

## **Analysis of the Rights and Obligations of Husband and Wife in the Compilation of Islamic Law: A Review from the Perspective of Gender Equality**

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### **ABSTRACT**

**Purpose** – This research aims to identify the manifestation of gender injustice in the Compilation of Islamic Law, especially in the chapter on the rights and obligations of husband and wife.

**Methods** – The research method used is library research with qualitative analysis.

**Findings** – The analysis shows that Article 79 Paragraph 1 creates stereotypical gender roles by reinforcing the traditional roles of husband and wife. On the other hand, Article 79 Clause 2, and Clause 3 reflect the principles of gender equality and justice in legal rights. The husband's duties, as set out in Article 80, involve a guiding role and financial responsibility, with the issue of discrimination in women's education in Article 80 Clause 3. The wife's duties, as outlined in Article 83, create the potential for gender injustice through psychological pressure, with Article 83 Paragraph 2 indicating a double burden in managing household affairs. Finally, Article 84 Paragraph 1 highlights the potential for gender injustice in judging the wife as nusyuz (defiant), creating inequality in response to acts of defiance from both parties.

**Research implications** – In the Compilation of Islamic Law, marriage aims to achieve a household life that is sakinah, mawaddah, and rahmah (peaceful, loving, and affectionate). To achieve this goal, married couples must commit to fulfilling their rights and obligations according to their respective abilities.

**Originality/value** – This research is important to identify and explain the differences in status between husbands and wives, opening up space for reflection and a better understanding of aspects of gender equality in the context of Islamic marriage.

**Keywords:** *Rights and Obligations of Husband and Wife, Compilation of Islamic Law, Gender Equality*

### **Introduction**

An issue that often arises in the context of family is gender inequality. While marriage is considered a religious institution that promotes the goal of sharing affection and achieving mutual blessings, the reality is that marital relationships are not always equitable

for all individuals involved.<sup>1</sup> Both men and women are expected to maintain fairness in the marital relationship.<sup>2</sup> In dealing with various problems in the family, it is important to address and unravel gender inequalities that may arise so that the family can become a balanced and fair environment for all its members.<sup>3</sup>

In Javanese culture, there is a tendency to view women as men's companions, especially as life partners who have a lower status, and the destiny of women, especially wives, is often considered to be largely dependent on men, namely their husbands.<sup>4</sup> This reflects social structures that reinforce gender inequality in marital relationships. However, the basic principle of justice asserts that every individual, regardless of gender, has equal dignity. Furthermore, all people have rights that they have earned, along with obligations that they must fulfill as part of life, including in the context of the family, with its demand for good morals.<sup>5</sup>

The purpose of marriage is explained in the Compilation of Islamic Law, marriage is intended to build a family life that is peaceful, loving, and full of blessings known as *sakinah*, *mawaddah*, and *rahmah*. For this goal to be achieved, husbands and wives need to commit to carrying out their rights and obligations according to their respective abilities.<sup>6</sup>

The rights and obligations of husband and wife in Islamic Law are regulated in Part XII of the Compilation of Islamic Law, which consists of 8 articles ranging from Article 77 to Article 84. Some of these articles illustrate the difference in status between husband and wife.<sup>7</sup> Although the Compilation of Islamic Law attempts to protect women's rights, a comparison with classical fiqh books shows that the concepts in the Compilation of Islamic Law still tend to prioritize men over women. Therefore, there are still articles in

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<sup>1</sup> Sifa Mulya Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam," *Al-Syakhsyiyah Journal of Law and Family Studies* 3, no. 1 (2021): 98–116.

<sup>2</sup> Faqihuddin Abdul Kodir, *Qira'ah Mubadalah* (Yogyakarta: IRCiSoD, 2019).

<sup>3</sup> Syukron Mahbub, "Pendidikan Keluarga Berwawasan Gender Dalam Perspektif Islam," *Musawa Jurnal Studi Gender Dan Islam* 21, no. 1 (2022): 65–80, <https://doi.org/10.14421/musawa.2022.211.65-80>.

<sup>4</sup> Husein Muhammad, *Fiqh Perempuan* (Yogyakarta: IRCiSoD, 2019).

<sup>5</sup> Siska Lis Sulistiani and Intan Nurrachmi, "Hak Finansial Perempuan Dalam Keluarga Menurut Hukum Keluarga Islam Di Indonesia," *Musawa Jurnal Studi Gender Dan Islam* 20, no. No. 2 (2021) (2021): 175–86.

<sup>6</sup> Pasal 3 Kompilasi Hukum Islam

<sup>7</sup> Lina Nur Anisa, "The Psychological Well-Being in Building Resilience of Indonesian Muslim Families: A Study of Hussein Muhammad's Thought," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (July 2023): 163–77, <https://doi.org/10.18860/j-fsh.v15i1.22102>.

the Compilation of Islamic Law that do not fully recognize the position of women (wives) as equal to that of men (husbands).<sup>8</sup>

Several studies have been conducted on the rights and obligations of husband and wife. One of them is a study conducted by Nurani on the Relationship between the Rights and Obligations of Husband and Wife in the Perspective of Islamic Law. In the study, Nurani argues that in the context of the household, there are equal rights and obligations between husband and wife. This includes the wife's rights to the husband, the husband's rights to the wife, as well as the joint rights owned by both.<sup>9</sup> The article written by Samsul Zakaria discusses *nafkah* in the Compilation of Islamic Law (KHI) and how this *nafkah* regulation is assessed from the perspective of gender equality. The article explains the evaluation of nafkah regulations in KHI in the context of gender justice.<sup>10</sup> In addition, the article by Agus Hermanto, Habib Ismail, and Iwanuddin explains that to achieve justice in the domestic environment, values such as deliberation, democracy, and mutual kindness between husband and wife as partners in the journey of family life are important.<sup>11</sup>

This study aims to identify the manifestations of gender inequality in the Compilation of Islamic Law, especially in the section that discusses the rights and obligations of husband and wife. This article discusses the following matters: an overview of marriage, the rights, and obligations of husband and wife listed in the Compilation of Islamic Law, a general understanding of gender roles, and an assessment of rights and obligations by utilizing a gender approach.

## Methods

This research is a literature review with qualitative analysis. The data collection process involves classifying regulations related to the rights and obligations of husband and wife in the Compilation of Islamic Law. In addition to data sources from the Compilation of Islamic Law, this article also utilizes other secondary data sources, such

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<sup>8</sup> Siti Nurjanah et al., “Al-Mubâdalah Fî Mafhûmi Fiqhi al-Marâh al-Mu’âshirah Bî Indûnîsiyâ,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (July 2022): 189–215, <https://doi.org/10.19105/althkam.v17i1.6140>.

<sup>9</sup> Nurani, “Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam.”

<sup>10</sup> Samsul Zakaria, “Nafkah Dan Ketimpangan Gender (Analisis Nafkah Dalam Kompilasi Hukum Islam),” *Ijtihad* 36, no. 2 (2020): 51–66.

<sup>11</sup> Agus Hermanto, Habib Ismail, and Iwanuddin, “Menjaga Nilai-Nilai Kesalingan Dalam Menjalankan Hak Dan Kewajiban Suami Istri Perspektif Fikih Mubadalah,” *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 4, no. 1 (2022): 43–56, <https://doi.org/10.20885/mawarid.vol4.iss1.art3>.

as books, journals, and other relevant documents. Once the data is collected, analysis is conducted by applying a gender approach.

## **Result**

### ***Overview of Marriage***

Marriage is an agreement between a man and a woman to start a life together as husband and wife. Once this agreement is signified by a contract, both parties acquire rights and responsibilities that they did not have before.<sup>12</sup> In their role as a married couple, both have an important role in carrying out all their household duties. In addition to the obligations, they must fulfill, both husbands and wives have inherent rights, and as such, it is expected that they will exercise these rights and obligations in a fair and balanced manner.<sup>13</sup> After marriage, religion introduces five key principles that support family stability and promote the achievement of the goals of building a household. These principles include:

1. Holding on to strong marriage vows (*mitsaqon ghalidzā*, QS. An-Nisa': 21).
2. Principles of partnership and mutual support (*zawaj*, QS. Al-Baqarah: 187).
3. Act with compassion and willingness (*taradin*, QS. Al-Baqarah: 233).
4. Act with compassion and willingness (*mu'asyarah bil ma'ruf*, QS. An-Nisa': 19).
5. Discuss and deliberate together (*musyawarah*, QS. Al-Baqarah: 233).

With the determination to live by these five principles, marriage has the potential to bring about strong love, affection, trust, and commitment. A family that embraces these values can be the foundation for future generations of quality and a good legacy.<sup>14</sup>

The resilience of gender-equitable marriages is an important basis for starting the journey of life together as a family. The gender justice principles that form the foundation of marriage provide a fair framework for husbands and wives. With a foundation of gender justice that represents the daily life of the family, there is an opportunity for husbands and wives to treat each other fairly in carrying out their roles and functions in the family. A marriage that prioritizes this principle is a joint effort of husband and wife

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<sup>12</sup> Beni Ahmad Saebani, *Fiqh Munakahat 2* (Bandung: Cv Pustaka Setia, 2020).

<sup>13</sup> Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam."

<sup>14</sup> Muhammad Najmi Fajri and Waryono, *Kawin Lari Identik Dengan Kawin Sirri? Praktek Isbat Nikah Di Pengadilan Agama Sungguminasa Dalam Buku Nilai-Nilai Budaya Dan Keadilan Bagi Perempuan Di Pengadilan Agama Indonesia : Praktik Terbaik* (Yogyakarta dan Oxford: SUKA-Press dan GCRF – Oxford University, 2019).

to overcome obstacles that may arise in the performance of their roles by enhancing effective interaction and communication.<sup>15</sup>

### ***Rights and Obligations of Husband and Wife in the Compilation of Islamic Law***

Following Chapter X of the 1945 Constitution of the Republic of Indonesia which regulates Citizens and Residents, Article 27 affirms that all citizens have an equal position within the framework of law and government, and are obliged to respect the law and government without exception.<sup>16</sup> This article highlights the importance of balanced rights and responsibilities, including the right to be treated fairly in a system of law and government and the responsibility to respect law and government.<sup>17</sup>

In the Big Indonesian Dictionary, the term "hak" refers to something right, ownership, authority, or power to do something based on certain laws or rules.<sup>18</sup> According to Sukamto Notonegoro, rights are the ability to receive or do something that should be received or done by certain parties, which cannot be taken over by other parties, and can be enforced by law.<sup>19</sup>

According to the KBBI, "obligation" refers to something that is required or a task that must be carried out and completed properly.<sup>20</sup> This indicates that obligations are responsibilities or work that must be done with full seriousness. In the relationship between husband and wife, there should be a balance and equality between their rights and responsibilities, following their respective roles and positions. By fulfilling their responsibilities responsibly, this allows for a fair realization of the rights of both.<sup>21</sup>

The rights and duties of husband and wife are regulated in the Compilation of Islamic Law in Chapter XII which reviews the Rights and Duties of Husband and Wife. The initial section explains the joint responsibilities of husband and wife through Article 77 and Article 78, while the next section discusses the position of husband and wife in Article 79. The section after that outlines the husband's duties in Article 80, the next section discusses

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<sup>15</sup> Herien Puspitawati, *Ketahanan Perkawinan Berkeadilan Gender* (Bogor: PT Penerbit IPB Press, 2017).

<sup>16</sup> *UUD 1945 & Amandemen* (Jakarta: Pustaka Sandro Jaya, 2020).

<sup>17</sup> Asrizal Saïin et al., "The Property Rights Regulation, Semenda Marriage, and Exploring the Determinants in ASEAN Countries," *Journal of Human Rights, Culture and Legal System* 3, no. 2 (May 2023): 134–59, <https://doi.org/10.53955/jhcls.v3i2.68>.

<sup>18</sup> Badan Pengembangan dan Pembinaan, "KBBI Daring," 2016, <https://kbbi.kemdikbud.go.id/entri/hak>.

<sup>19</sup> Sonny Sumarsono, *Ekonomi Manajemen Sumber Daya Manusia Dan Ketenagakerjaan* (Yogyakarta: Graha Ilmu, 2003).

<sup>20</sup> Badan Pengembangan dan Pembinaan, "KBBI Daring."

<sup>21</sup> Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam."

the place of residence in Article 81, and another section reviews the obligations of husbands who have more than one wife. The last section focuses on the wife's obligations in Article 83 and Article 84.<sup>22</sup>

In this study, the rights and responsibilities of husband and wife covered in the second, third, and sixth sections will be explored and evaluated, covering aspects such as the position of the husband and wife, the husband's duties, and the wife's duties, following the provisions of these articles.

*Position of husband and wife*

Article 79

- (1) The husband is the head of the family and the wife is the housewife;
- (2) The rights and position of the wife shall be equal to the rights and position of the husband in the household and society;
- (3) Each party is entitled to perform legal acts.

*Duties of the Husband*

Article 80

- (1) The husband shall be the guide of his wife and household, but the husband and wife shall decide together on important household matters;
- (2) The husband is obliged to protect his wife and provide her with all the necessities of married life following his ability;
- (3) The husband is obliged to provide religious education to his wife and provide opportunities to learn knowledge that is beneficial for religion, country, and nation.
- (4) Following his income, the husband bears:
  - a. Maintenance, kiswah, and housing for the wife;
  - b. Household expenses, maintenance, and medical expenses for wife and children;
  - c. Education expenses for the child.
- (5) The husband's obligations towards his wife as referred to in paragraph (4) subparagraphs a and b above shall come into effect after the wife's full acceptance;

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<sup>22</sup> Iskandar Budiman, “The Islamic Perspective on The Improvement of Family Economy in The New Normal,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 2021): 252–252, <https://doi.org/10.22373/sjhk.v5i1.8389>.

- (6) The wife may release her husband from the obligations towards her as referred to in paragraph (4) letters a and b;
- (7) The husband's obligation as referred to in paragraph (5) shall be waived if the wife is *nusyuz*.

Obligations of the wife

Article 83

- (1) The primary obligation of a wife is to be physically and mentally devoted to her husband within the limits prescribed by Islamic law;
- (2) The wife shall properly organize and manage the daily needs of the household.

Article 84

- (1) The wife may be deemed *nusyuz* if she refuses to fulfill the obligations as referred to in paragraph 83(1) except with valid reasons;
- (2) While the wife is in *nusyuz*, the husband's obligations towards his wife as referred to in Article 80 paragraph (4) letters a and b shall not apply except for matters in the interests of his children.
- (3) The husband's obligation referred to in paragraph (2) above shall resume after the wife has become *nusyuz*;
- (4) The determination of the existence or non-existence of nusyuz on the part of the wife must be based on valid evidence.

### ***Overview of Gender***

In gender analysis, a crucial first step is to understand the concepts of sex and gender. Sex generally refers to the biological differences between men and women, which include aspects such as the chemical and hormonal composition of the body, physical structure, reproductive capabilities, and other biological characteristics.<sup>23</sup> These differences are natural and unchangeable, unlike the concept of gender. Gender refers to the roles and responsibilities assigned by society and culture (social construction) to men and women.<sup>24</sup>

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<sup>23</sup> Durotun Nafisah, *Pembaharuan Hukum Keluarga Di Indonesia Rekonstruksi Dalam Perspektif Gender* (Yogyakarta: Hikam Pustaka, 2019).

<sup>24</sup> Ikhlasiah Dalimoenthe, *Sosiologi Gender* (Jakarta Timur: PT Bumi Aksara, 2020).

Social constructions that shape gender concepts over time influence the development of the unique characteristics of each sex.<sup>25</sup> For example, if society identifies male traits as strong and resilient, boys will be educated with the expectation to fulfill these norms from an early age, which then encourages them to adopt traits following society's prescribed gender concepts. Similarly, women will be encouraged to develop traits such as gentleness and motherhood, following the regulated gender concept ideal.<sup>26</sup>

The concept of gender is used as an analytical tool to understand inequalities between men and women and is often associated with women's liberation struggles. This struggle is known by various terms, such as women's emancipation, feminism, or women's liberation, each of which has a different social, political, and cultural historical background.<sup>27</sup> However, all of these terms have a similar goal, which is to fight for the liberation of women from all forms of oppression, including ideology, religion, culture, political structures, and so on.<sup>28</sup>

Today, many women are working outside the home and pursuing careers in fields that were previously more commonly filled by men, such as law, medicine, and engineering.<sup>29</sup> Some women even serve as naval ship leaders or pilot military helicopters. However, household and childcare responsibilities are still often assigned to women, even for those who work full-time outside the home.<sup>30</sup>

Gender differences themselves are not an issue, as long as they do not result in gender injustice. However, the problem is that gender differences have created various forms of injustice, especially against women. Gender injustice is a system and structure that victimizes both men and women.<sup>31</sup> Therefore, to understand how gender differences can

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<sup>25</sup> Efa Rodiah Nur, Fathul Mu'in, and Hamsidar Hamsidar, "The Reconstruction of The Livelihood Concept from A Mubādalah Perspective in Lampung Province," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 2023): 1897–1897, <https://doi.org/10.22373/sjhk.v7i3.17613>.

<sup>26</sup> Alimatul Qibtiyah, "Sensitivitas Gender Dan Pola Komunikasi Mahasiswa/i UIN Sunan Kalijaga Yogyakarta," *Musâra* 16, no. 2 (2017).

<sup>27</sup> Amir Maliki Abitolkha and Limas Dodi, "Socio-Sufistic Trends of Marriage in Creating Harmony in the Postmodern Society of Kampung Arab, Madura: A Perspective on the Theory of Utilitarianism," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (May 2023): 687–687, <https://doi.org/10.22373/sjhk.v7i2.17281>.

<sup>28</sup> Syafiq Hasyim, *Bebas Dari Patriarkisme Islam* (Depok: KataKita, 2010).

<sup>29</sup> Choirunnisa Nur Novitasari, Dian Latifiani, and Ridwan Arifin, "Analisis Hukum Islam Terhadap Faktor Putusnya Tali Perkawinan," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 3, no. 2 (November 2019): 322–322, <https://doi.org/10.22373/sjhk.v3i2.4441>.

<sup>30</sup> Jeffrey S. Nevid, *Gender Dan Seksualitas: Konsepsi Dan Aplikasi Psikologi* (Yogyakarta: Nusamedia, 2009).

<sup>31</sup> Suharjuddin, *Kesetaraan Gender Dan Strategi Pengarusutamaannya*, *Naradidik: Journal of Education and Pedagogy*, vol. 1 (Banyumas: CV. Pena Persada, 2020).

produce injustice, we need to observe the various forms of its manifestation. According to Fakih, there are several manifestations of gender injustice, including:

- a. Marginalization is the placement of women in a position that is less respected or less recognized in society.
- b. Subordination refers to the lower or subordinate status of women in the social or family hierarchy.
- c. Stereotypes refer to inaccurate generalized, or clichéd views of women's roles and characters.
- d. Workload is the burden of additional tasks and responsibilities that are often given to women in their daily lives.
- e. Violence, which includes various forms of physical, emotional, or sexual abuse directed at women.<sup>32</sup>

Gender reflects inequality in the treatment of women and can be reflected in the rights and obligations of husband and wife regulated in the Compilation of Islamic Law. Therefore, gender can change over time, while sex remains unchanged.<sup>33</sup>

## **Discussion**

### ***Analysis of the Rights and Obligations of Husband and Wife in the Compilation of Islamic Law from the Perspective of Gender Equality***

#### **1. Position of Husband and Wife**

- a. Article 79 Paragraph 1 The husband is the head of the family and the wife is the housewife.

The position of the wife in this verse shows the stereotypes or depictions that are generally given to women, assuming that being a housewife means that the responsibility of the household lies entirely with the wife, while in reality, household tasks can be shared jointly by husband and wife.

In addition, this verse also illustrates discrimination, where women are considered unable to be the head of the household or leader. The concept that the husband should be the head of the family has been passed down through

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<sup>32</sup> Mansur Fakih, *Analisis Gender Dan Transformasi Sosial* (Yogyakarta: Pustaka Pelajar, 2008).

<sup>33</sup> Maimun Maimun, Ainul Haq Nawawi, and Abdul Haq Syawqi, "The Development of Fiqh Munākahah (Marriage Jurisprudence) Material Course in Madurese Islamic Universities and Its Relation with Gender Equality and Divorce Prevention," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 15, no. 2 (December 2020): 280–300, <https://doi.org/10.19105/al-lhkam.v15i2.2734>.

generations in Javanese culture and is part of a patriarchal culture. This implies that men have a higher position than women in the family hierarchy.

Sri Suhandjati in her research, shows that high divorce rates can be caused by the dominant behavior of husbands, which can ultimately result in physical, psychological, or economic violence against wives. This suggests the need to re-evaluate leadership practices based on the concept of nature and replace them with interpretations that are more contextual and in line with the concept of gender equality.<sup>34</sup>

- b. Article 79 paragraph 2 stipulates that the rights and status of the wife must be equal to the rights and status of the husband in the context of family life and interaction in society. This provision reflects the principle of gender equality. In the relationship between husband and wife, both have equal rights and positions in the context of family life as well as in interaction with society. In other words, this article emphasizes the significance of gender equality in all aspects of family life and society.
- c. Article 79 paragraph 3 emphasizes that each party has the right to perform legal acts. This paragraph also reflects the principle of gender justice, where both husband and wife have equal rights to perform legal acts. In other words, both have the same ability and authority in terms of legal action, without any discrimination based on gender.

## **2. Husband's obligations towards his wife**

- a. Article 80 paragraph 1 explains that the husband acts as a guide in the household and towards his wife, but in matters of importance in household affairs, decisions are made jointly by the husband and wife. This article does not indicate any gender injustice.
- b. Article 80 paragraph 2 stipulates that the husband has the responsibility to protect his wife and provide all the necessities of life in the household according to his ability. This paragraph shows that the husband has a dual responsibility, namely as the head of the household and as a guide. It should provide room for the husband

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<sup>34</sup> Sri Suhandjati, "Kepemimpinan Laki-Laki Dalam Keluarga: Implementasinya Pada Masyarakat Jawa," *Jurnal THEOLOGIA* 28, no. 2 (2017): 329–50, <https://doi.org/10.21580/teo.2017.28.2.1876>.

and wife to jointly fulfill the needs of life in the household. In other words, this obligation can be carried out jointly by husband and wife.

c. Article 80 paragraph 3 obliges the husband to provide religious education to his wife and allow her to learn knowledge that is beneficial for religion, country, and nation.... This verse reflects discrimination against women. History and culture suggest that religious education, especially in pesantren, was originally intended exclusively for men. This is related to religious views that emphasize the obligation to seek knowledge, which has historically been favored by men. Women were not given equal opportunities in this regard.<sup>35</sup>

In the past, women were only accepted as *Santri* in pesantren in the generation of KH. Bisri Sansuri, with the approval of KH. Hasyim Asy'ari. This shows that women can have deeper religious knowledge than their husbands and can teach religious knowledge to men or their husbands if they have better knowledge in that field.<sup>36</sup>

d. Article 80 paragraph 4 indicates that, based on his income, the husband is responsible for:

1. Providing maintenance, clothing, and shelter for the wife.
2. Bear the household expenses, care, and treatment of the wife and children.
3. Paying for children's education.

Article 80 paragraph 4 indicates that there are dual responsibilities given to the husband in his role as head of the household. However, it is important to note that these needs can be shared with the wife. This is relevant given that many women today also have careers and work outside the home. Therefore, husbands and wives can work together to meet the needs of the household and the education of the children.<sup>37</sup>

### **3. Wife's obligation to husband**

a. Article 83 paragraph 1 instructs that the primary responsibility for a wife is to provide physical and emotional devotion to her husband within the limits

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<sup>35</sup> Shofiatul Jannah and Dwi Hidayatul Firdaus, "Reformulation of the Concept of Iddah in The Compilation of Islamic Law Perspective of Negotiative Hermeneutics," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (December 2023): 286–300, <https://doi.org/10.18860/j-fsh.v15i2.21065>.

<sup>36</sup> Mesraini Mesraini, "Konsep Harta Bersama Dan Implementasinya Di Pengadilan Agama," *AHKAM: Jurnal Ilmu Syariah* 12, no. 1 (September 2014), <https://doi.org/10.15408/ajis.v12i1.980>.

<sup>37</sup> Nevid, *Gender Dan Seksualitas: Konsepsi Dan Aplikasi Psikologi*.

recognized by Islamic law. In this situation, there is potential for the appearance of injustice in the form of psychological pressure on the wife. Psychological violence, as described in Article 7 of the Law on Protection against Domestic Violence (PDKRT), is an act that may create fear, reduce self-confidence, deprive the ability to act, produce feelings of helplessness, and/or cause significant psychological suffering to a person. In this situation, the demand to provide physical and emotional devotion to the husband may have an element of psychological pressure on the wife, which may be a form of gender injustice.<sup>38</sup>

- b. Article 83 paragraph 2 emphasizes that the wife must take care of and organize the daily needs of the household as well as possible. In this context, there is a double burden placed on the wife. In addition to having the responsibility to take care of the household, the wife is also required to organize and manage the daily needs of the household as well as possible. This situation can be an additional burden for the wife, especially if she is sick or in an unhealthy condition. In such situations, wives are still expected to manage the household as well as possible, which can be considered a form of gender injustice.
- c. Article 84 paragraph 1 states that the wife can be considered *nusyuz* (rebellious) if she does not carry out the obligations as described in Article 83 paragraph 1, unless there are valid reasons. In this context, there is potential for manifestations of gender injustice to occur which can be a form of violence. Acts of defiance can arise from both parties, both husband and wife. However, in the context of the rights and obligations of husband and wife, only the wife is considered *nusyuz*. This reflects gender injustice because, in the Quran itself, *nusyuz* is discussed from two perspectives, namely the wife's *nusyuz* towards her husband (QS. An-Nisaa' [4]:34) and the husband's *nusyuz* towards his wife (QS. An-Nisaa' [4]:128).

## **Conclusion**

An analysis of the rights and obligations of husband and wife in the Compilation of Islamic Law reveals gender dynamics in marital relationships. Article 79 Paragraph 1 asserts the traditional role of the husband as head of the family and the wife as housewife, creating gender role stereotypes. While Article 79 Paragraph 2 reflects the principle of

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<sup>38</sup> Hasliza Lubis, "Poliandri Di Kalangan Masyarakat Muslim: Studi Sosiologis Di Kelurahan Bunut Kecamatan Kisaran Barat Kabupaten Asahan," *Al-Istinbath : Jurnal Hukum Islam* 5, no. 1 (May 9, 2020): 1, <https://doi.org/10.29240/jhi.v5i1.1198>.

gender equality by recognizing the rights and status of the wife as equal to the husband, Article 79 Paragraph 3 demonstrates the principle of gender justice in legal rights by eliminating sex discrimination. The husband's obligations, as stipulated in Article 80, include a guiding role and financial responsibility, but the issue of discrimination in women's religious education arises in Article 80 Paragraph 3. The wife's obligations, as stipulated in Article 83, create potential gender injustice in the form of psychological pressure, and Article 83 Paragraph 2 indicates the double burden of managing the household. In addition, Article 84 Paragraph 1 highlights the potential for gender injustice in judging the wife as nusyuz, creating inequality in responding to acts of defiance from both parties.

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