٰهَاۚ سَيَجْعَلُ ٱللَّهُ بَعْدَ عُسْرٍ يُسْرًا ﴿٧﴾

"Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease".

(Surah al-Talaq, 65: 7)

Apparently in this verse, several important principles regarding financial responsibility within the context of providing *nafaqah* are categorically highlighted. It emphasizes the importance of justice, individual capability, moderation, and Islamic tolerance in the distribution of *nafaqah*, as well as the associated expectations for the husbands to provide *nafaqah*. This serves as clear guidance for Muslims, particularly husbands, on how to effectively fulfill and carry their financial responsibility of providing *nafaqah*. In the previous verse, the Qur'an stipulates the duration in which the maintenance shall be provided for. It stipulates:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنتُم مِّن وُجْدِكُمْ وَلَا تُضَآرُّوهُنَّ لِتُضَيِّقُواْ عَلَيْهِنَّۚ وَإِن
كُنَّ أُوْلَٰتِ حَمْلٍ فَأَنفِقُواْ عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّۚ فَإِنْ أَرْضَعْنَ لَكُمْ فَـَٔاتُوهُنَّ
أُجُورَهُنَّۖ وَأْتَمِرُواْ بَيْنَكُم بِمَعْرُوفٍۖ وَإِن تَعَاسَرْتُمْ فَسَتُرْضِعُ لَهُۥٓ أُخْرَىٰ ﴿٦﴾

"Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their

payment and confer among yourselves in the acceptable way; but if you are in discord, then they may breastfeed for the father of another woman".

(Surah al-Talaq, 65: 6)

The above verse elucidates and emphasizes the husband's responsibility in ensuring the well-being of his wife and children by providing adequate *nafaqah*, suitable housing, and maintaining good communication and relationships within the family. In addition to the Qur'anic evidence provided above, numerous relevant hadiths are found to have significantly discussed the responsibility of *nafaqah* that rests upon the husband's shoulders. The hadith narrated by Hakim bin Mu'awiyah al-Qushayri on the subject of *nafaqah* is found in Sunan Abi Dawud. The hadith goes as follows:

حَدَّثَنَا مُحَمَّدُ بْنُ عَوْفٍ، قَالَ حَدَّثَنَا إِسْمَاعِيلُ يَعْنِي ابْنَ عَيَّاشٍ، عَنْ عَمْرِو بْنِ مُهَاجِرٍ، عَنْ يَحْيَى بْنِ أَبِي زَكَرِيَّا، عَنْ مَيْمُونِ بْنِ مِهْرَانَ، عَنْ مَعْرُوفٍ، عَنْ حَكِيمِ بْنِ مُعَاوِيَةَ الْقُشَيْرِيِّ، عَنْ أَبِيهِ، قَالَ: قُلْتُ يَا رَسُولَ اللَّهِ مَا حَقُّ زَوْجَةِ أَحَدِنَا عَلَيْهِ؟ قَالَ: "أَنْ تُطْعِمَهَا إِذَا طَعِمْتَ، وَتَكْسُوهَا إِذَا اكْتَسَيْتَ، وَلَا تَضْرِبِ الْوَجْهَ، وَلَا تُقَبِّحْ، وَلَا تَهْجُرْ إِلَّا فِي الْبَيْتِ

Hakim bin Mu'awiyah narrated from his father that he asked the Prophet (peace and blessings be upon him): "O Messenger of Allah, what is the right of one's wife over him?" He said: "To feed her when you eat, to clothe her when you clothe yourself, not to strike her in the face, not to insult her, and not to forsake her except in the house". [51]

In the above hadith, it contextually highlights the husband's responsibilities towards his wife by emphasizing the importance of providing and fulfilling her basic needs, treating wife with kindness and respect, and maintaining appropriate conduct within the household. Additionally, the hadith narrated by 'A'ishah (RA) regarding Hind bint 'Utbah and the issue of *nafaqah* affirms the above principle. It was found in Sahih al-Bukhari and Sahih Muslim which was enumerated as follows:

[51] Sunan Abi Dawud, 'Chapter 708: The Rights of a Women Upon Her Husband', in *Kitāb al-Nikah*, Book 12 (Bayrut: Dār al-Kutub al-'Ilmiyyah, n.d.), 2142; Muhammad bin Isma'il al-Sanāni, *Bulūgh al-Marām min Adillah al-Ahkām (Ibn Hajar al-'Asqalāni)* (Riyad: Dar al-Salam, 2002).

حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى، حَدَّثَنَا يَحْيَى، عَنْ هِشَامٍ، قَالَ أَخْبَرَنِي أَبِي، عَنْ عَائِشَةَ، قَالَتْ: دَخَلَتْ هِنْدُ بِنْتُ عُتْبَةَ امْرَأَةُ أَبِي سُفْيَانَ عَلَى رَسُولِ اللَّهِ صلى الله عليه وسلم فَقَالَتْ: يَا رَسُولَ اللَّهِ إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ وَلَيْسَ يُعْطِينِي مَا يَكْفِينِي وَيَكْفِي بَنِيَّ، إِلاَّ مَا أَخَذْتُ مِنْهُ وَهُوَ لاَ يَعْلَمُ، فَقَالَ: "خُذِي مَا يَكْفِيكِ وَيَكْفِي بَنِيكِ بِالْمَعْرُوف

Narrated 'A'ishah (RA): Hind bint 'Utbah, the wife of Abu Sufyan, came to the Messenger of Allah (peace and blessings be upon him) and said, "O Messenger of Allah, Abu Sufyan is a stingy man and does not give me enough for me and my children, except what I take from him without his knowledge." He said, "Take what is sufficient for you and your children, according to what is customary". [52]

This above hadith underscores the importance of *nafaqah* for the wife. The Prophet Muhammad (SAW) instructed Hind to take the necessary *nafaqah* from her husband's wealth, even without his knowledge, as it is her right. However, the hadith does not specify a particular amount for the *nafaqah*. Instead, the Prophet (SAW) directed Hind to take only what was sufficient for herself and her child. She was also advised by the Prophet (SAW) to spend her husband's wealth responsibly and to avoid extravagance. In addition to the above historical narrative, the Prophet Muhammad (SAW) emphasized in his farewell sermon at the hajj of the Farewell that women (wives) should be treated with kindness and respect, and that their rightful entitlements should be provided diligently. In verbatim, the hadith states;

يَا أَيُّهَا النَّاسُ، اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا، فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ، وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ، وَلَكُمْ عَلَيْهِنَّ أَنْ لَا يُوطِئْنَ فُرُشَكُمْ أَحَدًا تَكْرَهُونَهُ، فَإِنْ فَعَلْنَ ذَلِكَ فَاضْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبَرِّحٍ، وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوف

[52] Sahih Muslim, 'Chapter 4: The Case of Hind', in *The Book of Judicial Desicion*, Book 30 (Bayrut: Dār al-Kutub al-'Ilmiyyah, n.d.), 1714; Al-Bukharī, 'Chapter 9: If a Man Does Not Provide for His Wife', in *Kitāb al-Nafaqah*, Book 69 (Bayrut: Dār al-Kutub al-'Ilmiyyah, 2002), 5364.

> *"O people, fear Allah concerning women! Verily you have taken them on the security of Allah, and intercourse with them has been made lawful to you by the words of Allah. You have rights over them, and they have rights over you. Your rights over them are that they should not allow anyone you dislike to enter your home, and if they do so, you are permitted to discipline them lightly. Their rights over you are that you should provide for them with food and clothing in a fitting manner".* [53]

The sermon enumerates the mutual rights and responsibilities between spouses and particularly emphasizes the husband's obligation to provide *nafaqah* for his wife. Wahbah al-Zuhayli also states that given the wife is in the husband's companionship, he must provide for her sufficient and reasonable *nafaqah*. The financial support is considered compensation for the wife dedicating herself to the husband.[54]

2. The Concept of Husband's Obligations in Islam

In terms of the concept of a husband's responsibilities in Islam, a valid contractual marriage establishes the rights and obligations between spouses. In Islam, husband is considered the head of the family. However, this does not grant the husband an absolute dominance over the wife. Mutual consultation between husband and wife is essential in discussing household matters, especially regarding *nafaqah*, which is one of the husband's primary duties. The husband acts as the maintainer, protector, and executor of the family, bearing the responsibility to provide financial support for his children and wife according to the family's needs. In al-Nisa', verse 34, it elucidates the strength and responsibility of men which was quoted as follows:

ٱلرِّجَالُ قَوَّٰمُونَ عَلَى ٱلنِّسَآءِ بِمَا فَضَّلَ ٱللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَآ أَنفَقُواْ مِنْ
أَمْوَٰلِهِمْ ۚ فَٱلصَّٰلِحَٰتُ قَٰنِتَٰتٌ حَٰفِظَٰتٌ لِّلْغَيْبِ بِمَا حَفِظَ ٱللَّهُ ۚ وَٱلَّٰتِى تَخَافُونَ

[53] Muṣṭafā al-Khin, Muṣṭafā al-Bughā & 'Ali al-Sharbajī, *Fiqh al-Manhajī (Kitab Fikah Mazhab Syafie)*, vol. 4 (Kuala Lumpur: Pustaka Salam Sdn. Bhd, 2000).

[54] Wahbah al-Zuhayli, *al-Fiqh al-Islami wa Adillatuh* (Dimashq: Dar al-Fikr, 1984).

نُشُوزَهُنَّ فَعِظُوهُنَّ وَٱهْجُرُوهُنَّ فِى ٱلْمَضَاجِعِ وَٱضْرِبُوهُنَّ ۖ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا۟ عَلَيْهِنَّ سَبِيلًا ۗ إِنَّ ٱللَّهَ كَانَ عَلِيًّا كَبِيرًا ﴿٣٤﴾

"Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part you fear disloyalty and ill-conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly); but if they return to obedience, seek not against them means (of annoyance): for Allah is Most High, Great (above you all)".

(Surah al-Nisa', 4: 34)

This verse establishes a framework for marital relationships in Islamic marriage, assigning men the role of *qawwamun* (protectors and maintainers). This inherently includes the duty of *nafaqah*, wherein the husband must provide financial support to his wife. This verse supports the existing comprehension that the husband's role is not merely authoritative yet comes with significant responsibilities, including ensuring his wife's well-being through adequate financial provision.

3. Justifications for the *Nafaqah*'s Entitlement

The rationale for providing *nafaqah* has been critically articulated in both Qur'an and hadith. It indicates that the established contractual marriage instils upon the husband an absolute obligation to support his wife. In this matter, the four major Islamic schools of thought or *madhhabs* possess different perspectives, particularly on the conditions for the *nafaqah* to be due upon the husband.

a) The Apparent View of the Four *Madhhabs*

Under the Ḥanāfī school of thought, it asserts the responsibility to be grounded in the husband's guardianship over the wife within the existence of marriage. As a result, the wife is restrictively incapable to act independently. She is legally tied to devote her entire self under the ground of respect. In return, the husband is obliged to provide *nafaqah* as a form of compensation for such a guardianship and consistent obedience, from which

he derives unexhausted benefits.[55] For the Shāfi'ī school, the reason *nafaqah* becomes an obligation on the husband is due to the wife offering to devote and satisfy the husband's needs including to engage in intimacy. In other words, the obligation arises from the existence of a valid marriage contract which allows the husband to benefit from the wife's submission of her own physical and spiritual wellbeing.[56] The Maliki school posits an additional requirement for the husband before *nafaqah* is to be deposition under his liability. It provides that the husband must be of sound mind and capable of engaging in intimate relations with his wife of which she consented to or the guardian is giving the permission of allowing her being intimate with her husband. In this case, the wife will be entitled to *nafaqah*.[57] From the Hanbali perspective, *nafaqah* was stated to be obligatory given the wife has consented to intimate relations with her husband. Another additional requirement for the Hanbalis is that the wife must be at least nine years old at the time she receives the maintenance as mentioned by 'A'ishah: "*If a girl reaches the age of nine, she is a woman*". Imam Ibn Hanbal also holds that given a girl is nine years old and capable of consummating a marriage, or if her guardian allows her to be with someone who can accept her and engage in intimacy, she shall be entitled to receive *nafaqah*.[58] However, Ibn Hazm of the Zahiri school has a somewhat different view from the four imams regarding the obligation of *nafaqah*. He believes that *nafaqah* should be provided due to the existence of the marriage itself, regardless of whether the wife offers herself for intimacy with her husband or not.[59]

There are three key reasons significantly pertinent to be derived from these scholarly views regarding the obligation of *nafaqah*, which are; marriage, intimacy, and custody. If *nafaqah* is obligatory due to the existence of marriage, it must be supplied to the wife regardless of whether she consents to intimacy. This obligation extends despite a wife being disobedient, although it is strictly prohibited and amounts to sinful and condemnatory conduct. If *nafaqah* becomes obligatory because the wife's liberty was restricted by her husband, a young wife who has not

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55 'Abd al-Karim Zaydan, *al-Mufassal fī Ahkam al-Mar'ah wa al-Bayt al-Muslim fī al-Shari'ah al-Islāmiyyah* (Bayrut: Mu'assasah al-Risalah, 1993).

56 Al-Mārānī & Diyā' al-Dīn Abi Umar, *Takmilah al-Majmū' Sharh al-Muhadhab* (Bayrut: Dār al-Kutub al-'Ilmiyyah, 2002).

57 Ibn Rushd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid* (Bayrut: Dar al-Kutub al-'Ilmiyyah, 2002).

58 Mansur bin Yunus al-Bahuti, *Kashshaf al-Qina' 'an Matan al-Iqnā'* (Bayrut: Dār al-Fikr, 1982).

59 Ibn Hazm, *al-Muhalla,* vol. 10 (Dar al-Fikr, 456H).

consummated the marriage still possesses the right to receive an adequate amount of *nafaqah*. Similarly, if intimacy is the reason for the obligation of *nafaqah* to exist, it cannot be fulfilled unless either one or both of them have reached puberty.[60]

b) The Elements of *Nafaqah*

From the perspective in which the conditions applied for the husband to provide a sufficient amount of *nafaqah*, there exist four primary requirements for a wife to have the right to receive *nafaqah*, namely: the existence of a valid (*sahih*) marriage, sexual accessibility to the husband, the wife's ability to engage in sexual intercourse, and her obedience to her husband.[61]

4. Assessment of *Nafaqah* to be Imposed upon the Husband

Since the majority opinion holds that the provision of *nafaqah* must be based on the husband's ability to pay, there are several available methods capable of determining a husband's financial capability. To identify whether a husband is rich, poor, or average, the amount of property or wealth possessed by the husband shall be looked into. [62]

a) Assessment of the Husband's Subjective Capability

Categorically, the majority of jurists agree to look into the husband's financial status for the preliminary determination of the *nafaqah*'s amount. The amount was held to be dependent on and measured through local custom or tradition, which varies according to different situations and countries. Following such a requisite, a husband shall be considered rich given his income exceeds his expenses. Similarly, he shall be considered poor given his income is less than his expenses, and he shall be considered average given his income matches his expenses. On the third method, al-Mawardi stipulates that given a husband is capable of providing *nafaqah* from his profit and wealth, he is deemed to be rich by default. On the contrary, his incapability to provide the *nafaqah* from his profit shall subject him to be assumptively poor, and if he is capable of providing an average level of

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60 Nuh 'Alī Salmān, *Ibra' al-Dhimmah min Huqūq al-'Ibād* ('Omān: Dār al-Bashīr, 1986).

61 Muṣṭafā al-Khin, Muṣṭafā al-Bughā & 'Ali al-Sharbajī, *Fiqh al-Manhajī*.

62 Fathiyah Amalina bte DSS Hj Abu Bakar, 'The Wife's Right to Maintenance (*Nafaqah*) in Islam: A Juristic Appraisal of the Law and Practice in Brunei Darussalam' (Dissertation, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia (IIUM), 2010).

nafaqah from his profit, he shall be deemed to belong to the group of average. The most reliable method was derived from the view of Imam al-Ghazali, who stated that an individual with no possessions is to be considered poor, an individual with an income and no debt to be considered rich, and one with an income but in debt to be considered as average.[63] From the perspective of Imam al-Nawawi, he opined that there exists no specific amount for *nafaqah* and that it shall be categorically evaluated through *ijtihad* of independent disciplined reasoning which adopts *kaffarah* (atonement) as a *qiyas* (analogy). Accordingly, a wealthy husband should provide *nafaqah* to his wife with two half bushels[64] (muds) of food every day, a poor husband with one mud (bushel) of food every day[65], and an average husband with one and a half bushels (half muds) every day.[66] Maliki, Hanafi, and Hanbali schools also do not specify the exact amount of *nafaqah* that shall be applied in default. Yet, they state that *nafaqah* shall be provided based on the wife's satisfaction. Additionally, the amount of *nafaqah* varies from one woman to another given each woman lives a different standard of living before marriage and so do the husband's financial capability.[67]

b) Assessment of the Genus and the Accurate Amount of *Nafaqah*

The Qur'an does not specify the amount of *nafaqah*. It stipulates only to the extent that *nafaqah* must adequately meet the needs and suitability of the wife's lifestyle that is highly subjected to the husband's ability and customary practice. This principle was derived from the al-Talaq: 7 which states, "*Let the man of means spend according to his means; and the man whose resources are restricted, let him spend according to what Allah has given him*."[68] The required amount of food should meet their needs, such as

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63 Al-Nawāwi, *Rawdah al-Talibin wa 'Umdah al-Muftīn*, vol. 9 (Dimashq: al-Maktab al-Islāmī, 1991), 41.

64 According to Shāfi'ī school, mud is equivalent to 675 grams and every mud is 128 dirham.

65 Al-Shīrāzī, *al-Muhadhdhab fi al-Fiqh al-Imam al-Shāfi'ī* (Qahirah: Maktabah Muṣṭafā al-Ḥalābī, 1083H), 204.

66 Al-Nawāwi, *Rawdah al-Talibin wa 'Umdah al-Muftīn*, 40

67 Ibn al-Humām Kamal al-Din Muhammad bin 'Abd al-Wahid al-Siwasi, *Sharh Fatḥ al-Qadīr* (Bayrūt: Dār al-Fikr, 1972), 380; 'Abd al-Karim Zaydan, *al-Mufassal fī Ahkam al-Mar'ah wa al-Bayt al-Muslim fī al-Shari'ah al-Islāmiyyah,* 192.

68 Muhd. Fauzi Muhamad, *Pembentukan Keluarga: Undang-Undang Keluarga Islam dalam Empat Mazhab*, 2nd ed. (Kajang, Selangor: Synergy Mate Sdn.Bhd, 2003).

bread, food, drink, clothing, shelter, and so on.[69] The term '*nafaqah*' signifies the act of spending or allocating resources[70], which shall be categorically executed in according with the sole good and beneficial purposes.[71]

i) The Amount of *Nafaqah*

Previously, a significant number of jurists offered various opinions that pre-determined the genus and amount of *nafaqah* through the presumptions derived from husband's possession of wealth which categorically indicates husband's financial capability. However, these opinions have become less relevant given that the amount and genus are highly dependent on the economic status of the husband, particularly during critical situations. In determining the amount of *nafaqah*, the financial standing of both spouses shall be meticulously considered. The four main imams have stated that financial standing should be taken into account before determining the amount of *nafaqah*. The assessment should consider both the husband's and the wife's situations in determining its amount.[72]

The Hanafi school of thought considers both the husband's and the wife's financial situations for determining the amount of *nafaqah*. Given both are wealthy, the *nafaqah* should be at the level of the wealthy. Similarly, if both are financially poor, the *nafaqah* will be at the level of the poor. Yet, given the wife is wealthy and the husband is poor, the *nafaqah* should be above the level of the poor. Conversely, if the wife is poor and the husband is wealthy, the *nafaqah* should be at the level of the wealthy.[73] Imam Malik shares a similar view, stating that the amount of *nafaqah* is not fixed and is highly dependent on the couple's circumstances, which may vary according to place, time, and situation.[74] For the Hanbalis, the gist for *nafaqah*'s assessment to determine its genus and amount are particularly the same. They stipulate both spouses' circumstances as the primary determinant with no specific and fixed amount. Rather, it depends on sufficiency, as

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[69] Mansūr Ibn Yunus Ibn Idrīs al-Buhūṭī, *Kashshaf al-Qinā'*, vol. 5 (Makkah: Matba'ah al-Hukūmah, 1974), 532

[70] Mahmud Muhammad Hamudah & Muhammad Mutlaq 'Asaf, *Fiqh al-Ahwāl al-Shakhsiyyah* ('Omān: Mu'assasah al-Warāq, 2000).

[71] 'Aziz 'Abd al-Karim & Mehni 'Umar al-Tiwajini, *Fiqh al-Usrah* (Sultanah 'Oman: Ma'had al-'Ulum al-Shar'iyyah, 1428H).

[72] Wahbah al-Zuhayli, *al-Fiqh al-Islami wa Adillatuh*.

[73] Ibn al-Humām Kamal al-Din Muhammad bin 'Abd al-Wahid al-Siwasi, *Sharh Fatḥ al-Qadīr*, 382.

[74] Ibn Rushd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, 478.

mentioned in the hadith regarding Hind, where the Prophet (PBUH) said, "*Take what is sufficient for you and your children, and the amount should be just and reasonable.*" Here, the Prophet (PBUH) instructed to take what is sufficient without specifying an exact amount.[75] Imam Shafi'i particularly employs the same fundamental principle as stipulated by the Hanafis that the husband's financial condition is the primary factor to consider when specifying the amount of *nafaqah*. This principle remains despite the wife being wealthy, coming from a high social class, or whether she is Muslim or non-Muslim.[76] Additionally, Ibn Hazm opines that the amount of *nafaqah* depends on how much the husband can afford from his wealth. However, if the husband is poor or average, the amount depends on his affordability, and for a wealthy husband, it depends on his prudence.[77]

ii) The Genus

Clothing, food, and shelter are the three main forms mentioned by the majority of jurists to be obligatorily provided by the husbands to the wife. A maid (*khadam*) is considered necessary after these three main provisions given that the husband is capable to afford one, to reduce the wife's burden in managing household chores while taking care of the husband and children.

5. The Nullifications of the Wife's Entitlements to *Nafaqah*

While the majority of scholars mandate *nafaqah* for the wife unconditionally, there are specific situations where this obligation to provide *nafaqah* is categorically discharged from the husband's capacity.[78] They are; a wife who is still a child, commonly understood as a wife incapable of engaging in sexual intercourse and who does not offer marital relations to the husband. Given the wife receives marital benefits but the husband does not, *nafaqah*'s obligation upon the husband is nullified under this context. This extends to the situation where a wife is found to suffer from an illness preventing her to have marital relations and a wife who refuses to relocate to the marital home provided by the husband. As repeatedly emphasized by the majority of jurists, a husband is discharged from the obligation to provide *nafaqah* upon the wife's act of being *nushuz* and refusing to submit to the

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[75] Mansur bin Yunus al-Bahuti, *Kashshaf al-Qina' 'an Matan al-Iqnā'*, 460.

[76] Al-Nawāwi, *Rawdah al-Talibin wa 'Umdah al-Muftīn*, 40

[77] Ibn Hazm, *al-Muhalla,* 88.

[78] Muhammad Zakky Ubaid Ermawan, Ahmad Izzuddin & Mohammad Fadil Akbar Islamy, 'Wife Cannot Nullify Husband's Responsibility to Provide Nafkah', *Journal of Gender Studies*, vol. 16/2 (2023).

husband's request of having a sexual intercourse. This extends to the state of a wife who lives in her own house with the husband's consent yet suddenly prevents him from entering, and does not demand another house to be provided by the husband, so that the husband could freely enter. Particularly, if the wife is under the period of *'iddah*, her entitlement for *nafaqah* does not arise under the following circumstances; a wife being in *'iddah* due to doubtful sexual relations, a wife being divorced due to defective marriage in which she is not in the state of pregnancy, and due to her sinful conduct towards Allah, a wife divorced by three talaq and is not within the state of pregnancy. Additionally, a wife being kidnapped by another person is also disqualified from receiving *nafaqah* within the duration of the kidnapping, the husband is deemed to have exhausted from his marital rights towards his wife.

Exerting the statements made by Sayyid Sabiq, "*The husband must provide the wife with nafaqah as long as the marriage is valid, the wife is not disobedient (nushuz), and there are no other reasons that might cause the wife to lose her right to nafaqah*",[79] it is therefore submitted that a husband is unconditionally obligated to maintain her wife due to the existence of a valid marriage. A valid marriage leads to the legality for the husband to consummate with the wife, which then establishes marital intimacy between the spouses. This is held to be the crux for the existence of *nafaqah* in the first place that it shall be explicitly provided except with the proof of the wife's disobedience, cessation of marriage, and the occurrence of the above stipulated circumstances.

6. Husband's Obligation to Provide Maintenance and the Wife's Entitlement: A Conclusive Findings

The above definitions and evidence stipulate a conclusive principle that maintenance or *nafaqah* primarily consists of food, drink, and clothing which the husband is obligated to provide adequately according to his means. *Nafaqah* can be understood as the expenditure from the husband's wealth to cover the essential needs of his wife, as stipulated in Islamic law. This provision must be based on their needs rather than their desires. It is also evident that the responsibility for a wife's maintenance rests entirely on the husband. This obligation is justified by the fact that men are generally endowed with greater physical and mental strength compared to women, making the husband the protector and provider of his wife's needs under all circumstances. Based on linguistic and terminological definitions, as well as

[79] Sayyid Sabiq, *Fiqh al-Sunnah* (Bayrut: Dār al-Mu'assasah, 2002).

the aforementioned evidence, it is submitted that maintenance is an obligatory matter incumbent upon the husband towards his wife in Islamic law, encompassing provisions such as food, drink and clothing that are suitable based on their previous lifestyle as stipulated in Shariah principles. Islamic jurists unanimously agree that the obligation of providing maintenance for the wife is mandatory upon the husband, with no difference of opinion among them regarding this matter. *Nafaqah* is obligatory upon the husband towards his wife under a valid marriage with a woman who is eligible for conjugal relations and is obedient to her husband, even during the periods of *'iddah raj'i* or *'iddah ba'in* if she is pregnant. Moreover, the occurrence of a valid marriage (*nikah sahih*) itself necessitates the obligation of maintenance on the husband. However, some fuqaha' have stated that if the husband is capable of providing more than the stipulated means of *nafaqah*, it is highly encouraged for him to provide shelter and other necessities for his wife.

HUSBAND'S RESPONSIBILITIES IN CARRYING THE MANDATE OF FULFILLING THE *NAFAQAH* IN THE TIME OF CRISIS

Some views stipulate that the husband's responsibility to provide *nafaqah* can be nullified if he is poor.[80] During the COVID-19 situation, a husband might be unable to provide *nafaqah* due to the lack of income, as he may not have money to give as he used to, or due to poverty resulting from economic challenges faced during the pandemic. Scholars have offered their perspectives on this matter.

1. Husband's Responsibility in the Time of Crisis: Juristic Opinion

Imam al-Nawawi enumerates that there exist two opinions among the Shafi'i scholars regarding measures to be exercised by the wife upon husband's poor state of living and financial hardships.[81] First, she can accept the situation and be patient with her husband's inability to provide, by making use of her wealth for her expenses, which she could claim as a debt from her husband to be reimbursed when he has the adequate means. Or second, she has the option to request for divorce or separation through *fasakh*. If the wife brings the case to court, the judge will defer it for three days to ascertain the

[80] Muḥammad Amīn Ibn 'Ābidīn, *Radd al-Muḥtār 'ala al-Durr al-Mukhtār al-Ma 'ruf bi Hashiyah Ibn* 'Ābidīn, vol. 5 (Bayrut: Dar Iḥyā' al-Turāth al-'Arabi, 1998).

[81] Al-Nawāwi, *Rawdah al-Talibin wa 'Umdah al-Muftīn*.

husband's inability to provide, and if he still fails to do so on the fourth day, they could then be separated. Ibn Hanbal and Imam Shafi'i share similar views on this issue that upon acknowledging the husband's inability to provide, the wife possesses the right to choose whether to stay or to ask for a divorce from her husband. On the other hand, Imam Abu Hanifah believes that the wife has no right to ask for a divorce yet, the court will compel the husband to provide *nafaqah* and consider it a debt, which remains due and valid even until his death.[82]

Yet for the Maliki school of thought, they possess significantly different views, stating that the obligation of *nafaqah* drops if the husband is poor, and the wife is given the choice to either stay with him or seek a divorce. Given the wife utilized her resources and earnings to maintain herself, such an amount is not considered a debt owed that is due to be reimbursed by the husband.[83] Ibn Hazm, on the other hand, enumerates the contradiction that given a husband is poor and unable to provide *nafaqah* and to maintain himself while the wife is wealthy, the wife is responsible for maintaining him. This was derived based on the reason of the wife being the heir after the husband's death.[84] There are also other opinions regarding *nafaqah* stipulated by the contemporary jurists addressing this matter in comprehensive detail. Hashim Jamil explains that if the wife knew about the husband's poverty or if the husband was wealthy at the time of marriage and then became poor, one must consider whether any of the wife's family, such as her father, would provide or help her with disbursement of *nafaqah*. If so, the wife has no right to ask for separation. If no family member provides *nafaqah*, but the wife possesses her own wealth to spend, she still has no right to ask for separation but must maintain herself with her money and consider it a debt to the husband with his agreement or by court decree. If she has no wealth, she has the right to ask for separation since husband's situation could put her into difficulties[85].

2. Legal Implications for Failure to Maintain the *Nafaqah*

Since *nafaqah* is obligatory, the wife possesses the right to report to the court if the husband fails to fulfill his obligation and abandons his wife without *nafaqah*. The court has the power to compel the husband in executing his

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82 Al-Shīrāzī, *al-Muhadhdhab fi al-Fiqh al-Imam al-Shāfi'ī.*

83 Malik bin Anas al-Asbahī, *Mudawwanah al-Kubrā* (Bayrut: Dār al-Sadr, n.d.).

84 Ibn Hazm, *al-Muhalla,* 90.

85 'Abd Allah Hasan Hamīd al-Hadīthī, *Ahkām al-Mu'assir fī al-Fiqh al-Islāmi* (Bayrut: Dār al-Kutub al-'Ilmiyyah, 2005).

legal duties or, to compel the husband into arranging realistic solutions for their *nafaqah* issues. During the pandemic, a significant question arises: what if the wife reports to the court about her husband's negligence or failure to provide *nafaqah* months or years after the negligence occurred? Is the *nafaqah* during that period is considered to be a debt due to be fulfilled by the husband? To answer this question, the reported court's desicion have coherently discussed them in detail. In *Ida Fariza Salihan v Mohd Saiful Yahaya*, the court allowed the wife's claim on maintenance arrears amounting to RM 69,705.00 for the 69-month period of surviving marriage. It was ordered against the husband to pay RM 580.00 per month, which shall cover the necessities of food, shelter, clothing, and sanitation needs. In the other case of *Sayla binti Sarkasi v Faisal bin Mohamad Azemi*, the court established the husband's indebtedness to the wife within the period of 8 months and 15 days, under arrears of maintenance due to be paid. The husband was then ordered to relinquish the accumulated debt of RM 3,400.00 to his former wife, which shall cover the necessities of food, clothing, and sanitation needs accordingly. In general, the jurists unanimously agreed that emergencies account for *darurah* or necessities. Yet, despite the fact that *darurah* permits all forbidden things[86], it does not nullify or suspend the wife's right to *nafaqah* as long as the wife's conduct is accompanied with reliable and valid legal reason.[87]

a) Juristic Views

Imam Abu Hanifah has a slightly different view from the other three imams, namely Ibn Hanbal, Imam Shafi'i, and Imam Maliki. According to Imam Abu Hanifah, the husband is free from the arrears of *nafaqah* except with a court decree that directs the husband to take it as a loan or debt, or if both spouses agree on a specific amount of *nafaqah* to be paid to the wife. However, when *nafaqah* arrears occur and the wife uses her property or takes a loan for expenses before the court decree, it is not considered a debt, and the husband is not responsible for returning the amount the wife borrowed or spent.[88] On the other hand, Imam Shafi'i, Malik, and Ibn Hanbal hold a different view from the above statement. According to them, the arrears of *nafaqah* are due even without a court decree or the husband's consent. If the husband fails to fulfill his responsibility to provide *nafaqah* and the wife uses her property, it will be a debt on the husband and will not be dropped

[86] 'Abd al-Karim Zaydan, *al-Mufassal fī Ahkam al-Mar'ah wa al-Bayt al-Muslim fī al-Shari'ah al-Islāmiyyah*, 192.

[87] Fathiyah Amalina bte DSS Hj Abu Bakar, 'The Wife's Right to Maintenance (*Nafaqah*) in Islam'.

[88] Nuh 'Alī Salmān, *Ibra' al-Dhimmah min Huqūq al-'Ibād*, 531.

until he settles the debt, or the wife forgives him. Hence, if the wife goes to court and reports her husband's negligence in providing *nafaqah* for a certain period with a reliable and valid evidence, the husband must repay the *nafaqah* that he neglected to provide during such material time. Additionally, the arrears of *nafaqah* do not discharge from the husband despite the wife being disobedient (*nushuz*) or the occurrence of divorce due to the death of either spouses. The arrears remained valid even if it was claimed after more than a month, and if the negligence of *nafaqah* extends over a year, the debt remains a debt due to be fulfilled, similar to any other type of debt.[89] Wahbah al-Zuḥaylī further explained that the discoverable arrears remain valid and are treated as a debt due against the husband notwithstanding the occurrence of death before its settlement. Apparently, the widow may claim her right from his property or inheritance before it is distributed to his heirs. All debts shall be settled from the husband's property after remunerating the funeral expenses and before distributing the remaining balance to his heirs.[90]

3. Malaysian Shariah Legal Framework and its Practice

In the implementation of *nafaqah* matters in Malaysian courts, the Islamic Family Law (Federal Territory) Act 1983 ("**IFLA**") governs matters regarding *nafaqah*, termed as 'maintenance', within the Islamic family institution, during and after the existence of a marriage.[91] In the context of the husband's legal obligation to provide maintenance to his wife, reference shall be made to Section 59 (1) which deliberately states:

> *"The Court may, subject to Hukum Syarak, order a man to pay maintenance to his wife or former wife".* [92]

Contextually, it prescribes the court's powers to compel the husband to execute his duty of providing maintenance to his wife or former wife. This

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[89] Muhammad Muhyi al-Din 'Abd al-Hamīd, *al-Ahwal al-Shakhsiyyah fī al-Shari'ah al-Islāmiyyah* (Bayrut: al-Maktabah al-'Ilmiyyah, 2003; 'Abd al-Karim Zaydan, *al-Mufassal fī Ahkam al-Mar'ah wa al-Bayt al-Muslim fī al-Shari'ah al-Islāmiyyah*, 273; Wahbah al-Zuhayli, *al-Fiqh al-Islami wa Adillatuh*, 815.

[90] Wahbah al-Zuhayli, *al-Fiqh al-Islami wa Adillatuh*, 273.

[91] Nora Abdul Hak, 'Hak Kanak-Kanak Dari Aspek Hadhanah Dan Nafkah Di Bawah Undang-Undang Keluarga Islam Di Malaysia', (Simposium Kebangsaan Kebajikan Kanak-Kanak 2004, Gurney Resort Hotel and Residences, Penang, 21-22 July 2004).

[92] Islamic Family Law Act (Federal Territories) 1984 (Act 303).

provision was in line with the Hanafi school of thought on the Court's power and role, to coerce husband's execution of duty through imprisonment and legal sanction.[93] It satisfies the general rule enumerated in *al-Mughni al-Muhtaj* that a husband is legally obliged to maintain his wife upon entering a valid contract of marriage.[94] The following provision of Section 60 of IFLA states:

> *"The Court may order any person liable thereto according to Hukum Syarak to pay maintenance, to another person where he is incapacitated, wholly or partially, from earning a livelihood by reason of mental or physical injury or ill health, and the Court is satisfied that having regard to the means of the first-mentioned person, it is so reasonable to order".* [95]

In plain terms, it connotes that the obligations remained attached regardless of his financial well-being or social status.[96] Though within the most bizarre and intense state that incapacitates him to earn a livelihood, the duty is not discharged until and unless it is duly satisfied.[97] From both provisions alone, it is submitted that there exists no leniency that may discharge a husband from his legal duty to maintain his wife upon acknowledgment of valid legal marriage. Despite any probable and improbable circumstances, the husband remains responsible until the marriage ceases to exist.[98] However, in the context of the amount of maintenance, the law stipulates otherwise. Here, reference shall be made to Section 61 which states:

> *"In determining the amount of maintenance to be paid, the Court shall base its assessment primarily on the means and needs of the parties, regardless of the proportion the maintenance bears to the income of the person against whom the order is made".* [99]

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[93] Muḥammad Amīn Ibn 'Ābidīn, *Radd al-Muḥtār 'ala al-Durr al-Mukhtār al-Ma'ruf bi Hashiyah Ibn* 'Ābidīn, vol. 5 (Bayrut: Dar Iḥyā' al-Turāth al-'Arabi, 1998).

[94] Muhammad al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 3 (Mansurah, Egypt: Dar al-Kutub al-'Ilmiyyah, 977H).

[95] Section 60 of Islamic Family Law Act (Federal Territories) 1984.

[96] Sakdiah v Ahmad (1968) 2 JH 101

[97] Sakdiah v Ahmad

[98] Najibah Mohd Zin et al., *Islamic Family Law in Malaysia*, 2nd ed. (Subang Jaya, Selangor: Thomson Reuters Malaysia, 2016).

[99] Section 61 of Islamic Family Law Act (Federal Territories) 1984.

This provisional wording simply confers the evaluation of the amount of maintenance to be made based on the reasonable proportions, determined through scrutinization of the wife's needs and means of the husband. The Shariah stipulates maintenance to include three essential needs named: food and clothing in a fitting manner.[100] Yet due to structural changes in social and economic trends, the Court prescribes accommodations and medical expenses as the added necessities, necessary to be included within.[101] In the current legal practice, the court will thoroughly scrutinize the evidence related to the husband's occupation, income, and the wife's status quo.[102] It is to ensure that the passed judgments meet the best interest of both parties given the 'essential' context is subjectively dependent on the spouses' lifestyle and financial well-being.

From the above elaboration, it is also significant to note that within the absolute and stringent duties borne by the husband, The Shariah does not burden the husband beyond his capabilities as stated in al-Talaq verse 6, "*Let the man of means spend according to his means...*". The verse demonstrates Shariah's compassion in loosening the stringent rule of absolute obligation through reasonable leniency. To determine the accurate amount of maintenance, it shall be substantively measured through the husband's social and financial evidenced capacity. Conclusively, it is submitted that the law provides no leniency on the husband's legal duty but on the amount of maintenance as a non-exhaustive tool to assist them in fulfilling their obligation.

a) *Nafaqah* as a Debt Due on the Husband to be Paid to the Wife

On the matter of whether *nafaqah* is considered a debt upon its non-procurement, Section 69 (1) of IFLA states in verbatim;

> *"Arrears of unsecured maintenance shall be recoverable as a debt from the defaulter and, where they accrued due before the making of a receiving order against the defaulter, shall be*

[100] Muhammad bin 'Ali al-Shawkani, *Nayl al-Awtar Sharh Muntaqa al-Akhbar*, 6th ed. (Bayrut, Lebanon: Dar al-Ma'rifah, 1998); Abu al-'Ala Muhammad 'Abd Rahman al-Mubarakfuri, *Tuhfah al-Ahwadhi bi Sharh Jami' al-Tirmidhi*, 2nd ed. (Madinah: Maktabah al-Salafiyyah, 1965).

[101] Dzulfaezah binti Abdul Hamid v Izuddin bin Murshid (2009) 3 ShLR 325

[102] 'Status quo' is a Latin term, connoted as the current state of things. See Cambridge Dictionary, 'Status Quo', Cambridge University Press and Assessment, 2024, https://dictionary.cambridge.org/dictionary/english/status-quo, accessed on 16 July 2024. See Sri Utama Dewi Kasman v Abu Bakar bin Abdullah (2010) 30 JH (1) 111

> *provable in his bankruptcy and, where they accrued due before his death, shall be a debt due from his estate"*. [103]

This provision enumerates the unsecured maintenance to be recoverable as a debt from the husband, in which the wife will be legally entitled to claim the maintenance through court proceedings. As unanimously agreed by the majority of jurists, debts of *nafaqah* or legally termed as 'arrears of maintenance' are to be accrued upon entering into a contract of marriage until the end of the *'iddah* period.[104] The debt resulting from the husband's refusal to maintain does not cease despite the divorce, death, change of time and period, or the wife being *nushuz* afterward.[105] Yet, it shall cease only upon the occurrence of either of these instances; the debt is fully paid, the wife is exercising *istibra'*[106], or the wife willingly chooses to waive her rights on maintenance. Practically, each case on arrears attended by the court tends to carry a unique set of judgments on the stipulated amounts that will differ from one case to another.[107] This is due to the principle of subjectivity attached to the current circumstances of both parties, which adopts a similar method of assessment made in determining the sole amount of maintenance itself.[108] For instance, the sum of arrears ordered to be paid by the Court may be slightly huge for a pregnant wife compared to the nonpregnant. It is due to the additional medical expenses deemed to be necessary for a pregnant wife, especially upon the birth of the baby.[109] The following provision of Section 62 provides security vested within a claim made to the court, for the husband to satisfy his due. It states:

> *"The Court may when awarding maintenance, order the person liable to pay the maintenance to secure the whole or any part of it by vesting any property in trustees upon trust to pay the maintenance or a part thereof out of the income from the property"*. [110]

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[103] Section 69 of Islamic Family Law Act (Federal Territories) 1984.

[104] Najibah Mohd Zin et al., *Islamic Family Law in Malaysia*.

[105] Zaki al-Din Sha'ban, *al-Ahkam al-Shar'iyyah li al-Ahwal al-Shakhsiyyah*, 6th ed. (Benghazi, Libya: Jami'ah Qaryunus, 1993).

[106] In a legal context, "*istibra'*" is a Shariah term that connotes the wife's willingness to forgive her husband due to his inability to provide maintenance. See Najibah Mohd Zin et al., *Islamic Family Law in Malaysia*, 90.

[107] Rogayah binti Yaacob v Ahmad Zainudin bin Yaacob (2006) 4 ShLR 112; Ida Hayati binti Taufik v Ahmad Shukri bin Kassim (2004) 18(2) JH 259

[108] Joan Mary v Sulaiman (2009) 27(2) JH 213

[109] Ramzas binti Daud v Ghani bin Idris (2012) 2 ShLR 69

[110] Section 62 of Islamic Family Law Act (Federal Territories) 1984.

This provision simply indicates that say, a husband refuses to abide by the court's order; the Court has a definitive causal ground to cause the defaulter to lodge the necessary payment into any of his available property. Conclusively, it is submitted that both provisions addressing arrears of maintenance have equipped the wife's counterpart with a comprehensive legal remedy to protect their welfare and well-being. Husband's refusal to satisfy his legal duties shall cause a debt to accrue which are legally recoverable and enforceable through legal means.

b) Husband or Ex-Husband's Failure to Provide *Nafaqah* During the Movement Control Order (MCM)

The Director-General and Chief Syarie Judge of the Malaysian Syariah Judiciary Department (JKSM), Datuk Dr. Mohd Naim Mokhtar, reports that the Family Support Division ("**BSK**") of the Syariah Judiciary Department received five complaints during the MCO through its official Facebook page and state official emails.[111] The complaints mainly contain grievances of the wives or ex-wives about the negligence and husbands' refusal to pay maintenance. He further added that these complaints increased following advertisements by the department regarding complaints that could be made through the official Facebook page of the 'Family Support Division (BSK)' or by email to the respective state 'BSK Sections'.[112] In response to these complaints, officers from BSK have successfully attended to 437 clients nationwide as a proactive measure to address this issue, all within just four days. In 2021, JKSM recorded a total of 6,341 maintenance claims throughout Malaysia.[113] Similarly, the data collected by Sisters in Islam ("SIS") shows that 66% of the total 431 persons visiting Telenisa for its free legal aid service inquired about the procedure to claim maintenance arrears.[114] Wives indicate that being unemployed, particularly during the

[111] Marfika Adnan Haris Fazilah, 'PKP: Aduan Tidak Beri Nafkah Meningkat', Berita Harian Online, 17 April 2020, https://www.bharian.com.my/berita/nasional/2020/04/678103/pkp-aduan-tidak-beri-nafkah-meningkat, accessed on 13 July 2024

[112] Marfika Adnan Haris Fazilah, 'PKP: Aduan Tidak Beri Nafkah Meningkat',

[113] Nur Ain Nazifa Mohd Zawawi & Farah Safura Muhammud, 'Pemerkasaan Tuntutan Nafkah Wanita: Kajian Di Mahkamah Syariah Kota Bharu', *Jurnal 'ULWAN*, vol. 9/1 (2024): 30-41.

[114] Ida Lim, 'Telenisa: Muslim Husband Not Giving Enough Money a Top Concern at 50pc, 2020 Findings Show', The Malay Mail, 23 July 2023, https://www.malaymail.com/news/malaysia/2023/07/22/telenisa-muslim-husbands-not-giving-enough-money-a-top-concern-at-50pc-2022-findings-show/81148

pandemic, is one of the factors contributing to the failure of the husbands to provide sufficient maintenance and to obey the court's judgments for earlier successful claims.[115]

In response to the husbands' negligence in providing *nafaqah* during pandemic, the Prime Minister Datuk Seri Ismail Sabri Yaakob recommended to freeze the bank accounts of defaulter husbands who fail to pay adequate maintenance to their wives and ex-wives. This recommendation was positively supported by the Minister of Women, Family and Community Development ("**KPWKM**"), Datuk Seri Rina Harun.[116] She added that this matter shall be carefully considered before its official implementation, as it will involve several other key ministries and agencies, such as the jurisdiction of the Shariah Court in the enforcement of laws.[117] A field study funded by JAKIM on Consultation as Alternative Dispute Resolution ("**ADR**") for maintenance arrears at Pulau Pinang Shariah Court, revealed an approximately 59 cases of maintenance arrears being registered between March 2020 and 2021.[118] During this period, husbands are alleged to have faced financial difficulties, such as loss of work and income, which prohibited them from providing maintenance to their wives or former wives.

Despite wives being direly affected due to maintenance arrears, it is also significant to acknowledge husbands' inability to maintain their wives due to the loss of jobs and sources of income. In this situation, husbands may apply to the court for a variation order on the amount of maintenance to ensure the sustenance in executing his obligation to maintain the wife. Section 66 enumerates the court's power to vary the order of maintenance at

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[115] Shareena Sheriff & Ireeny Muzammel, 'Telenisa: Statistik Dan Dapatan 2020', SIS Forum Malaysia, 2020, https://sistersinislam.org/wp-content/uploads/2021/05/Telenisa_stats_2020_bm.pdf, accessed on 18 July 2024.

[116] Raja Hisham Raja Zaid, 'KPWKM Sambut Baik Pengumuman PM Bekukan Akaun Suami Gagal Bayar Nafkah-Rina Harun', Astro Awani, 20 March 2022, https://www.astroawani.com/berita-malaysia/kpwkm-sambut-baik-pengumuman-pm-bekukan-akaun-suami-gagal-bayar-nafkah-rina-harun-352721, accessed on 12 July 2024.

[117] Raja Hisham Raja Zaid, 'KPWKM Sambut Baik Pengumuman PM Bekukan Akaun Suami Gagal Bayar Nafkah-Rina Harun'.

[118] Mohd Hazwan Ismail & Jasni Sulong, 'Consultation As The Alternative Dispute Resolution For Maintenance Arrears Cases During Covid 19 Pandemic In Penang Syariah Court', *Journal of Muwafaqat*, vol. 5/1 (2022): 1-16, https://muwafaqat.kuis.edu.my/index.php/journal.

any time upon applications based on material changes in the circumstances. It describes in verbatim as;

> *"The Court may at any time and from time to time vary, or may at any time rescind, and subsisting order for maintenance, whether secured or unsecured, on the application of the person in whose favor or against whom the order is made, where it is satisfied that the order was based on the misrepresentation or mistake of facts or where there has been any material changes in the circumstances".* [119]

In *Dzulfaezah binti Abdul Hamid v Izuddin bin Murshid*, the court took into consideration the husband's financial standing in all aspects of basic necessities claimed by the wife, such as accommodation and the cost of hiring a domestic maid.[120] This case established the methods for the assessment of maintenance arrears where the Court will look into the financial status of the husband at such material time as to whether he is poor, rich, average earner, or financially distressed. In this case, the Court ruled for maintenance arrears of clothing, food, and accommodation to be reduced from RM 90,000 to RM 11,906, and for some claims, such as allocation for domestic maid and medical expenses, to be excluded, given the husband was proven to be financially struggling at such material time. Similarly, in *Ismail v Norsiah*, the Court reduced the amount claimed by the wife of RM 1,847 to RM 955 for 5 years and 1 month of arrears.[121] This finding was made after considering the husband's position and income at the time the wife made the claim. Interestingly, in *Sakdiah v Ahmad*, the wife claimed maintenance arrears at RM 3 per day for 6 months.[122] Yet the husband counterclaimed by stating that he had no obligation to maintain his wife due to his state being poor, as he only works at the rice field and earns less than the claimed amount. In this case, the Court considered the state of both parties and dismissed the claim made by the wife. It was stated that the husband's duty to maintain the wife remained undischarged, yet due to the husband's situation, the wife is given a choice of either to be patient with the husband's financial state or to apply for a *fasakh* divorce. From the above legal cases, it is established that essentially, the Court will scrutinize the needs of the wife and the means of the husband to arrive at the most equitable solutions for both parties. Despite the wife having the liberty to claim any amount of maintenance arrears through proof of needs and necessities, it shall be the

[119] Section 66 of Islamic Family Law (Federal Territories) Act 1984
[120] Dzulfaezah binti Abdul Hamid v Izuddin bin Murshid (2009) 3 ShLR 125
[121] Ismail v Norsiah (1970) 2 JH 111
[122] Sakdiah v Ahmad (1968) 2 JH 101

Court's duty to determine whether the amount claimed fits the means of the husband and the actual needs of the wife.

c) Husband Seeking Divorce to Avoid Accumulating Debts

The law allows the husband to terminate marital relations through *talaq* pronouncement given there exists certain degree of hardship caused by the wife and any reconciliation is deemed unfeasible to occur.[123] In the context of significant hardship during COVID-19, the husband might consider divorce as a way to prevent accumulating debt or falling behind on maintenance payments due to overwhelming distress. Here, Section 47 (3) and (5) of IFLA shall be referred to where it elucidates the probable instances given the husband chooses to resort to divorce as the solution to the financial distress. It states categorically as;

> *"If the other party consents to the divorce, and the Court satisfied after due inquiry and investigation that the marriage has irretrievably broken down, the Court shall advise the husband to pronounce one talaq before the Court",*[124] *and "Where the other party does not consent to the divorce, or it appears to the Court that there is a reasonable possibility of a reconciliation between the parties, the Court shall as soon as possible appoint a conciliatory committee consisting of a Religious Officer as Chairman and two other person, one to act for the husband and the other for the wife, and refer the case to the committee".*[125]

In simpler terms, it means that the consent of the wife is material for the husband to accelerate the process of divorce, thus legally effectuating the *talaq* pronouncement. Given there exist disputes from the wife's counterpart disagreeing with the initiated divorce, the law mandates that both spouses go through an arbitration process to explore all potential avenues for reconciliation. Essentially, the language of the law suggests the legislator's intention to be particularly diligent with any signs of reconciliation within any disputes that existed in the marriage. On the matter of financial difficulties and incapability to provide maintenance, submission to the Religious Office and scheduled consultation with the Religious Officer in advance shall expedite and expose the husbands to rooms of possible solutions and efforts to preserve the marriage. The 2023 study funded by Jabatan Kehakiman Syariah Malaysia ("**JKSM**") stipulates that 90% of the

[123] Najibah Mohd Zin et al., *Islamic Family Law in Malaysia*.
[124] Section 47 (3) of Islamic Family Law (Federal Territories) Act 1984
[125] Section 47 (5) of Islamic Family Law (Federal Territories) Act 1984

divorce cases that undergo *tahkim*[126] are successfully resolved within thirty days from the day of commencement of *tahkim* proceedings.[127] This data signifies the efficiency of the arbitration method to resolve *shiqaq* occurring within marriage, regardless of its result, having parties reconciled or divorced. It is submitted that currently, the Shariah Court holds the expertise to conduct and manage viable alternatives in preserving marriage. Therefore, husbands thinking about divorce due to financial difficulties are highly encouraged to resort to consultations with the said authorities as the first step, which is in the best interest of all parties directly involved in the marriage.

d) The Conclusive Findings on the Implications for Failure to Maintain the *Nafaqah*

In the context of the COVID-19 pandemic, there are several key points significantly material to the distinctive common instances that happened. For instance, the husband's incapacity to make earnings due to the infections, say severely affects his physical ability to live the normal routine of a human being. Or the instances of the husband's incapability to work due to being dismissed, no job opportunities, and stringent Movement Control Order ("**MCO**") imposed by the government throughout the pandemic. Based on the above legal discussion, it shall be noted that a husband's obligation to provide maintenance does not cease due to any objective or subjective reason, despite the fact that it may seem to have jeopardized the husband's capacity and capability to earn the necessary. In other words, it is an imperative principle that a husband bears the responsibility to maintain his wife in all circumstances that probable leniency is insignificant *ab initio*[128] for husbands to be discharged from such a duty. Until the husband is capable of providing the maintenance, say after the recovery period, or until the husband secures a new job, the arrears will be regarded as debt due to be paid to the wife. Given the husband defaulted in satisfying his accrued debt,

[126] *Tahkim* is the term used in the Shariah Court for the arbitration process to solve critical marital conflict known as *shiqaq*.

[127] Noor Fadhzana Mohd Nor, Mumtazah Narowi & Siti Amalina Ahmad Khairundin, 'Effectiveness of Tahkim in Selangor Shariah Courts Based on Organizational Effectiveness Goal Approach', *Jurnal Akademika*, vol. 93/2 (2023): 115-129, https://doi.org/https://doi.org/10.17576/akad-2023-9302-10.

[128] '*ab initio*' is a Latin word translated as 'from the beginning'. Merriam Webster Dictionary, 'ab initio', Merriam Webster, Incorporated, 2024, https://www.merriam-webster.com/dictionary/ab%20initio, accessed on 14 July 2024.

the legal ruling states a wife to have an unfortified *locus standi*[129], to recover them through legal claims categorically.

CONCLUSION

The COVID-19 pandemic has introduced unprecedented challenges for many aspects of life, causing severe financial strains and significant difficulties for many husbands in meeting their *nafaqah* obligations, including the ability to fulfill their financial responsibilities towards their wives. This analysis underscores that, according to Islamic principles, the duty of providing *nafaqah* is a fundamental and obligatory responsibility of husbands, grounded in both the Qur'an and the hadith. In a fiqh study and the principles outlined in the Qur'an, it is emphasized that husbands should provide support to the best of their abilities, reflecting both their economic realities and their commitment to their familial responsibilities. Despite the economic downturn and hardships brought by the pandemic, which have led to job losses, reduced incomes, and financial instability, the obligation of *nafaqah* remains unwavering.

Husbands are not given any concession or exemption from the responsibility of *nafaqah* even during critical periods like the COVID-19 pandemic. The duty of providing *nafaqah* remains a central obligation for Muslim husbands and cannot be nullified under any circumstances (except those specified earlier). A wife is entitled to receive *nafaqah* from her husband as long as she meets the four essential conditions for receiving *nafaqah* (according to the consensus of scholars): the existence of a valid marriage, sexual accessibility to the husband, the wife's ability to engage in sexual intercourse, and her respect for her husband. These conditions establish that the wife has the right to receive *nafaqah* without exception from her husband, regardless of the husband's status, unless one of these conditions is not met, in which case the wife's right to receive *nafaqah* is forfeited. Moreover, the condition for forfeiting *nafaqah* is related to the wife (such as not being able to engage in intimacy or sexual intercourse), not the husband. Therefore, financial difficulties faced by the husband, even in critical situations, do not exempt him from his responsibility to provide

[129] '*locus standi'* is a legal term translated as 'place of standing'. It is terminologically used to address the right or capacity of an individual or a group of persons to bring an action or to appear in court. See Cambridge Dictionary, ' locus standi', Cambridge University Press and Assesment, 2024, https://dictionary.cambridge.org/dictionary/english/locus-standi, accessed on 16 July 2024.

nafaqah to his wife. The wife cannot nullify the husband's obligation in this case. As long as the wife remains obedient and does not engage in *nushuz*, the husband is obligated to provide *nafaqah* diligently. This is also agreed upon by the four Imams that a wife's *nushuz* is the reason for suspending *nafaqah*. *Nushuz* here means disobedience, i.e., when a wife disobeys her husband in a manner deemed unlawful according to Shariah law.

Regarding the amount of *nafaqah*, the husband should provide *nafaqah* based on his situation, customs, and circumstances, as Allah says in al-Baqarah; 233, "*The father of the child shall bear the cost of the mother's food and clothing on a reasonable basis. No person shall have a burden laid on him greater than he can bear*". This verse implies that Allah has established the obligation of *nafaqah* without specifying a particular amount to be provided by the husband. As long as it is reasonable and sufficient to meet the wife's needs for her well-being, it is considered adequate for fulfilling the husband's responsibility. The basic needs of the wife, as outlined in the Qur'an and hadith—clothing, food, and shelter—must be met. If the husband can provide beyond these needs, reflecting the way the wife was raised or even better, it is highly encouraged, as Allah greatly honors husbands who honor their wives, and they receive immense rewards. Islam is a flexible religion. Although Allah has placed the responsibility of *nafaqah* on the husband's shoulders, He did not specify the amount. If the amount of *nafaqah* was fixed, it would have created difficulties and hardships for the husband in fulfilling this obligation. Additionally, people have different living standards—poor wives do not have the living standards of the rich, and vice versa. The standard of living changes over time and circumstances. Therefore, the wife must accept whatever the husband can provide, as long as it is sufficient and does not burden either party. The Qur'anic guidance that "Allah does not burden a soul beyond its capacity" (al-Talaq: 7) serves as a reminder of the compassion and flexibility inherent in Islamic law. Hence, Islam does not set a specific amount for *nafaqah*; the provision is based on the husband's capability to provide for the wife's needs, not her desires, showing that Allah has lightened the husband's burden concerning the amount of *nafaqah*.

Regarding the status of *nafaqah*, whether it is forfeited or becomes a debt, if a husband cannot provide *nafaqah* for any reason, such as being unable to, or neglecting to provide *nafaqah*, it is deferred and becomes a debt owed to the wife. The wife has the right to collect it or ask the court for separation, as discussed in the study of Fiqh. This aligns with court practices regarding issues of husbands not paying *nafaqah* due to financial problems arising from challenges during the pandemic, where husbands are still required to

fulfill their *nafaqah* obligations regardless of their financial status—be it poor, moderate, or wealthy. The husband's obligation to provide *nafaqah* does not terminate if he does not have money. As long as the reason for the *nafaqah* obligation exists, the husband is obliged to give *nafaqah* to his wife unless the wife is in a state of *nushuz*. The *nafaqah* becomes a debt, and the wife should claim this debt once the husband's financial situation improves. The amount of *nafaqah* is not specified but is based on the husband's ability and mutual agreement between both parties (whether it becomes a debt, or the wife forgives and absolves the husband from the *nafaqah* debt). If the husband cannot provide *nafaqah* now or in the future, the wife has the right to seek the annulment of the marriage contract to avoid placing a burden on herself.

This demonstrates that despite the pandemic and Movement Control Order (MCO) significantly affecting husbands' financial situations, resulting in nearly complete loss of income, it does not nullify the husband's responsibility to fulfill his obligations, nor does it deny the wife's right to receive *nafaqah* according to the husband's capability. This dispels the perception that a husband's responsibility is void due to financial difficulties. The obligation of *nafaqah* does not expire and remains unchanged, even if the husband loses his job and income. The responsibility for *nafaqah* continues and depends on the husband's current ability. Islam emphasizes responsibility over rights. When the responsible party (husband) understands the meaning of responsibility and strives to fulfill it as best as possible, the recipient of the rights (wife) will not face issues. Therefore, the matter of *nafaqah* can be resolved justly and transparently. In this pandemic situation, it is well-known that the husband's economic condition is critical; Islamic teachings encourage resilience, mutual support, and understanding within marital relationships. In this time of need, husbands require their wives' support and companionship to alleviate their anxiety and provide strength to endure and persevere.

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