



Reconstructing the Meaning of Maintenance in Contemporary Islamic Family Law: A Maqāṣid Shari'ah Approach

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Abstrak

Keywords:

Meaning of
Maintenance;
Maqāṣid ash-
shari'ah;
Reconstruction

In contemporary Islamic family law, the husband providing maintenance to the wife is an obligation because of the marriage contract. The theoretical-normative level and amount of maintenance that must be given to the wife are not explicitly mentioned. Therefore, based on the maqāṣid shari'ah approach, the meaning of the word "maintenance" must be reconstructed and contextualized to the problem of maintenance in domestic life in this contemporary era, even though husbands and wives have their own duties, obligations, and roles. If the obligation can be implemented consistently, then a harmonious household life, *sakinah*, *mawaddah wa rahmah* can be realised properly. The focus of this research is to find out more about the aspects of *nafkah* levels in the context of benefits that can be measured through the view of the needs of a person's life. The type of research method is qualitative research with a maqasid shari'ah approach. The findings of this study are that providing maintenance to the wife is the husband's obligation, both physical and mental maintenance. Physical *nafkah* is material, while mental *nafkah* is immaterial (abstract), but very decisive for the realisation of a harmonious household, *sakinah*, *mawaddah warahmah*. The word "*nafkah* (*al-nafqah*)" in the context of contemporary Islamic family law needs to be reconstructed to be relevant to the conditions of husband-and-wife relations in a reciprocal (*mubādalah*), binding (*ṣawābit*), and flexible (*mutagayyirāt*) manner so that the main objective of building a harmonious household life is realised lastingly and well. The principle of providing maintenance to the wife by the husband in maqāṣid al-syari'ah can realise the benefit and harmony of the household and can anticipate the "crucial" evil in the life of large (*al-'āilah*) and small (*al-usrah*) families.

INTRODUCTION

Nafkah (*nafqah*) is one of the husband's obligations and basic needs for the family in constructing a harmonious household life *sakinah*, *mawaddah wa rahmah*.¹ Many households are not harmonious because the husband is unable to provide for the family according to the necessary needs. This inability is due to the husband not working due to serious illness, termination of employment (PHK), and difficulty in finding work again so that he is "unemployed". Faced with this condition, wives eventually replace the husband's position and role in earning a living to fulfil the family's needs.

The discussion of the issue of *nafkah* in classical fiqh studies is very broad, and is generally included in the study of providing *nafkah* to the family both for the small family (*al-usrah*) and the extended family (*al-'āilah*), not specific to the wife alone. As the opinion of Wahbah al-Zuhaili that *nafkah* is something that is issued, something that is given and something is not used except in goodness, while in the review of language is something that is issued by humans on their dependents, including food, clothing and shelter.² This view is then reinforced by the classification of maintenance that must be given by the

¹ Habib Sulthon Asnawi, 'Perkawinan Penganut Aliran Penghayat Kepercayaan Di Provinsi Lampung Dan Dampaknya Terhadap Hak Asasi Perempuan Perspektif: Hukum Keluarga Islam Dan Konvensi Internasional' (dalam DISERTASI Program Doktor (S3) Pascasarjana (PPS) Universitas Islam Negeri Raden Intan Lampung, 2023) <<http://repository.radenintan.ac.id/22698/>>.

² Wahbah Al-Zuhaili, *Fiqh Al-Islam Wa Adhillatuhu*, "Al Fashlu Al-Khamis Al-Nafaqaat", Juz VII (Beirut : Dar Al-fiqr, 1998 M/1409 H), h. 756

husband to his wife in two ways: namely Tamkiin and Tamlik, tamkiin is the husband taking care of all the preparations and equipment for the wife's three kinds of nafkah. He gives his wife the food she needs, the clothes she needs, and the accommodation she needs, one of the conditions of which is that she should not have other wives with her.³ This is because the presence of another wife in the same house is understood to be a form of harassment to the wife and is free from the presence of the husband's family if he is bothered by her presence. Also, the house should be adjusted to the husband's economic condition. If the husband does not live in a palace-like house, then the wife should be placed in nothing but a house of that level, regardless of the wife's previous circumstances.⁴ If the husband can only afford to live in a modest house, then the wife's shar'i home should be a modest house with all the facilities that shari'ah requires.⁵

The academic problem, in the era of digitalisation of science and modern information-communication technology today, is very interesting to study, the focus of the problem is, how the husband's obligation to provide maintenance to his wife whose livelihood-seeking position has been replaced by his wife, who is the measure in determining the provision of maintenance to the wife, what is the standard of maintenance for the wife per day, per week, per month or per year, when the maintenance is given by the husband to the wife, and what are the views of Islamic jurists (fuqahā') on this issue from the perspective of maqāṣid shari'ah. The shar'i context above provides a fairly straightforward picture in dissecting the level of maintenance that a husband should give to his wife. However, it does not stop at this aspect, the development of science, technology and information has an impact on the psychology of women in general. This issue is increasingly pointed to the influence of social media on women's psychology which leads to the opinion that with a physical form, good appearance and good intellect, then the maintenance must be far greater than the level of ability outlined.

Similar research to this article has been found, including research by Fauzan, Achmad (2020), this research aims to find out the Constitutional Court Decision NUMBER 22 / PUU-XV / 2017 concerning the Minimum Age Limit for Marriage for Women from the Maqāṣid Sharī'ah Perspective of Jasser Auda. The next research by waris (2022), this research aims to discuss the provision of maintenance to wives and parents by husbands as migrant workers from the maqashid al-syariah perspective (case study in pakong village, pakong sub-district, pamekasan district). The similarity between this article and the research above is that both analyse the level of maintenance in the maqasid sharia perspective. However, the research GAP and novelty of this article is to analyse the rules in contemporary Islamic law that providing maintenance to the wife is the husband's obligation, both physical and mental maintenance. Physical nafkah is material, while mental nafkah is immaterial (abstract), but very decisive for the realisation of a harmonious household, sakinah, mawaddah warahmah.

It is interesting to discuss more about the aspect of the level of maintenance in the context of benefits that can be measured through the view of the needs of a person's life. This context provides a theoretical classification in breaking down the issue of the level of maintenance that must be issued. Masalah provides the main reference in the context of maqāṣid syariah through three major concepts, dharuriyah, hajiyah and tahsiniyah. This paper will discuss and answer the problem of maintenance.

³ M. Anwar Nawawi, *Dinamika Hukum Perkawinan Di Indonesia Tinjauan Hukum Keluarga Islam Terhadap Legalitas Perkawinan Kepercayaan Penghayat* (Yogyakarta: CV. Bildung Nusantara, 2022) <<https://balaiyanpus.jogjapro.go.id/opac/detail-opac?id=346958>>.

⁴ Habib Shulton Asnawi dan M. Anwar Nawawi, *Hegemoni Patriarkhisme Hak Keadilan Perempuan Dalam Undang-Undang Perkawinan Di Indonesia* (Yogyakarta: The Journal Publishing, 2022) <<http://thejournalish.com/ojs/index.php/books/article/view/358>>.

⁵ Habib Shulton Asnawi and others, 'The Subordination of Women in Customary Law of Lampung Pepadun', in *Proding WMA-2 Padang, Indonesia* (WMA-2 Padang, Indonesia, 2018) <<https://doi.org/10.4108/cai.24-1-2018.2292401>>.

RESULTS AND DISCUSSION

Before further examining the reconstruction of the meaning of maintenance in contemporary Islamic family law, it is necessary to first describe the concept of *maqâṣid shari'ah*.

The Concept of *Maqâṣid Shari'ah*

Abû Ishâq al-Syāṭibî (hereafter al-Syāṭibî),⁶ is a father of *maqâṣid* for contemporary uṣūl al-fiqh scholars who reconstructed the concept of *maqâṣid shari'ah* systematically-methodologically, which had previously been formulated by al-Juwainî (d. 478 AH), al-Gazâlî (d. 505 AH), Ibn 'Abd al-Salâm (d. 660 AH) and Ibn Taimiyah (d. 728 AH).⁷ He opened a new era and established the method of *usuli* in a perfect form, which was written in his work *al-Muwāfaqāt fî Uṣūl al- Shāri'ah*, whose editor was Abd Allah Darraz. If Imām al-Syāfī (d. 204 AH) had laid down the science of uṣūl al-fiqh in his work *al-Risālah*, which is a general rule (*qanūn kullīyyah*) for knowing the level of *shara'* propositions, then al-Syāṭibî had realised and preserved what is called *rūh al- shāri'ah* by giving such important attention to *maqâṣid shāri'ah*.⁸

Al-Syāṭibî as the shaikh al-*maqâṣid* who has reconstructed the concept of *maqâṣid al- shāri'ah*, it turns out that in starting his discussion, he did not provide an explicit definition of *maqâṣid al- shari'ah*. Likewise, no definition is found in the literature of classical fiqh sciences. Instead, the definition of *maqâṣid al-shari'ah* is found in the works of contemporary uṣūl al-fiqh scholars, such as Ibn Āshūr (d. 1993 AH/1973 AD), 'Allāl al-Fāsi (d. 1972 AD), al-Raisūni, and Wahbah al-Zuhaili.

In his discussion, he categorizes the concept of *maqâṣid al-Syāri'ah* al-Syāṭibî into two parts: 1) Viewed from the perspective of the objectives of al-Syāri' (qāṣd al-Syāri'). 2) Viewed from the perspective of the objective of the mukallaf (qāṣd al-mukallaf). *Maqâṣid al-syari'ah* in the sense of qāṣd al-Syāri', contains four aspects, namely: (a) The initial goal established by syari'ah is for the benefit of humans in this world and the hereafter. (b) Sharia as something that must be understood. (c) Sharia as a law of taklif that must be carried out. (d) The aim of sharia is to bring humans under the guidance of the law. The first aspect relates to the content and essence of *maqâṣid al-syari'ah* which can be realized through legal impositions that can maintain the goals of creatures (humans), namely the interests of *ḍarūriyyāt*, *hājiyyāt*, and *tahsiniyyāt*. The second aspect is related to the linguistic dimension, because the Qur'an and including the Sunnah of the Prophet Muhammad were revealed in Arabic. Understanding the *maqâṣid al-syari'ah* contained in the Al-Qur'an, both in terms of its meaning, its *uslūb-uslūb* and its *i'jāz*, automatically requires understanding the language, so that the *shari'at* can be understood and achieve the benefits it contains. The third aspect relates to the provisions of the Shari'ah to realize benefits. This is also related to human ability to carry it out. Because, if the taklif imposed on humans cannot be implemented (*taklif ma lā yuṭāq*), then it is precisely the difficulties (*masyaqqah*) that humans will suffer and face. The fourth aspect relates to human obedience as legal subjects in carrying out God's laws, so that they are within the corridor of His rules (*al-niẓām*), not within the confines of lust.

From this description it can be said that the second, third and fourth aspects are basically just reinforcements (secondary) of the first aspect which becomes the substantive (primary) aspect. This substantive aspect can be realized through legal impositions (*offer*) towards legal subjects (*the author*) as the

⁶ Muhammad Abû al-Ajfan, *Min Aṣar Fuqahā al-Andalus: Fatawā al-Imām al-Syāṭibî* (Tunis: Maṭba'ah al-Kawākib, 1985), h. 33-40.

⁷ Muhammad al-Ṭāhir bin Āsyūr, *Maqâṣid al-Syari'ah al-Islāmiyyah*, editor Muhammad Ṭāhir al- Maisawi (Yordan: Dār al-Fais, 1421 H./2001 M.), h. 95

⁸ Rahmat Agung Sedayu, 'Muhammad Syahrur's Thoughts on Inheritance from the Maqasid Al-Shari'ah Perspective and Hermeneutics', *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 7.1 (2022), 1–14.

third aspect. *Offer* can't be done well except *the author* could understand God's laws, both in terms of the dimensions of lafaz, meaning, *servicen* or *I know* as a second aspect. Understanding and implementation *offer* This can bring humans into the corridor of God's laws, free from the confines of lust, as the fourth aspect.

It is in such a connection that the purpose of the shari'a set by God is none other than to create the benefit of humans in this world and in the hereafter, as a substantive aspect that can be realized. Meanwhile *maqâṣid al-syarī'ah* in the sense *qaṣd al-mukallaf*, al-Syāṭibî pays attention to actions *the author* because of the burden *offer*, which technically emphasizes the intention and action itself. He stipulates that every religious practice is based on the intention of those who do it, and all intentions in carrying out the law are strictly considered by the sharia', both in matters of worship and custom (*Mu'amalah*). Many legal arguments point to this. Furthermore, he differentiates *maqâṣid* in performing acts between worship and custom.⁹ *Maqâṣid* In the context of worship, the emphasis is on what is obligatory and what is not obligatory. Meanwhile, in the context of custom, the emphasis is on, between what is obligatory and what is sunnah, mubāh, makruh, and what is haram, and what is legal, and what is corrupt (*phases*). Sometimes a job will be worth worship if what is done is meant for worship, likewise if something is done is meant for other than worship, then it will be worth according to what is intended. So, intention is the key word for every activity that is done *the author*.¹⁰ Deed *the author* can be divided into two types, namely:

First, matters of worship. Al-Syāṭibî emphasized that fundamental considerations in worship as far as legal subjects are concerned (*mukallaf*) is *ta'abbud* without considering the implied meanings. While in custom (*Mu'amalah*), the basic consideration is implied meanings. In this assertion, he shows several arguments: (a) From inductive research on the Shari'ah, it is known that provisions such as purification from hadas (*tahārah al-hadas*) when you want to pray, and *tayamum* When there is no water, so do all acts of worship such as fasting, Hajj, and others, which are difficult to explain, except in terms of *ta'abbud*. In contrast to custom, such provisions are based on human benefit. (b) In worship, broadening the scope *ta'abbud* undesirable, because *offer* limited to certain commandments included in the worship itself. In contrast to custom, expanding the rules is a goal. Therefore *al-Syari'* with his will to explain the rules of law (*tasyri'*) related to customs regarding legal reasons ('*God*) and his wisdom in general. Strictly speaking, in worship, only done by *the author* characterized by returning to what has been established *al-Syari'* (*al-rujū' ilā mujarrad mā haddahu al-Syārī'*), binding something with God's command (*al-inqiyād li awāmīr Allah*), something that specifically belongs to God alone (*bi hawā haqqan lillāh khaṣṣatan*), and return to something for which the reasons cannot be understood (*rājī' ilā 'adami ma'qūliyyah*).

Al-Syāṭibî also emphasized that all problems *ta'abbud* shown by the following considerations: (1) That a person *mukallaf* bound by an order to comply with legal demands (*cut off*) or optional (*takhyir*) imposed by the order. (2) If it is understood that *cut off* for *takhyir* If it is wisdom, it does not mean that it is the only wisdom in the commandment, or that it is the only benefit that must be realized. Uncertain circumstances (*position*) are eliminated by turning on *ta'abbud*. (3) That legal obligations can also be known in two ways, namely the method known *asijmā'*, *naṣ*, *isyārah*, *as-ṣabr*, *munāsabah*, and others. Or, if these methods cannot be applied, then the second type of obligation is only known through revelation. In the context of obligations (*offer*) This *mukallaf* required *tota'abbud* just according to the rules *al-Syari'* has set.

⁹ 'Abd al-Wahhāb Khallāf, *ʿIlm Uṣūl al-Fiqh* (al-Qāhirah: Dār al-Kuwait li al-Ṭibā'ah wa al-Nasyr wa al-Tauzi', 1388 H/1968 M), h. 89. 'Ādil bin Abd al-Qādir Qūṭah, *Asr al-'Urf wa Taṭbiqatuh al-Mu'aṣirah fi Fiqh al-Mu'amalat al-Malīyah* (Jidāh: Al-Ma'had al-Islāmī Lilbuhūṣ wa al-Tahdīb, 1428 H), h. 32-33.

¹⁰ Al-Syāṭibî, *al-Muwāfaqāt ...*, h. 225-226.

Offerin relation to actions mukallaf It can also be seen as a right of God, or a human right. Al-Syāṭabi distinguishes them into three types: (a) Rights that belong solely to Allah, such as worship. (b) God's rights and human rights, but consideration of God's rights is more dominant. (c) God's rights and human rights, but consideration of human rights is more dominant. These three types of benefits (and'already) are covered directly, and therefore these types are not characteristic of-abbudi basically.

In implementing offerin relation to the rights mentioned above, al-Syāṭabi say that mukallaf forbidden to abort offer that's the way trickor imagination. For example, when a person is still in a village, it is time for prayer, he is obliged to perform the four-fold prayer, then he looks for the cause (trick) to abort everything by drinking khamar, or an effective medicining dright until the time for prayer is over, or does he intend toqash with prayed then he didtrip. Similarly, a person who is in the month of Ramaḍān then travels so that he can eat lunch, or has property with which he can perform the Hajj and then donates it to someone else or to his son so that he is exempt from the obligatory Hajj, or he wants to have intercourse with a slave and then kidnaps him and then he has intercourse with him, and it is declared the slave has died and the price has been paid, just as he freed himself from the obligation to pay zakat by donating his wealth. According to Ash-Syāṭabi all example strick namely, justifying what is haram, or being resentful Anything with the aim of canceling an obligation is prohibited.

To strengthen his view, al-Syāṭabi many argue with the verses of the Koranandn and hadith. Then, he stated that God made legal rules for the benefit of humans, therefore, all human activities are related to benefit, because benefit is the goal of law makers (magsleepd al-Sy Umrit's). If an action is based on the outer and inner parts which are indeed disyari? If it is halal, then it is clearly a good deed. But there are actions that are outwardly halal but whose intentions are rejected by legal principles, so they are not halal, such as praying to be praised by others (riand al-nands).

Based on explanation trickabove, al-Syāṭabi further sidetracking three ways: First, trickwhich all the scholars invalidate, like the hypocrites, and those who do charitydreamand. Second, all scholars allow it, such as uttering words of blasphemy because they are forced,rickthe aim of this is to preserve the blood, while the belief remains permissible. This is permissible with considerations including dunyawiiyah benefits which do not bring harm, both in this world and in the afterlife. Different from the first, it will damage the benefits of ukhrawiiyah. Benefits and welfare ukhrawiiyah must take priority over the benefit and welfare of dunyawiiyah. Third, this section gives rise to various opinions, because there is no definite argument that connects the first type, or the second type. It is not clear whether such dreams are in line with the willal-Syandrit's, or is it a contradiction to it? Because of that, hiyallike this is controversial. Al-Syāṭabi in this context explain through exemplified Muhallil (divorce between divorced women bandin with the second husband, with the aim of making the marriage with the first husband lawful), and buyyes al-ajal (sales on credit). So, people are looking at that hiyallike this is prohibited, meaning they believe that hiyalthat is against the benefits, and shari'a'at.

Second, custom problem (inandeven). Al-SyāṭaQ in this context he interprets it from two points of view: (a) In the sense of generally accepted human habits and behavior (al- 'wellandid al-andmmah) which does not differ from different situations and conditions, such as eating, drinking, being happy, being sad, sleeping, not sleeping, getting goodness, and avoiding all suffering, etc. (b) Customs in a different cultural sense are caused by different situations and conditions, such as clothing conditions, various forms of domicile, friendliness, slow, fast in various matters, egoistic and hasty. Included in this context are the traditions of the Jahiliyah (pre-Islamic) period which continue continuously, such asdiyāt, qasāmah, gathered on Friday (al-‘arūbah) to advise and remind each other,qirāḍ, kiswah al-ka’bah, and others.

The use of traditional terms from the two points of view above as a counterpart to the terms of worship. In its implementation, according to al-Syāṭibī that offer to the author relating to customs is based on sustainability (al-istiqrār) and continuity (istimrar) the custom itself. Because of the continued existence of customs in the real world (wujūd) this is a known necessity (ma'lum), not a mere guess (maẓnūn). Furthermore, he said that if the customs that exist in the real world are diverse, then this diversity requires different legal determination processes, as well as demanding different legal classifications and differences kitab. This means that differences in customs can have implications for the implementation of the law and in the context of legal thinking, this can be tolerated.

Al-Syāṭibī divides continuity customs into two types: (1) *Al-'awā'id al-syar'iyyah*, namely customs that are determined or not determined by the dalil sharia'. This means that Sharia' has ordered as follows *jab*, *nadb*, *karāhab*, or punishment, or syara' permits it to be done or abandoned. This kind of discussion of customs is not very important to expand in the context of interrelationships *as* with custom, because al-Syāṭibī himself calls it the same as all sharia issues. Based on these considerations, it is not justified, for example there are people who say that the command to remove impurity and purify oneself to meditate, to reveal one's private parts for adults is not a reprehensible thing, and is a bad act, so it is permissible. If permitted, it means eliminating (*copy*) fixed and continuous laws. Whereas Copy After the death of the Prophet PBUH. is void. (2) *Al-'awā'id al-jāriyah*, namely customs that apply between fellow humans without any syara' arguments that establish or negate them. Customs of this kind are developed in discussions about relationships nose with custom, or social change. *Al-'awā'id al-jāriyah ini*, In reality, sometimes there are permanent signs, such as appetite, drinking, thinking, talking, walking, etc. Such customs do not accompany situations and conditions, and sometimes there are customs that accompany situations and conditions, and experience changes.

Customs that have changed (al-mutabadilah) by al-Syāṭibī explained: (a) Changes in the traditional values of a society from good to bad, or resentful it's like opening the head for women to have character wall yesah, which is bad in Eastern states, and not bad in Western states. (b) Changes and differences in the expression of goals caused by differences in the progress of civilization levels, such as the Arab nation and other nations. For example, differences in the use of technical language in the fields of work and profession, oaths, transactions, and divorce kin and yes and facing shrih. (c) Differences in actions in social actions (unadjusted), such as the custom of receiving a dowry in marriage before mixing, and the custom of buying and selling in cash or debt (credit). (d) Differences caused by external factors mukallaf, such as differences in adult age criteria by considering human habits based on wet dreams, menstruation, or age considerations. (e) Differences because there are things that happen that contradict general traditions, so that those who experience them feel different from other people's traditions, such as a certain injured person who cannot urinate as usual, the way he urinates becomes a customary practice for him.

From the explanation of changes in customs above, al-Syāṭibī recognizes that legal changes are caused by changes in the customs of a community environment. Even al-Syāṭibī has stated that custom is the cause (cause) of existence cause(law). And this has been regulated by the makers of the syara'. These views and thoughts, al- in a legal norm "ikhtilāf al-ahkām 'ind ikhtilāf al-'awā'id". This means that legal differences occur when customs change and differ, meaning that laws can also change and differ.

The views and thoughts of al-Syāṭibī, when referring to the statement of Ibn Qayyim al-Jauziyyah (d. 751 H) that "the change in fatwas and their types are due to changes in time, place, circumstances,

intentions, and customs",¹¹ is not a new thought, but previously existed and developed among scholars uṣūl al-fiqh. What is clear, al-Syātibī has described the context of worship and customs in relation to law on the one hand, and with *maqāṣid* (*maṣlahah*) on the other hand.

As for division *maqāṣid al-syārī'ah*, namely the first aspect as a substantive aspect relating to the aim of enforcing the Shari'ah is to create benefits, as stated above in al-Syātibī divide into three levels *maqāṣid*, that is:

First, *Maqāṣid Al-Ḍarūriyyah*. Meant with meaning *maqāṣid al-ḍarūriyyah* namely primary goals or basic elements that must be present for the smooth running of religious affairs and life. If these basic elements are not fulfilled, it will result in a threat to the normal course of life. It can even damage and destroy life completely. And in the afterlife you will lose happiness, safety, and return in a state of real loss.¹² The first rank that must be maintained and become a priority scale are the five aspects of universal values (*al-ḍarūriyyah al-khamsah*), namely maintaining religion (*hiḍḍ al-dīn*), soul (*hiḍḍ al-naḥs*), descendants (*hiḍḍ al-nasl*), property (*hiḍḍ al-māl*) and reason (*hiḍḍ al-'aql*). To protect the five aspects of universal values, this is done by strengthening its foundations and establishing its rules so that it runs stably and avoids things that might happen. To get a complete picture of the five aspects of universal values, the following will be explained one by one according to the ranking and benefits of each through the examples below.

To maintain and save religion, Islam requires the basic principles of worship, as seen in the five pillars of Islam, namely faith in Allah by reciting the two sentences of the shahādāt, performing prayers, paying zakat, fasting in the month of Ramaḍān, pilgrimage to Baitullah for those who are able., etc., while at the same time prohibiting things that damage it. To maintain and save the soul, Islam requires fulfilling basic needs in the form of clothing, food, and shelter in moderation, while at the same time prohibiting things that threaten them, and implementing sanctions for people who do them, such as carrying out punishments. *qīṣāṣ* for those who kill intentionally, *dīet*, and atonement for people who kill by mistake. To preserve and save offspring, Islam regulates marriage and prohibits adultery. To maintain and save wealth, Islam prescribes the laws of mu'āmalah, while at the same time prohibiting things that will damage it, such as prohibiting theft, and carrying out the punishment of cutting off the hands of people who do it. To maintain and save the mind, Islam requires education for everyone, and prohibits things that can damage the mind, such as consuming alcoholic drinks (*syārib al-khamr*).¹³ All these provisions are interrelated and integrated with each other; For example, efforts to maintain, protect and save religion, this also means efforts to maintain, protect and save lives, descendants, property, and minds.

Second, *Maqāṣid Al-Hājiyyah*. Meant by *maqāṣid al-hājiyyah*, namely secondary goals that humans need in their lives naturally to provide space for them, and if these demands are not met then it will not result in difficulties and trouble for them, and also not to the level of fatal damage that can affect the public benefit (*al-maṣālīh al-'āmmah*).¹⁴ So, if these secondary things are not fulfilled due to many factors that are difficult to strive for and fulfill, then human life will not be fatal, only imperfections and even difficulties will occur. *Maqāṣid al-hājiyyah* in relation total-kulliyah *al-khamṣah* can be confirmed in the examples below.

¹¹ Ibn Qayyim aj-Jauziyyah, *A'lām al-Mūwāqqi'īn 'an Rabb al-'Ālamin* (Bairut: Dār al-Kutub al-Ilmiyyah, 1425 H/2004 M), h. 483.

¹² Al-Syātibī, *al-Muwāfaqāt*, h. 4

¹³ Muhammad Bakr Ismā'īl Ḥabīb, *Maqāṣid al-Syārī'ah al-Islāmiyyah Ta'sīlan wa Tafīlan* (Maktabah al-Mukarramah: Rabiṭah al-'Ālam al-Islāmi, 1427 H), h. 268-269. Bandingkan dengan, 'Abd al-'Aziz bin 'Abd ar-Rahman bin 'Alī bin RAbī'ah, *Ulm Maqāṣid al-Syārī'* (Riyād: Maktabah al-'Ābikan, 1413 H/2010 M), h. 132-133.

¹⁴ Al-Syātibī, *al-Muwāfaqāt*, h. 4-5.

For example, to carry out prayers as a primary goal, various facilities are needed, including a mosque building. Without mosques, the aim of protecting religion through prayer is not destroyed, but experiences various difficulties. It is true that people may pray on the battlefield, on rocks or on the beach without even a prayer mat, but the presence of a mosque is very helpful. To save lives as a secondary goal through eating, utensils are needed, for example a stove. Indeed, without a stove, humans will not die because they can still eat uncooked food, but the presence of a stove complements the types of menus that can be served. There are various conveniences with the presence of a stove. To save the mind as a primary goal, Islam declares compulsory lifelong education for Muslims. Here various kinds of educational facilities are needed, including school buildings. Indeed, without a school building, the protection of the mind through the learning process will not be lost, but it will experience many obstacles. People can of course increase their knowledge, for example by reading books in the rice fields or listening to the radio in the market, but the presence of a school building is very necessary for the process of achieving the goal of protecting the mind in a sophisticated way. To protect property as a primary goal, equipment is needed, for example firearms. Indeed, people can protect their property with machetes, knives, or chopsticks, but firearms are more helpful. To protect offspring as a primary goal through marriage, completeness is needed, for example documentation (written evidence). Without the KUA as the party that has the authority to document marriages, it is true that marriages can take place, but the presence of the KUA with its various equipment will better guarantee the rights and obligations of the parties, especially when disputes arise.¹⁵

In contrast to the examples above, the classical examples of *maqâṣid al-hâjiyyah* presented by ash-Syāṭibi which covers aspects of worship, tradition, *Muamalah*, and *jinayah*. In the aspect of worship, for example, dispensations are given (*permission*) for those who experience difficulties due to illness and traveling. In the traditional aspect, such as being allowed to enjoy various kinds of beauty, if it is halal, whether in the form of food and drink (food), clothing, shelter, vehicles, and the like. In the *mu'amalah* aspect, lending and borrowing transactions are permitted (*al-qirād*), agricultural cooperation (*al-musāqah*), and buy and sell orders with payment in advance (*greetings*). In aspect *jinayah*, such as a criminal who is punished as a person who has lost his mind (*al-lauṣ wa at-tadmuriyyah*), take the oath (*al-qasāmah*), burden damages (*diet*) to the family of the defendant (convicted), and so on.¹⁶

Third, Maqâṣid At-Tahsiniyyah. Meant by *maqâṣid al-tahsiniyyah*, namely fulfilling needs that are considered reasonable and good, and staying away from things that common sense does not like. This ranking is collected or included in the noble morals chapter (*makārim al-akhlāq*).¹⁷ This definition shows that *maqâṣid al-tahsiniyyah* his presence is not a must (*ḍaruri*), and the needs that must exist (*al-hajah*), even if it is not fulfilled, it will not damage and complicate life. Because it's meant to be *maqâṣid al-tahsiniyyah* stress on aesthetics (*at-tahsin*), beauty (*al-taẓyīn*), and ethics (*makārim al-akhlāq*). And *al-Syārī* itself maintains these aesthetic purposes. This is as seen in His words (Q.S. al-Māidah (5), verse 6): "But He wants to purify you and perfect His favors for you, so that you will be grateful".

In this third stage (*maqâṣid al-tahsiniyyah*) as in the previous ranking, al-Syāṭibī provides examples covering aspects of worship, tradition, *mu'amalah* and *jinayah*. In the aspect of worship, such as how to remove impurity, how to purify oneself in general, covering the private parts, wearing jewelry, performing sunnah acts such as giving alms, and the like. In traditional aspects, such as eating and drinking etiquette, staying away from impure food and drink, with the note that in fulfilling these needs, one should not be

¹⁵ Yudian Wahyudi, *Ushul Fikih versus Hermenutika Membaca Islam dari Kanada dan Amirika* (Yogyakarta: Pesantren Nawesea Press, 2010), h. 46.

¹⁶ Asy-Syāṭibī, *al-Muwāfaqāt* ..., h. 5.

¹⁷ Imām Mālik bin Anas, *al-Muwāṭṭa*, Editor Muhammad Fu'ad 'Abd al-Baqi' (T.tp.: Tp., t.t.), h. 564.

excessive and miserly. In the aspect of mu'amalah, such as being prohibited from selling unclean goods (objects), excess water and grass, depriving a slave of the right to be a witness and priest, depriving a woman of the right to lead, and marrying herself, regulating the right of a slave to freedom and its legal consequences, and so on. -other. In aspect *jināyah*, such as not killing a person who kills a slave, it is forbidden to kill women and children in war. The examples can be analogized to other similar problems, where there are aesthetics or benefits above the demands *ḍarūriyyah* and *Hajjiyyah*. Its absence is not detrimental *maṣlahat ḍarūriyyah* and *Hajjiyyah*. Strictly speaking, it is only for aesthetics and beauty.¹⁸

From the explanation of the three rankings above, it seems that for al-Syāṭibī, ranking *Hajjiyyah* be the perfecter for the level *ḍarūriyyah*. Rank *tahsinīyyah* Its function is to perfect the ranking *hajjiyyah* While the level *ḍarūriyyah* become a tree *Hajjiyyah* and *tahsinīyyah* the substance of the classification into these three levels is none other than to maintain the five universal values for the realization of human benefit in this world and in the hereafter.

General Principles Regarding Support in Islamic Family Law

Before directly explaining the reconstruction of the meaning of maintenance in contemporary Islamic family law, the problem of maintenance is first described as follows:

a. Alimony Limits

Nafkah comes from Arabic (*al-naḥqah*), etymologically means "shopping for the sake of life".¹⁹ Meanwhile, in terms of terminology, it can be differentiated into general and specific meanings. In a general sense, maintenance is a name for whatever a person (husband) gives to a particular person (wife), family (*al-qarābah*) and the people under his authority (*al-milkiyyah*).²⁰ Meanwhile, in a specific sense, namely the wife's living, it means whatever the husband gives to fulfill the wife's needs in the form of food (*al-ṭa'ām*), clothing (*al-kiswah*), board (*al-maskan*), as well as other and appropriate equipment according to what is applicable in tradition (*al-'urf*) people.²¹

From these definitions it can be emphasized that what is meant by wife's maintenance is a basic need that must be met by a husband in domestic life. If the husband is not responsible for fulfilling this need or is reluctant to provide support, the wife has the right to sue the court, and this could be the cause of the termination of the marriage bond through divorce. But on the other hand, if the living is provided by the husband in accordance with Islamic rules, or applicable laws, then a healthy family life will be created. *Sakinah, mawaddah warahmah*.

b. Persons Entitled to Maintenance

Basically, provision of living can be divided into two types: First, a person (husband) is obliged to provide maintenance to himself when he is able and should take precedence over providing maintenance to another person (wife). The basis of the words of the Prophet, peace be upon him:

From Jabeer, he said: Messenger of Allah. said: Start with yourself then give charity to your wife, your family and then to your relatives if they have sustenance".

¹⁸ Al-Syāṭibī, *al-Muwāfaqāt ...*, b. 5.

¹⁹ Muhammad Idris al-Marbawī, *Kamus al-Marbawī* (Mesir: Muṣṭafā al-Bābī al-Halabī wa Aulāduh, 1350 H), h. 336.

²⁰ Muhammad Husain al-Zahabi, *al-Syari'ah al-Islamiyyah Dirāsah Muqāranah baina Maṣābiḥ Aḥl al-Sunnah wa Maṣābiḥ al-Ja'fariyyah* (Mesir: Dār at-Ta'ālīf, 1968), h. 197.

²¹ Agus Hermanto and Habib Ismail, 'Kritik Pemikiran Feminis Terhadap Hak Dan Kewajiban Suami Isteri Perspektif Hukum Keluarga Islam', *JIL: Journal of Islamic Law*, 1.2 (2020), 182–99.

Second, a person is obliged to provide a living to another person. This obligation can be caused by marriage, family, and people who are under their authority or responsibility.²² The focus of the last-mentioned obligation is that a husband must provide maintenance to his wife.

c. Legal Basis for Providing a Living

Scholars agree that the husband is obliged to provide maintenance to his wife. They also agreed, if the husband is unable to provide maintenance to the wife, while the wife is willing to live with him, then there is no divorce (*ṭalāq*), and there is no termination of the marriage relationship (*fasakh*).²³ The scholars stipulate that a husband must provide maintenance to his wife based on the Qur'an, Sunnah, consensus, and analogy:

- 1) Al Quran. Allah says in Q.S. at-Ṭalāq (65): 7:
- 2) Sunnah. There are several Sunnah's (hadiths) as follows:
- 3) Consensus (al-ijmā'). Scholars have agreed that a husband has an obligation to provide maintenance to his wife.
- 4) Kiyas (al-qiyās). A person who restrains himself for the benefit of another person has the right to obtain maintenance from that person. As a judge who works for the benefit and interests of the state, he has the right to receive a living (salary) which covers the needs for food, clothing, shelter, and other needs. Moreover, a wife who surrenders herself, takes care of the household and serves her husband, then she has the right, and the husband is obliged to provide support for his wife.²⁴

Based on the texts of the Qur'an, sunnah, ijma', and qiyas above, maintenance is an obligation and responsibility of the husband that must be given to the wife in a good way.

d. Alimony Form

In this context, scholars have a difference of opinion regarding the person who is the reference in determining the provision of alimony to the wife. According to Imām Syāfi'i (d. 204 H) and his followers (*Shāfi'iyyah*) and Abū Hanifah (d. 150 AH) and some of his followers (*ba'ad al-Hanafīyyah*) thinks that the husband is the measure of the wife's maintenance. Because according to him, that Q.S. at-Ṭalāq (65), verse 7 God has distinguished between the rich and the poor, and then determined the size of the wife's maintenance to the husband's condition.²⁵ Meanwhile, according to Imām Mālik (d. 179 H) and his followers, it is the husband's opinion that is the measure for determining the size of the living by fulfilling all the wife's needs in her daily life.²⁶ While Imam Ahmad bin Hanbal (d. 241 H) and the majority of Hanafī scholars are of the opinion that the two (husband and wife) are the measure of the amount of maintenance, because it is to protect the interests of both. If the husband and wife are both rich, then the husband must give a high amount of maintenance to the wife. If they are both poor, then the husband is still obliged to provide maintenance to the extent of his ability. On the other hand, if the husband is poor, then he still must provide maintenance to his wife as a basic obligation in the household.²⁷ Their opinion is based on the understanding of Q.S. al-Baqarah (2), verse 233, which means: "*and the father's obligation to feed and clothe the mother in an honorable way*", and the Prophet's hadith about the case of Hindus

²² Imām Muslim, *Ṣaḥīḥ Muslim Biṣyarḥ al-Imām Abi Zakaria Yahyā bin Syarf al-Nawāwī al-Damasyqī* (Bairut: Dār al-Fikr, 1417 H/1996 M), Juz ke 4, Cet. ke 1, h. 2770.

²³ Mahmūd 'Alī al-Sarṭāwī, *Syarḥ Qānūn al-Aḥwāl al-Syakḥṣīyyah* (T.Tp.: Dār al-Fikr, t.t.), Bagian ke 2, h. 213.

²⁴ Mahmūd Muhammad Syaltūt, Muhammad 'Alī al-Sāyis, *Muqāranah al-Maṣāḥib fī al-Fiqh* (Mesir: Muhammad 'Alī Ṣaḥīḥ wa Aulāduḥ, 1373 H/1953 M), h. 89

²⁵ Imām Muslim, *Ṣaḥīḥ Muslim Biṣyarḥ al-Imām Abi Zakaria Yahyā bin Syarf al-Nawāwī al-Damasyqī* (Bairut: Dar al-Fikr, 1417 H/1996 M), Juz ke 6, Cet. ke 1, h. 3975.

²⁶ Badrān Abū al-'Ainain, *al-Zināj wa al-Ṭalāq fī al-Islāmī* (Iskandariyah: Mu'assasah Sababi al- Jāmi'ah, t.t.), h. 234. Mahmūd 'Alī al-Sarṭāwī, *Syarḥ Qānūn ...*, h. 213-215.

²⁷ Al-Imām al-Qāḍi Abū al-Walid Muhammad bin Ahmad ibn Rusyd, *Bidayah al-Mujtahid wa Nibayah al-Muqtaṣid* (Bairut: Dār al-Fikr, t.t.), Juz ke 2, h. 41.

who were not given alimony by her husband, Abū Sofyan. He said: "Take (from Abū Sofyan) what is sufficient for you and your child in a good way". According to him, the words "*al-ma'rūf*" in the verse *Khitab*-to the rich, not to the poor and incompetent, although it must be adjusted according to their ability.²⁸

e. Rate of Spousal Maintenance

Textually, the Qur'an and the Sunnah (hadith) only stipulate that the husband is obliged to provide maintenance to the wife, not specifying the amount of maintenance that must be given to the wife. Because of that, the mujtahid scholar's ijtihad to determine the amount of maintenance. Imām Syāfi'i set a standard mud,²⁹ if the husband is rich, then he is obliged to provide maintenance for two wives, mud wheat or dates every day. If the husband is economically weak (poor), then a minimum of one is set mud, and if the husband's economic background is middle class (*mutawassit*), then set one and a half mud on every day.³⁰ While al-Qāḍi al-Hanbali mentioned the size *riṭl* that a husband provides at least two living expenses to his wife every day *riṭl*. It turns out that al-Qāḍi determined this number by making an analogy with people who are obliged to pay kafarat. It's just that the subject is different. If the goal of atonement is to feed the poor and needy twice *riṭl*, then the obligation to provide maintenance to the wife is also equal to two *riṭl* on every day.³¹ Meanwhile, other than Imām Syāfi'i (Abū Hanifah and Imām Mālik) did not determine the amount of the amount, but they determined the adequacy of living according to the wife's daily needs in accordance with the situation and conditions as well as community traditions (*al-'aalready*) where he is domiciled. In fact, if there is no agreement between the husband and wife to determine the amount of maintenance, then the determination is handed over to the court based on the judge's decision.

In this case, the government, through a judge's decision, will base its considerations on the Decent Living Standard (KHL) or by analogy the Regional Minimum Wage (UMR) which the government has set for entrepreneurs. So, the determination of the standard of living that must be paid and given by the husband to the wife is based on this standard in accordance with the provisions of each region and country. Substance (*maqāṣid*) is that a wife should not be neglected because of her husband's provision of income not meeting the required standards.

f. Time of Giving a living

After a husband and wife carry out their marriage contract in accordance with the applicable rules and procedures, they are legally husband and wife, since then the husband is automatically obliged to provide support for his wife. In this context, al-Sarakhsi (d. 490 AH) said that the first time a husband is obliged to provide support for his wife is from the time the marriage contract occurs. Because, having completed the marriage contract process means the beginning of the marriage bond as husband and wife. Unless the woman you marry is still small and not yet ready to serve her husband, then the husband is not yet obliged to provide for her.

Ibn Hazm (383-457 AH) stated that the husband is obliged to provide for his wife from the time of the marriage contract, whether the husband invites her to live in the same house or not, whether the wife is still in the house, or whether the wife has committed nusyuz or not, whether she is rich or poor, whether she has parents or is an orphan, whether she is a girl or a widow, whether she is free or a slave.³²

²⁸ Muhammad Abū Zahrah, *al-Ahwāl al-Syakhsīyyah* (Kairo: Dār al-Fikr al-'Arabi, 1377 H/1957 M), h. 281. Muṣṭafā Dibbigā, *at-Tabṣiḥ fi al-Adillat Matr al-Gāyah wa al-Taqrīb*, Penerjemah M. Rifa'i (Semarang: Cahaya Indah, 1986), h. 298.

²⁹ Muhammad Abū Zahrah, *al-Ahwāl ...*, h. 281..

³⁰ Wahbah al- Zuhaili, *al-Fiqh al-Islāmi wa Adillatuh* (Bairut: Dār al-Fikr al-Mu'āṣir, 1428 H/2004 M), Juz ke 10, Cet. Ke 4, h. 7387.

³¹ Muwaffiq ad-Din Syams ad-Din ibn Qudāmah, *al-Mughni wa Syarh al-Kabir* (Bairut: Dār al-Fikr, 1405 H), Juz ke 7, h. 377.

³² Abi Muhammad 'Ali bin Ahmad bin Sa'id bin Hazm, *al-Muhallā* (Bairut: Dār al-Jael, t.t.), Juz ke 10, h. 88

Ibn Hazm further recounts that Abū Sulaiman told his students and Abū Sufyān anṣ-Ṣauri that maintenance is obligatory for a young wife from the time of the marriage contract. Then al-Hakam ibn 'Utaibah gave a fatwa about a wife who left her husband's house out of anger. Does the wife have a right to maintenance? The answer is that there is. Then he also said: There is no known report from any of the Companions that forbids the wife from receiving maintenance. Those who held the opposite view on this matter were informed by an-Nakhā'i, al-Shā'bi, al-Hasan and al-Zuhri. We have learnt what their arguments were. Except that they said: 'Maintenance is in return for intercourse, and if intercourse is prohibited, then the right to maintenance is prohibited.

Reconstructing the Meaning of Nafkah in Contemporary Islamic Family Law

By reconstruction, we mean, etymologically, the rebuilding of a house.³³ While terminologically it is rearranging in an orderly, sequential, logical manner so that it is easy to understand and interpret.³⁴ So, reconstructing the meaning of nafkah means reorganising the meaning and substance of the word nafkah (an-nafqah) as a meaning with the principle of "maintaining the old that is still good and taking the new that is better (al-muhāfaẓah 'alā al-qadim as-ṣālih wa al-akhḏ bi al-jadid al- aṣlāh)".³⁵ This is technically contextualized with the real needs of a wife in her family household.

Based on the above discussion of maqāṣid ash-shari'ah and the general principle of providing maintenance to wives in Islamic family law, it can be analyzed based on the theory of maqāṣid al-shari'ah through the application of ḍarūriyyah al-sittah in terms of hifẓ al- nafs, hifẓ al-nasl and hifẓ al-'aql: First, that one of the obligations of a husband to his wife is to provide maintenance. This obligation is based on the understanding of the mujtahid imams on the texts of the Quran and sunnah, the consensus of the scholars and the results of analogical deductive thinking (qiyās) as mentioned above. The substance shows that a husband provides maintenance to his wife as an obligation, not a recommendation. In accordance with the rule of uṣūl:

"Basically, the commandment indicates that it is obligatory and does not indicate any meaning other than obligatory, unless there are other indications to the contrary".

This rule substantively (haqīqat) indicates the meaning of mandatory, there is no lafaẓ that indicates another meaning (majāzi), unless there is really an indication (qarinah) that indicates not mandatory (nadb). For example, the wife is nusyūz, disappears from home without the husband's knowledge, and has an affair with another woman's husband to commit adultery. According to maqāṣid, the husband is not obliged to provide maintenance for her because she does not protect her husband's household properly.

Secondly, in terms of maqāṣid al-syari'ah, that Allah ordains the obligation of a husband to seek and provide for his wife is so that they can realise a household life that is sakinah, mawaddah warahmah (Q.S. al- Rūm, verse 21). Because, maintaining and maintaining peace of mind (hifẓ al-nafs), maintaining, and preserving offspring (hifẓ al-nasl) and intelligence of the mind (hifẓ al-'aql) without financial support is quite difficult to be realised properly. Therefore, Allah imposes the search for sustenance (nafkah) for the needs of the family (wife) to men (husband). Meanwhile, the wife is the husband's partner in the household who is given a living by the husband by carrying out her duties and obligations both as a wife and housewife (Q.S. al-Nisā', verse 34).

³³ Peter Salim, Yenny Salim, *Kamus Bahasa Indonesia Kontemporer* (Jakarta: Modern English Press, 1991), Edisi ke 1, h. 1254.

³⁴ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum* (Bandung: PT Citra Aditya Bakti, 2004), h. 126.

³⁵ Said Agil Husin Munawar, *Hukum Islam dan Pluralitas Sosial*, Editor Hasan M. Noer dan Musyafaullah (Jakarta: Penerbit Penamadani, 2005), h. 4.

Thirdly, to realise the goal of a *sakinah mawaddah warahmah* household life, it is the husband's *maqāṣid* that is the reference for determining the amount of maintenance given to the wife. The Mujtahids of Shāfi'iyah and some Hanafiyyah argue that it is the husband who is the standard for determining the amount of maintenance to the wife. Likewise, the Mālikiyyah stipulate that it is the husband who is the standard for determining the amount of maintenance for the wife. The opinion of Syāfi'iyah and some Hanafiyyah and Malikiyyah is the same substance that the husband is the reference to determine the size of the provision of maintenance to the wife. Because they understand Q.S. al-Ṭalāq (65) verse 7 that Allah himself implies to distinguish between the rich and the poor. In this context, in accordance with the position of the husband in the household as the breadwinner, it is the husband who is the reference for determining the provision of maintenance to the wife. However, the Malikiyyah do not determine the amount of maintenance, but rather emphasise the fulfilment of the wife's needs. Meanwhile, the Hanbalis and the majority of Hanafiyyah scholars determine the provision of maintenance to the wife as a reference to both with the aim of safeguarding mutual interests. Their opinion is based on the understanding of Q.S. al-Baqarah, verse 233 and the case of Hindun bint 'Utbah wife of Abu Sufyan which indicates that the provision referred to in the verse and the narration is to provide sufficient food to the family (wife). Likewise, clothing is given to the wife in moderation with no exaggeration.

From some of the opinions mentioned above, in the context of contemporary Islamic family law, the author is more inclined to the opinion of Syāfi'iyah and some Hanafiyyah who stipulate that the husband is the reference in providing maintenance to the wife. Because the husband's position in the household is obliged to earn a living (Q.S. al-Nisā', verse 34), not the wife. The opinion of the Hanbalis and the majority of Hanafiyyah scholars who say that the reference for determining maintenance to both (husband and wife) seems illogical if the wife is only positioned as a wife in the household. In *ẓāhir an-naṣ* Q.S. al-Nisā', verse 34 there is a paradox between the duties and obligations of the wife as a partner and the husband as a breadwinner, unless the position of the husband and wife, for example, both works, then it is permissible to determine the size of the wife's maintenance reference is both. In fact, in the contemporary era, based on *maqāṣid*, the breadwinner can be the husband, the wife, both, or neither of them, if there are provisions for living in the household.

Fourth, the amount of maintenance given to the wife. As stated above, the Syāfi'i maḥḥab stipulates the obligation of a poor husband to provide maintenance to his wife at least one mud in every day from the staple food prevailing in his country such as wheat with its various types, one and a half mud for husbands who are somewhat able and two mud for husbands who are able. The determination of the amount of husband's maintenance to the wife set by Maḥḥab Syāfi'i is still relevant to the dynamics of contemporary life. It only needs to be interpreted and interpreted in accordance with the conditions of the times. Because with the determination of the amount and size of the provision of maintenance to the wife every day or every week, every month or every year, there is certainty for the wife's life in financial management in the household. In practice in this contemporary era, it must be adjusted to the development of prices of basic foodstuffs that apply in their respective countries or regions such as rice, cooking oil, vegetables, and other basic needs. Likewise, among the Hanbali maḥḥab who use the *riṭl* standard, a minimum of two *riṭl* the husband is obliged to provide maintenance to the wife every day must be adjusted to the development of the price of basic foodstuffs prevailing in the country or region. So, if a wife every day for example needs Rp 100,000 in spending money, it means that in one week a husband is obliged to provide maintenance (spending money) of Rp 700,000. From this amount, it can be estimated that a husband in every month is obliged to provide maintenance to his wife in the amount

of Rp 2,800,000. In addition, it is added to the need for clothing (kiswah) every month, for example IDR 500,000. This means that a husband who is poor is obliged to provide maintenance to his wife every month in the amount of IDR 3,300,000. While for husbands whose economic level is middle to upper IDR 6,000,000, and for husbands who are "rich" IDR 10,000,000 to IDR 15,000,000. Such estimates are valid for a country or region where they are domiciled.

In contrast to the Syâfi'i maẓhab, among the Māliki maẓhab and some Hanafī maẓhab scholars, they do not determine the amount of maintenance to the wife, but rather focus on the standard of maintenance by fulfilling the wife's needs (muqaddarah bi al- kifāyah) every month which is adjusted to the tradition (al-'ādah) where they live. Determination of this standard of wife's maintenance seems irrational because it does not set a definite nominal figure every week or every month. In fact, it is very possible that the wife's monthly maintenance will be greater, estimated to reach Rp 10,000,000 to Rp 20,000,000, excluding clothing needs. Meanwhile, what the husband gets every month from the results of his business, for example, is only Rp 5,000,000 to Rp 10,000,000. Under these conditions, it is certain that the wife's maintenance, which is the husband's obligation, will not be fulfilled if it must be in accordance with what has been estimated above.

Based on maqāṣid al-syari'ah, both the stipulation of the amount of maintenance from the Shafī'i maẓhab and the Māliki maẓhab have the same substance, namely the fulfilment of the wife's needs in the household as a manifestation of li maṣāliḥ al-'ibād. This is because to realise a harmonious household life, it needs to be supported by sufficient and adequate finances. However, in practice, it should not be burdensome on the husband's responsibility and ability to provide maintenance to his wife, in accordance with Allah's words in Q.S. al-Ṭalāq (65), verse 7:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قَدَرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا ءَاتَاهُ اللَّهُ لَا يُلْكَفُ اللَّهُ نَفْسًا إِلَّا مَّا ءَاتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ
عُسْرٍ يُسْرًا

Meaning: 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.

In addition, although providing maintenance for the wife is an obligation of the husband, it must not cause harm or misfortune to himself (husband) and to others (wife), because it is contrary to the principle of the benefit of religious teachings. Hadith narrated by Imām Mālik, Abū Dāwūd, Ibn Mājah and Dār Quṭni from Abi Sa'id Sa'ad bin Mālik bin Sinān al-Khudri. The Messenger of Allah Saw. (d. 632 AD) said:

"A person should not cause harm to himself and should not cause harm to others".

The substance of the Prophet's statement is to affirm benefit and negate harm. If the harm is negated, it means that the benefit is affirmed. Thus, based on maqāṣid al-syari'ah, doing harm to oneself and others is absolutely forbidden because it contradicts the benefit of human life. Therefore, it is imperative to eliminate harm wherever it occurs. In line with the fihiyyah rule:

As for the opinion of the Hanbali maẓhab and the majority of Hanafiyyah who do not determine the nominal amount of nafaqah to the wife but are based on fulfilling the wife's needs sufficiently as the Māliki maẓhab both food, clothing and other needs every week or every month is quite burdensome for the husband. Because these needs cannot be estimated with certainty, even though it is based on traditions, situations, and conditions where they live. Meanwhile, the Quran itself (al-Ṭalāq, verse 7) affirms that "no one should be burdened except to the extent of his ability". So the assumption is that in maqāṣid al- shari'ah, in order for hifẓ al-nafs, hifẓ al-nasl and hifẓ al-'aql to be realised and the ideals of building a household life that is sakinah, mawaddah warahmah are well realised, the nominal amount

must be determined so that the maintenance given by the husband to the wife can be estimated for the needs of living every month in this contemporary era.

CONCLUSION

Based on the discussion above, the following conclusions can be drawn: That providing maintenance to the wife is the husband's obligation, both physical and mental maintenance. Nafkah lahir bersifat material, while the inner nafkah is immaterial (abstract), but very decisive for the realisation of a harmonious household, sakinah, mawaddah warahmah. The word "nafkah (al-nafqah)" in the context of contemporary Islamic family law needs to be reconstructed to be relevant to the conditions of husband-and-wife relations in a reciprocal (mubādalah), binding (ṣawābit), and flexible (mutagayyirāt) manner so that the main objective of building a harmonious household life is realised lastingly and well. The principle of providing maintenance to the wife by the husband in maqāṣid al-syari'ah can realise the benefit and harmony of the household and can anticipate the "crucial" evil in the life of large (al-'āilah) and small (al-usrah) families.

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