

# The Concept of *Nāfaqah* in Islamic Law and Women's Right to Financial Support

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**Abstract:** This study aims to investigate how the concept of *nāfaqah* is interpreted and applied in Muslim societies, and how women's financial rights have been recognized and protected within the framework of Islamic law. This study uses library research as one of the main approaches in collecting relevant data and information from various perspectives and viewpoints. The results of the analysis show that although the concept of *nāfaqah* in Islamic law, which requires a husband to provide financial support to his wife, often fails to reflect gender equality, with women sometimes marginalized in terms of financial access and their rights. This practice, which is usually based on patriarchal interpretations, places women in a dependent position, hindering their ability to manage resources to which they are entitled. Therefore, legal reforms are needed to harmonize *nāfaqah* with women's equal financial rights, including the right to an income, inheritance, and fair economic access. Public education and policy changes that support gender equality in financial matters are needed to create a more inclusive, equitable society where women can freely access and control their financial rights without unfair dependence on their husbands.

Kata kunci: Nafaqah, Hukum Islam, Hak Perempuan, Perkembangan Ekonomi.

Abstrak: Kajian ini bertujuan untuk menyelidiki bagaimana konsep *nāfaqah* diinterpretasikan, dan diterapkan dalam masyarakat Muslim, serta bagaimana hak-hak finansial perempuan telah diakui dan dilindungi dalam kerangka hukum Islam. Kajian ini menggunakan metode *library research* sebagai salah satu pendekatan utama dalam mengumpulkan data dan informasi yang relevan dari berbagai perspektif dan sudut pandang. Hasil analisis menunjukkan bahwa meskipun konsep *nāfaqah* dalam hukum Islam, yang mengharuskan suami memberi dukungan finansial kepada istri, sering kali gagal mencerminkan kesetaraan gender, dengan perempuan terkadang terpinggirkan dalam akses keuangan dan hak-haknya. Praktik ini, yang sering kali berlandaskan pada interpretasi patriarkal, menempatkan perempuan dalam posisi tergantung, menghambat kemampuan mereka untuk mengelola sumber daya yang seharusnya menjadi hak mereka. Oleh karena itu, perlu reformasi hukum yang mengharmonisasikan *nāfaqah* dengan hak keuangan perempuan secara setara, termasuk hak atas nafkah, warisan, dan akses ekonomi yang adil. Pendidikan publik dan perubahan kebijakan yang mendukung kesetaraan gender dalam



masalah keuangan sangat diperlukan untuk menciptakan masyarakat yang lebih inklusif, adil, dan perempuan dapat bebas mengakses serta mengontrol hak-hak keuangan mereka tanpa ketergantungan yang tidak adil pada suami.

Keywords: Nafaqah, Islamic Law, Women's Rights, Economic Development.

#### Introduction

*Nāfaqah* is not just a social or moral obligation that a husband must fulfill, but also a religious obligation mandated by Allah to His people, both in and after marriage. In the Qur'an, *nāfaqah* is widely discussed in the context of marital relations, and is also related to women's rights. One of the verses often associated with the concept of *nāfaqah* is Surah Al-Baqarah (2:233), which emphasizes the husband's obligation to provide for his wife during the period of breastfeeding, and to ensure that his wife's fundamental rights, such as food and clothing, are fulfilled in a reasonable manner and according to his ability. This verse also shows that the obligation of *nāfaqah* must be carried out according to each party's ability, reflecting the principle of justice in Islam which prioritizes mutual welfare.

In addition, Surah At-Talaq (65: 6) explains that during the iddah period, a husband still must provide proper housing for his wife who is in the process of divorce. The concept of *nāfaqah* in the context of divorce entitles women to adequate financial support, even after the marital relationship ends. This reflects Islam's concern for the welfare of women, and guarantees that they will not live in hardship after divorce.

The significance of *nāfaqah* can also be seen in the principle of gender justice applied in Islamic law. Although nāfaqah is the husband's obligation, women have financial rights guaranteed by Islam. For example, a wife has the right to be provided for during the marriage, and this right should not be taken lightly. In the context of divorce, women also have the right to receive iddah maintenance, which is maintenance provided by the husband during the iddah period after divorce, to ensure that women are not in a difficult situation after separating from their husbands. This shows that Islam pays attention to women's rights in terms of financial well-being, both in and after marriage.

In addition to *iddah* maintenance, women are also entitled to fair compensation in the event of divorce without apparent cause or if the husband commits an act that harms the wife, such as domestic violence. Islam emphasizes the importance of justice in the relationship between husband and wife, and nāfaqah is one of the main instruments in



achieving this justice.<sup>1</sup> The compensation given to women after divorce must be fair and appropriate to their respective conditions, to protect women's rights and ensure that they are not left in hardship after separating from their husbands.

The social and economic changes taking place in modern Muslim societies bring new challenges to the concept of nāfaqah and women's right to financial support. Changing gender roles, including women's increased participation in the workforce, as well as evolving family dynamics, affect the way this concept is understood and applied in real life.<sup>2</sup> These changes include women's increased participation in the formal workforce, shifts in marriage and divorce patterns, and the evolution of social and cultural values along with globalization and modernization.

Changes in gender roles, for example, have influenced family financial dynamics, where women are no longer just recipients of nafaqah, but also significant financial contributors to the family.<sup>3</sup> This triggers questions about how nāfaqah responsibilities can be adapted to the new reality where both spouses work and contribute economically to the family. This change also highlights the importance of balance and equality in financial responsibilities between husband and wife in accordance with Islamic principles of justice.

It is important to recognize that while Islamic law provides a clear framework in terms of *nāfaqah* and women's financial rights, its application in practice is often complex and dependent on local and cultural contexts. Therefore, the need for a contextual approach and flexibility in interpreting and applying this concept cannot be taken lightly. Thus, the discussion of the concept of nāfaqah in Islamic law and women's right to financial support is not only relevant in a theological and legal context, but also encompasses broad social, economic and cultural aspects.<sup>4</sup> With a holistic understanding and an inclusive approach, it is hoped that these efforts can contribute to the development of a more just, inclusive and sustainable society in the Islamic context.

<sup>&</sup>lt;sup>1</sup> Frangky Suleman et al., "The Review of the Maslahah Mursalah Related to Early Marriage: Implementation and Orientation," *Jurnal Dinamika Hukum* 23, no. 3 (2023): 573–86, https://doi.org/10.20884/1.jdh.2023.23.3.3783.

<sup>&</sup>lt;sup>2</sup> Naznin Tabassum and Bhabani Shankar Nayak, "Gender Stereotypes and Their Impact on Women's Career Progressions from a Managerial Perspective," *IIM Kozhikode Society & Management Review* 10, no. 2 (2021): 192–208, https://doi.org/10.1177/2277975220975513.

<sup>&</sup>lt;sup>3</sup> Moh Rosil Fathony et al., "Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective," *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 105–24, https://doi.org/10.35719/1xjdkk59. <sup>4</sup> Murat Ustaoğlu, "Nafaqa," in *The Palgrave Encyclopedia of Islamic Finance and Economics* (Springer, 2023), 1–5, https://doi.org/10.1007/978-3-030-93703-4\_350-1.



There are the results of several previous studies that have relevance to this field of study. Lynn Welchman in her book explores women's rights issues in Islamic family law, including nafaqah, and provides an analysis of legal reform efforts undertaken to improve protection and justice for women in the context of Islamic family law.<sup>5</sup> Silvers investigates issues of sexual ethics and marriage in Islam, including *nafaqah* as an integral part of a husband's responsibilities towards his wife.<sup>6</sup>

Maimun *et al.* in his research reviews the concept of nāfaqah in Islamic law by taking a *Maqāşid Shari'ah* approach.<sup>7</sup> The study provides in-depth insights into the legal, social, and economic aspects associated with *nāfaqah* in Islam, as well as a comparison with the practice of *nāfaqah* in society. Ferdaus examines women's financial rights in Islam, including nafaqah, with a focus on gender justice aspects.<sup>8</sup> The study highlights the challenges and obstacles women face in obtaining and maintaining their financial rights in different cultural and social contexts. Zirak Barouqi and Hajipour present an analysis of how the concept of nāfaqah is applied in Islam in different Muslim countries. This work provides a comprehensive overview of the different approaches and practices of Islamic law in local and regional contexts.<sup>9</sup>

The results of these studies can be a good starting point to explore and deepen the understanding of the concept of *nāfaqah* in Islamic law and women's right to financial support. By integrating relevant previous research with a holistic and contextual approach, it is hoped that this study can make a significant contribution to the understanding and application of this concept in modern Muslim societies in light of contemporary developments. This is in contrast to previous research that may have focused more on theoretical and traditional aspects, without taking into account the changing social and economic context. As such, this research is expected to provide a more comprehensive

<sup>&</sup>lt;sup>5</sup> Lynn Welchman, *Women's Rights and Islamic Family Law: Perspectives on Reform*, vol. 4 (London & New York: Zed Books, 2004).

<sup>&</sup>lt;sup>6</sup> Laury Silvers, "Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadith, and Jurisprudence," *Journal of Middle East Women's Studies* 4, no. 3 (2008): 135, https://doi.org/https://www.muse.jhu.edu/article/245163. <sup>7</sup> Maimun, Alamsyah, and Imam Syafe'i, "Reconstructing the Meaning of Maintenance in Contemporary Islamic Family Law: A Maqūsid Shari'ah Approach," *RADEN INTAN: Proceedings on Family and Humanity* 1, no. 1 (2024): 406.

<sup>&</sup>lt;sup>8</sup> Jannatul Ferdaus, "Rights of Maintenance of a Muslim Wife under Islamic Law: A Legal Analysis," *Bangladesh Journal of Integrated Thoughts* 13, no. 20 (2017): 31, https://doi.org/10.52805/bjit.v13i20.174.

<sup>&</sup>lt;sup>9</sup> Asghar Zirak Barouqi and Mortaza Hajipour, "An Attitude Towards the Status of the Guarantee of the Wife's Maintenance (Nafaqah)," *Religious Researches* 15, no. 2 (2019): 305, https://doi.org/10.22059/JORR.2019.258180.1008060.



insight into how the concept of nāfaqah and women's financial rights interact with evolving social and economic realities.

#### **Research Methods**

This study uses the library research method to explore data and information related to the concept of nāfaqah in Islamic law and women's financial rights. This method makes it possible to analyze various literature, scientific journals, and books that discuss this topic from multiple perspectives, including from the point of view of gender and justice theory. With this approach, researchers can evaluate various interpretations of nāfaqah in Islamic law and understand whether the concept aligns with the principles of gender equality that should be applied in modern society. Gender theory, which emphasizes the social and economic inequality between men and women, is used to identify how the application of *nāfaqah* often exacerbates women's dependence on their husbands and limits their financial autonomy.<sup>10</sup>

Through a literature analysis, this study also examines justice aspects, assessing whether nāfaqah somewhat provides adequate financial protection for women by their rights as equal individuals. In this context, the social justice theory proposed by John Rawls,<sup>11</sup> which emphasizes the importance of a fair distribution of resources to achieve welfare for all members of society, is relevant to assess whether the principle of nāfaqah in Islamic law creates financial equality for women. Thus, this study aims to provide a strong foundation for a change in the interpretation and application of nāfaqah that is more inclusive, which not only meets the economic needs of the family but also fights for women's rights in the context of gender equality and social justice.

# Discussion

# The Concept of Nāfaqah in Islamic Law

<sup>&</sup>lt;sup>10</sup> Saba Safdar and Natasza Kosakowska-Berezecka, "Gender Through the Lens of Culture," *Psychology of Gender through the Lens of Culture: Theories and Applications*, 2015, 1–14, https://doi.org/10.1007/978-3-319-14005-6\_1; Naila Kabeer, "Gender Equality and Women's Empowerment: A Critical Analysis of the Third Millennium Development Goal 1," *Gender & Development* 13, no. 1 (2005): 13–24, https://doi.org/10.1080/13552070512331332273.

<sup>&</sup>lt;sup>11</sup> John Rawls, *A Theory of Justice* (Cambridge: Massacusetts Havard University, 1971); John Rawls, "Distributive Justice: Some Addenda," in *Natural Law Forum*, vol. 13 (Oxford University Press, 1968), 51–71, https://doi.org/10.1093/ajj/13.1.51; Michael Lessnoff, "John Rawls' Theory of Justice," *Political Studies* 19, no. 1 (1971): 63–80.



The concept of *nāfaqah* in Islamic law has a broad scope and touches on almost all aspects of family life, physically, emotionally, and spiritually. *Nāfaqah* is not only limited to meeting basic needs, such as food, clothing, and shelter, but also covers other more comprehensive needs, including health, education, and the welfare of the family as a whole. In this case, Islam teaches that every individual, especially women and children,<sup>12</sup> has the right to adequate sustenance from other family members, especially from their husband or parents. This concept reflects the strong principle of social welfare in Islamic teachings, which emphasizes that the state and the family must guarantee the fulfillment of every individual's basic needs, so that society's life can run fairly and harmoniously. Islam lays down a clear legal basis that fulfilling the family's basic needs is an inseparable part of social justice, which must be maintained and respected by all family members and society in general.

One of the critical points in the concept of nāfaqah is that it is not only limited to the husband's obligation to his wife and children, but also includes other broader obligations, such as the obligation of children to their parents.<sup>13</sup> This is often overlooked in discussions of more general *nāfaqah*, which focus more on the husband's responsibility to his family. However, in Islamic teachings, the obligation to provide for one's family also applies in the relationship between children and their parents, especially when the parents reach old age or experience economic difficulties. *Nāfaqah* in this context is a reminder of the importance of a sense of responsibility and compassion in the family, which must be reciprocal.

A child, for example, must care for and provide financial support to his or her parents if they are in need. This shows that in Islam, the concept of *nāfaqah* is not one-way and involves mutual care and support between family members. In addition, although nāfaqah is often understood as the husband's obligation to his wife and children, Islamic law also allows for more flexible interpretations, depending on the social, cultural, and economic context in a particular community.

<sup>&</sup>lt;sup>12</sup> Suud Sarim Karimullah, "The Urgency of Building Legal Awareness on Care of Children in the Family," *Amsir Law Journal* 3, no. 2 (2022): 76–86, https://doi.org/10.36746/alj.v3i2.66.

<sup>&</sup>lt;sup>13</sup> Suud Sarim Karimullah, "Empowering Youth: Social Transformation and Islamic Law's Impact on Child Rights," *VARIA HUKUM* 5, no. 2 (2023): 153–69, https://doi.org/10.15575/vh.v5i2.28209.



In some Muslim societies, nāfaqah is a husband's obligation that must be strictly fulfilled, per the classical understanding of religious texts.<sup>14</sup> On the other hand, in more developed societies, nāfaqah can be seen as a shared responsibility between husband and wife, where both parties play a role in meeting the family's needs according to their respective abilities. This is happening in line with the shift in social and economic structures that is taking place in modern Muslim societies, where the role of women in the workforce is increasingly important and can contribute to the family's financial needs.<sup>15</sup>

The interpretation and application of the concept of *nāfaqah* in Muslim societies is also strongly influenced by existing cultural factors. In some countries or regions, more traditional cultural values may still view *nāfaqah* as the exclusive obligation of the husband. In contrast, in others, globalization and the development of a more egalitarian society have encouraged the understanding that *nāfaqah* is a shared obligation, which must be fulfilled reasonably by both husband and wife. Therefore, although there is a uniform basic principle in Islamic law regarding the responsibility to provide maintenance, the manner and form of its application can vary greatly depending on local interpretation and the community context.

This phenomenon of social change is also influenced by global economic dynamics that increasingly affect family life.<sup>16</sup> Economic growth, changes in family structure, and shifts in social values can significantly impact how Muslim societies understand and implement the obligation of nafaqah. In this increasingly connected world, many families live in a multinational or migratory context, where differences in culture and economic background can lead to differences in the understanding and application of nafaqah. In this context, the debate about nāfaqah can become increasingly complex, with some parties wanting to adapt to the needs of modern times, while others cling to stricter traditional interpretations.

<sup>&</sup>lt;sup>14</sup> Aliy Abdulwahid Adebisi and KAMIL ADELEKE ADEYEMI, "Arabic Polysemous Words Used in the Qur'ān; A Study of the Word Nafaqa," *International Journal of Linguistics, Literature and Translation* 6, no. 8 (2023): 8–17, https://doi.org/10.32996/ijllt.

<sup>&</sup>lt;sup>15</sup> Suud Sarim Karimullah, "Reinterpretation of Women's Position in Islam Throught Ta'wil KH. Husein Muhammad" (Arjis, 2022).

<sup>&</sup>lt;sup>16</sup> Haerozi Haerozi et al., "Preserving Cultural Heritage in Marriage: Exploring Meanings of Kebon Odeq Tradition in the Sasak Community of Central Lombok, Indonesia," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 13, no. 2 (2023): 203–28, https://doi.org/10.15642/alhukama.2023.13.2.203-228.



Changes in family structure also affect the understanding of nafaqah. In the past, a more patriarchal family structure often placed the husband as the sole breadwinner, while the wife was responsible for domestic affairs. However, in the modern era, where many women work and have their income, the understanding of *nāfaqah* obligations is shifting. Some may argue that in this context, husbands and wives have a shared responsibility to meet the family's financial needs, although the primary responsibility remains with the husband.

On the other hand, some argue that wives still have the right to earn a living even if they work, because this right is already specified in Islamic law and does not depend on the status of the wife's employment. However, despite these differences of opinion, it is essential to note that the understanding and practice of nāfaqah must always refer to the principles of justice and family welfare. Islam emphasizes that every family member has the same right to support and protection, especially in meeting basic needs such as food, clothing, shelter, and education. Therefore, although the interpretation and application of nāfaqah may vary, the essence of this obligation remains to ensure that all family members live in prosperity, without anyone feeling neglected or marginalized.

With the growing development of society and globalization, it is undeniable that the concept of nāfaqah in Islamic law also needs to be updated and adapted to the needs of the times. An increasingly advanced society, with changes in social and economic structures, requires a more flexible and dynamic understanding of this obligation. This is important so that Islamic law remains relevant and can address the challenges in modern family life. Therefore, scholars and religious figures must continue conducting studies and discussions on how *nāfaqah* can be applied fairly and by the needs of a developing society.

#### Women's Right to Financial Support

The right of women to financial support is a crucial element in the pursuit of gender equality and equity in society. In numerous cultures and societies, women frequently encounter obstacles in their pursuit of equal access to financial and economic resources. This can be attributed to a multitude of factors, including patriarchal social norms, gender



discrimination in the workplace, and institutional structures that fail to uphold women's rights.<sup>17</sup>

The significance of women's entitlement to financial assistance underscores the necessity for economic autonomy and financial stability for women. In many cases, women require equal access to income and financial resources in order to meet their own and their families' basic needs. The right to work, equal access to education, and access to financial services are fundamental to the realization of women's right to fair and equal financial support. Nevertheless, social and economic realities frequently impede women's ability to secure sufficient financial resources. For example, gender discrimination in the workplace can impede women's capacity to secure the same positions as men and to receive equal remuneration.<sup>18</sup> Furthermore, women frequently have less access to financial resources, such as land, property, or credit, which can impede their capacity for economic independence.

Furthermore, social and cultural norms often dictate the economic roles and responsibilities of women within the family. In Islamic law, for instance, the concept of nāfaqah underscores the husband's responsibility to furnish financial sustenance to his wife and children. Nevertheless, in practice, the implementation of this concept is frequently uneven, resulting in women being marginalized with regard to access to financial resources. Furthermore, the importance of advocating for women's right to financial support is closely intertwined with the issue of domestic and economic violence. The financial dependence of women on their partners often results in economic dependency, which can render them vulnerable to violence and oppression in their relationships. The ability of women to exercise control over their own financial resources can serve as an effective means of safeguarding themselves from adverse circumstances.

At the international level, efforts to strengthen the protection of women's rights to financial support have been a significant focus of international organizations and countries worldwide. One crucial instrument governing this is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the United Nations

<sup>&</sup>lt;sup>17</sup> Suud Sarim Karimullah and Siti Rutbatul Aliyah, "Feminist Criticism of Traditional Understanding of Women's Roles in Islam," *An-Nisa*? *Journal of Gender Studies* 16, no. 2 (2023): 21, https://doi.org/10.35719/annisa.v16i2.177.

<sup>&</sup>lt;sup>18</sup> Suud Sarim Karimullah et al., "Rethinking Gender In Islamic Law," *Musãwa Jurnal Studi Gender Dan Islam* 23, no. 1 (2024): 99–113, https://doi.org/10.14421/musawa.2024.223.99-113.



(UN) in 1979.<sup>19</sup> This convention underlines the importance of equal rights for women in various aspects of life, including access to economic and financial resources. CEDAW firmly states that discrimination against women in any form must be eliminated, and every country that ratifies this convention is obliged to guarantee the right of women to obtain financial support equal to that of men. Through this convention, the UN and member states are committed to creating policies that give women greater access to economic resources in education, employment, or adequate financial services.

In addition to CEDAW, other international organizations are actively fighting for women's rights in terms of financial support. The United Nations, through its various agencies and programs, such as UN Women, has advocated for increasing women's access to different economic opportunities, including education, skills training, and access to business capital. The UN also supports initiatives to improve women's welfare by providing more inclusive financial services, which can accommodate women's needs in entrepreneurship or accessing financing for personal and family needs.

Not only that, the UN also emphasizes the importance of women's empowerment in the world of work, so that they can earn an income equal to men and have a stronger position in economic and financial decision-making at the national and global levels. However, despite several positive steps taken by international organizations and UN member states, the challenges of addressing gender inequality in terms of access to financial support are still very significant. Existing gender inequality is structural and strongly influenced by cultural, social, and political factors inherent in society.

In many countries, the role of women in the economy is still considered limited, both because of traditional barriers that prevent them from entering the workforce, and because of injustices in the education and employment systems that view women as secondary entities in terms of income and financial management.<sup>20</sup> Even in developed countries, the wage gap between men and women remains a serious problem, which

<sup>&</sup>lt;sup>19</sup> Göran Melander, Gudmundur Alfredsson, and Leif Holmström, "Convention on the Elimination of All Forms of Discrimination against Women," in *The Raoul Wallenberg Institute Compilation of Human Rights Instruments* (Brill | Nijhoff, 2004), 223–37, https://doi.org/10.1163/9789047412878\_024.

<sup>&</sup>lt;sup>20</sup> Kristin Mammen and Christina Paxson, "Women's Work and Economic Development," *Journal of Economic Perspectives* 14, no. 4 (2000): 141–64, https://doi.org/10.1257/jep.14.4.141; Saskia De Klerk and Martie-Louise Verreynne, "The Networking Practices of Women Managers in an Emerging Economy Setting: Negotiating Institutional and Social Barriers," *Human Resource Management Journal* 27, no. 3 (2017): 477–501, https://doi.org/10.1111/1748-8583.12151.



prevents women from obtaining financial well-being equal to their male counterparts. This shows that even though many policies support gender equality, there are still significant obstacles to ensuring that women indeed have equal rights in accessing economic and financial resources.<sup>21</sup>

One of the root causes of this inequality is women's lack of access to adequate education and training. In many parts of the world, especially in developing countries, women still face difficulty obtaining quality education.<sup>22</sup> Cultural and social factors often prevent women from continuing their education or choosing careers that can support their financial independence. In countries with strong patriarchal traditions, women are usually seen only as housewives who should depend on their husbands financially, so they are not allowed to develop skills or find jobs that can increase their income.

The inability to obtain proper education and skills causes women to be trapped in low-wage jobs or even to be unemployed, which ultimately limits their ability to get appropriate financial support. In addition, although many countries have ratified CEDAW and implemented policies that support women's economic empowerment, not all of these policies are effectively implemented in the field. Weak implementation, inconsistencies in law enforcement, and a lack of coordination between various government agencies are often significant obstacles to strengthening women's rights regarding access to economic resources.

In addition to social and cultural issues, financial issues are also a significant obstacle in ensuring that women have fair access to financial support. Although they have grown rapidly in recent decades, financial services are still often inaccessible to women, especially in developing countries. Many women cannot access bank accounts, credit, or loans, which limits their ability to invest in education, business, or even meet their basic needs. Several studies show that women are more likely to face structural barriers in obtaining loans or

<sup>&</sup>lt;sup>21</sup> Nur Insani et al., "Empowering Muslim Women: Bridging Islamic Law and Human Rights with Islamic Economics," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 88–117, https://doi.org/10.18860/j-fsh.v16i1.26159.

<sup>&</sup>lt;sup>22</sup> Asif Islam and Mohammad Amin, "Women Managers and the Gender-Based Gap in Access to Education: Evidence from Firm-Level Data in Developing Countries," *Feminist Economics* 22, no. 3 (2016): 127–53, https://doi.org/10.1080/13545701.2015.1081705.



business capital, either due to an inability to meet the financial institutions' requirements or due to a lack of collateral or assets to support the loan.<sup>23</sup>

The lack of financial literacy among women also significantly exacerbates this inequality, as many women lack the proper knowledge or skills to manage their finances. However, despite the many challenges, several positive initiatives have been taken to address these issues. Various women's economic empowerment programs, run by the government and non-governmental organizations, have successfully provided women with the opportunity to get the education and training they need to improve their skills and capacity in the workforce. However, a more holistic and integrated approach is required to address more profound issues. This involves changes in broader social, cultural, and economic policies to remove the barriers that prevent women from obtaining equal financial support to men.

In the context of Islamic law, a set of provisions exists that provide protection and guarantees for women's financial rights, whether in the context of marriage, divorce, or other situations.<sup>24</sup> One of the primary tenets of Islamic law is the establishment of justice and equilibrium in the marital relationship, as well as the safeguarding of women's interests in economic and financial matters.<sup>25</sup> In the context of marriage, Islamic law stipulates that the husband is obliged to provide for his wife and family in accordance with the principles of *nāfaqah*. The concept of nāfaqah encompasses the basic necessities of sustenance, attire, and shelter, as well as supplementary requirements that align with the husband's capacity. Consequently, Islamic law ensures that women are entitled to financial assistance from their husbands, and that husbands are obliged to fulfil this responsibility in a fair and responsible manner.

<sup>&</sup>lt;sup>23</sup> Navjot Sandhu, Javed Hussain, and Harry Matlay, "Barriers to Finance Experienced by Female Owner/Managers of Marginal Farms in India," *Journal of Small Business and Enterprise Development* 19, no. 4 (2012): 640–55, https://doi.org/10.1108/14626001211277442.

<sup>&</sup>lt;sup>24</sup> Afthon Yazid, Suud Sarim Karimullah, and Arif Sugitanata, "Comparative Study On Childfree Marriage In Some Selected Countries," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi* 5, no. 2 (2023): 267–84, https://doi.org/10.22515/jurnalalhakim.v5i2.7869.

<sup>&</sup>lt;sup>25</sup> Suud Sarim Karimullah, "The Relevance of the Concept of Justice in Islamic Law to Contemporary Humanitarian Issues," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 8, no. 1 (2023): 83–98, https://doi.org/10.22515/alahkam.v8i1.7654.



Furthermore, Islamic law offers protection for women's financial rights in the context of inheritance.<sup>26</sup> Despite the inheritance system in Islamic law being frequently regarded as contentious due to the discrepancy in the apportionment of assets between men and women, numerous Muslim countries have enacted legislation that guarantees equal inheritance rights for women and men in practice. In the context of divorce, Islamic law also provides protection for women's financial rights, particularly through a mechanism known as "mut'ah," or compensation. Upon filing for divorce (*talaq*), a woman is entitled to receive mut'ah from her husband as compensation for the right to nāfaqah that has been neglected or to ensure her welfare during the iddah period (the waiting period following divorce). This is intended to prevent women from experiencing financial difficulties as a result of divorce and to prevent exploitation or neglect of the newly divorced wife.

Furthermore, Islamic law offers protection and guarantees for women's financial rights through the concept of dower (mahr) in marriage. Dower is a financial right granted by the husband to the wife as part of the marital contract.<sup>27</sup> This demonstrates an acknowledgment of the inherent dignity of women and their rights within the context of marriage. Dower serves not only as a form of economic security for the wife in the event of divorce, but also as an expression of the husband's responsibility to provide financial support for his wife and their family. Furthermore, Islamic law reaffirms the significance of women's entitlement to possess and administer their own assets. Despite the historical tendency for Islamic societies to confer inheritance and family property rights upon men, Islamic teachings explicitly recognize women's entitlement to property ownership and the autonomy to manage it according to their own preferences. This highlights the significance of acknowledging women's financial autonomy within the framework of Islamic law.

In instances where women are unable to secure financial assistance from their spouses or when they assume the role of the household's primary financial provider, Islamic law safeguards their financial rights through the principles of *wakalah* (forgiveness) and *wadiah* (custody). *Wakalah* is a concept that allows women to manage their own finances and

<sup>&</sup>lt;sup>26</sup> Raihanah Abdullah et al., "Financial Support for Women under Islamic Family Law in Bangladesh and Malaysia," *Asian Journal of Women's Studies* 21, no. 4 (2015): 363–83, https://doi.org/10.1080/12259276.2015.1106853.

<sup>&</sup>lt;sup>27</sup> Hafiz Muhammad Siddique and Muhammad Atif Aslam Rao, "The Protection of Woman's Right to Dower in Islamic Law," *Pakistan Journal of Gender Studies* 18, no. 1 (2019): 57, https://doi.org/10.46568/pjgs.v18i1.24.



property. *Wadiah*, on the other hand, is a form of custody that involves the deposit or entrustment of property to women for future or family needs.

The implementation of Islamic law on women's financial rights is subject to significant variation depending on the social, cultural, and political context of each Muslim society. Some countries may have more progressive legal systems that effectively protect women's rights, while others may still face challenges in implementing gender equality principles in practice. In some countries, reforms have been implemented to modify family and inheritance laws in a manner that more effectively aligns them with principles of gender equality. For instance, certain countries have enacted legislation that establishes a more egalitarian distribution of inheritance between sons and daughters and affirms women's entitlement to possess and manage their own assets.<sup>28</sup> These measures represent a positive step towards the creation of a more inclusive and progressive legal environment for women.

Nevertheless, in certain regions where patriarchal traditions and norms remain pervasive, Islamic law is frequently applied in a manner that is discriminatory towards women. For example, in some cases, conservative interpretations of Islamic law can result in the mistreatment or neglect of women with regard to their financial rights.<sup>29</sup> This is evident in instances of divorce, where women may not be granted appropriate inheritance rights or fair compensation. Another challenge associated with the implementation of Islamic law is the lack of access that women have to a fair and open justice system. In some instances, women encounter obstacles in their efforts to gain access to the courts or sufficient legal assistance to vindicate their rights. This presents a significant challenge to the protection and enforcement of women's financial rights in situations necessitating legal intervention.

It is also important to note that the empowerment of women in financial matters has benefits not only for the individual women themselves, but also for society and the economy as a whole. When women have greater access to financial resources and economic opportunities, they are more likely to invest their income back into their families and

<sup>&</sup>lt;sup>28</sup> Hari Widiyanto et al., "Maslahah Perspective in the Distribution of Shared Wealth: Analysis of Judge's Decision Number 584/Pdt. G/2021/PA. Pwr," *Jurnal Keislaman* 7, no. 1 (2024): 88-89, https://doi.org/10.54298/jk.v7i1.4015.

<sup>&</sup>lt;sup>29</sup> Mukhammad Nur Hadi, "Husband's 'Iddah in Indonesian Islamic Law Context: Insights from the Fatwa Approach of the Indonesian Women's Ulema Congress," *AL-HUKAMA: The Indonesian Journal of Islamic Family Law* 13, no. 2 (2023): 320, https://doi.org/10.15642/alhukama.2023.13.2.297-323.



communities, which can, in turn, lead to improvements in social welfare and development.<sup>30</sup> Furthermore, women can act as agents of change in the reduction of poverty and socio-economic inequality.

#### Legal Reforms to Strengthen Women's Financial Rights

Legal reform to strengthen women's financial rights in the context of Islamic law and the principle of gender equality is a complex and challenging issue. It involves the need to formulate policies and norms that combine religious teachings with modern demands for social justice, especially in fulfilling women's financial rights. In this case, nafaqah, as the husband's obligation to provide financial support to his wife and children, becomes a controversial meeting point in the effort to achieve gender equality within the framework of Islamic law. On the one hand, nāfaqah in the traditional context of Islam places the husband as the party with financial obligations to the family. However, on the other hand, in developing the modern world that prioritizes gender equality and women's rights, protecting women's financial rights requires a more holistic and reformist approach.

In this modern era, women's rights to financial support focus on basic needs and fair access to education, employment, and other economic opportunities.<sup>31</sup> Many international legal systems, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), emphasize the need to eliminate discrimination against women in various sectors, including the economic sector. This convention recognizes that providing for women is part of their human rights, which must be protected by law and pursued equally by the state. However, despite international legal instruments supporting gender equality, there is still a disconnect between theory and practice in many countries, especially in the context of the relationship between women, the economy, and religion.<sup>32</sup>

One of the significant challenges that arises in the effort to harmonize Islamic law and women's rights is the traditional understanding that provision is the primary right that is only given to the wife by the husband. In contrast, women are often trapped in financial

<sup>&</sup>lt;sup>30</sup> Arif Sugitanata et al., "Pemberdayaan Perempuan Melalui Pendidikan Islam Progresif Suud Sarim Karimullah: Analisis Strukturalisme Dan Implikasinya," *Muadalah* 12, no. 1 (2024): 9-10, https://doi.org/10.18592/muadalah.v12i1.12151.

<sup>&</sup>lt;sup>31</sup> Shahra Razavi, "The 2030 Agenda: Challenges of Implementation to Attain Gender Equality and Women's Rights," *Gender & Development* 24, no. 1 (2016): 25–41, https://doi.org/10.1080/13552074.2016.1142229.

<sup>&</sup>lt;sup>32</sup> Lisa Blaydes and Drew A Linzer, "The Political Economy of Women's Support for Fundamentalist Islam," *World Politics* 60, no. 4 (2008): 576–609, https://doi.org/10.1353/wp.0.0023.



dependence on their husbands.<sup>33</sup> This leads to women's inability to access complete control of family finances, which has the potential to curb their financial freedom and opportunities to participate in broader economic activities. In this context, although recognized, women's right to earn a living is often seen as left to the husband's authority, considering women's rights to determine the direction of the family finances or even to take part in financial decision-making.

As times change and more women actively participate in the world of work and business, the need arises to reform the understanding of nafaqah. In many contemporary Muslim societies, women are not only responsible for household affairs but also play a role in earning a living, and they often have an income equal to or even greater than that of their husbands. This is where legal reform is needed, namely by laying a more inclusive foundation in understanding nāfaqah as a mutual obligation between husband and wife, based not only on patriarchal tradition, but also on the principles of gender equality and economic justice.

Legal reform in this context not only focuses on giving women financial rights in the form of fairer livelihoods, but also on giving women the freedom to manage their finances, whether in work, investment, or family wealth management. In progressive Islamic law, this can be realized by broadening the definition of nafaqah, not only as a husband's obligation to his wife, but also as a shared obligation that includes fair financial contributions from both parties. In many countries, these changes could include updates to inheritance laws, marital property, and women's rights in divorce, where women are given greater rights to manage and access family wealth.<sup>34</sup>

A progressive approach to nāfaqah can also be seen in the context of women's rights in divorce. In traditional Islamic law, women often have to accept limited maintenance during the iddah period, and this is sometimes not enough to ensure their continued livelihood after divorce. Legal reforms that strengthen women's rights in this regard can include the provision of long-term alimony or fairer financial compensation, which can

<sup>&</sup>lt;sup>33</sup> Erum Shah, Sayed Lutful Hasnain Shah, and Aamir Kibria, "Trapped by Fate and Finances: Women's Fatalistic Attitude, Economic Dependence, and Domestic Violence in Oppressive Marriages.," *Review Journal of Social Psychology & Social Works* 3, no. 1 (2025): 603–12.

<sup>&</sup>lt;sup>34</sup> Anthony Luyirika Kafumbe, "Women's Rights to Property in Marriage, Divorce, and Widowhood in Uganda: The Problematic Aspects," *Human Rights Review* 11, no. 2 (2010): 199–221, https://doi.org/10.1007/s12142-008-0112-0; Narendra Subramanian, "Legal Change and Gender Inequality: Changes in Muslim Family Law in India," *Law & Social Inquiry* 33, no. 3 (2008): 631–72, https://doi.org/10.1111/j.1747-4469.2008.00117.x.



enable women to be economically independent and not dependent on their husbands after divorce. This is very important, given the high divorce rate in many Muslim societies, where many women find it difficult to move on with their lives after divorce due to a lack of adequate financial support.

This legal reform is not only limited to changing the applicable rules, but also requires changes in how society views women and their role in the family economy. In many Muslim societies, there is an understanding that the role of women in financial matters is secondary to that of men, who are often defined as the family leader.<sup>35</sup> Therefore, education and public awareness play a vital role in addition to legal reform. Education about women's financial rights, especially in countries with low levels of legal literacy, should be given special attention.<sup>36</sup> In addition, financial training and women's empowerment programs designed to improve women's knowledge and skills in managing money and investments are essential to creating absolute gender equality in financial access.<sup>37</sup>

In a broader context, it is essential to highlight that Islamic law has the potential to support gender equality in terms of financial rights, provided that it is interpreted and applied in a way that is more responsive to current socio-economic dynamics. Contemporary Islamic scholars and thinkers can play a key role in formulating new, more inclusive interpretations that not only consider the husband's obligations to his wife, but also emphasize the obligation of both parties to contribute to the fair fulfillment of family needs. This could include changes in the interpretation of Qur'anic and hadithic texts relating to nafkah, so th so thatlamic law can align with the values of gender equality and social justice desired by modern societies.

Legal reforms that integrate gender equality in fulfilling women's financial rights must also recognize the importance of social and cultural diversity in various Muslim countries. Each country has unique social and economic conditions, which affect how they implement the concept of nafaqah. Therefore, legal reform cannot be applied uniformly, but the specific needs of each community must be considered. By introducing more flexible

<sup>&</sup>lt;sup>35</sup> Suud Sarim Karimullah, Cinta Dalam Bingkai Hukum (Jakarta: Bhuana Ilmu Populer, 2024).

<sup>&</sup>lt;sup>36</sup> Tabea Bucher-Koenen et al., "How Financially Literate Are Women? An Overview and New Insights," *Journal of Consumer Affairs* 51, no. 2 (2017): 255–83, https://doi.org/10.1111/joca.12121.

<sup>&</sup>lt;sup>37</sup> Rosdalina Bukido, Muhammad Azhar Muslihin, and Suud Sarim Karimullah, "Family Economic Empowerment Strategies in Gangga II Village: A Maqashid Shariah Perspective," *Al-Mujtahid: Journal of Islamic Family Law* 5, no. 1 (2025): 1–12, https://doi.org/10.30984/ajifl.v5i1.3438.



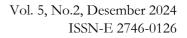
and inclusive principles of gender equality, Islamic law can be a powerful tool for empowering women, not only financially but also in many other aspects of life.

# Conclusion

The concept of *nāfaqab* in Islamic law is supposed to protect women's financial rights, with the husband obliged to meet the basic needs of his wife according to his ability. However, applying nāfaqah often does not reflect the principle of gender equality. Patriarchal interpretations marginalize women in terms of financial access and sometimes even neglect them in terms of livelihood. This injustice worsens women's economic position, prevents them from accessing resources that should be their right, and reinforces broader social inequalities. To achieve true gender equality, there needs to be legal reform that harmonizes *nāfaqah* with women's equal financial rights. This includes the right to a fair livelihood, inheritance, ownership, and economic access. This reform must involve legal recognition of women's rights and social changes emphasizing gender equality in financial matters. Public education and policies that promote awareness of women's rights on economic issues are essential steps towards a more just and inclusive society, where women can access and control their resources without unfair dependence on their husbands.

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