

## Rights and Obligations of Husbands to Wife According to Law No. 1 of 1974 Article 34 and Islamic Law

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### ABSTRACT

The differences in the concepts of rights and responsibilities outlined in Article 34 of Law No. 1 of 1974 and Islamic law create challenges for Indonesian society, especially regarding the roles of husbands and wives within a marriage. This study aims to explore these rights and obligations, comparing how they are defined in both legal frameworks and identifying their similarities and differences. This research is a library-based study using a comparative approach to analyze both perspectives. The findings show that, at their core, both systems prioritize family well-being and harmony. Both emphasize a husband's duty to provide financial support and protection for his wife. However, the key difference lies in how these responsibilities are implemented and the legal foundations behind them. Islamic law places a strong emphasis on a wife's obedience to her husband in matters that align with religious and moral principles (ma'ruf), while the law provides more detailed guidelines on the husband's duty to treat his wife well, both physically and emotionally. Ultimately, the rights and responsibilities of a husband toward his wife, as outlined in Article 34 of Law No. 1 of 1974 and Islamic law, center around financial support, protection, and family leadership. To maintain a harmonious household, a husband must understand and fulfill these responsibilities fairly, in accordance with both legal and religious principles.

**Keywords:** Rights and Responsibilities, Husband and Wife, 1974 Law article 34, Islamic Law.

### ABSTRAK

Perbedaan konsep hak dan kewajiban yang ada dalam Undang-Undang Tahun 1974 No 1 Pasal 34 dan hukum islam tentang hak dan kewajiban suami istri menjadi salah satu prblem matika bagi masayarakat indonesia, terkhusus terhadap hak dan kewajiban suami istri dalam suatu t=rumah tanggga. oleh karena itu peneluis ingin meneliti terkait hak dan kewajiban suami kepada istri menurut Undang-Undang tahun 1974 no 1 pasal 34 dan hukum islam, serta bagaimana persamaan dan perbedaan antara kedua tersebut. Penelitian yang dilakukan ini adalah penelitian pustaka (perpustakaan) dengan metode konperatif digunakan untuk mencari persamaan dan perbedaan tentang hak dan kewajiban yang ada di dalamnya,adapun hasil dalam penelitian ini memiliki banyak kesamaan dalam hal prinsip dasar, yakni mengutamakan kesejahteraan dan keharmonisan rumah tangga,menegaskan terhadap suami untuk bertanggung jawab dalam memberikan nafkah dan perlindungan ke pada istri,perbedannya terletak pada pelaksanaan dan landasan hukumnya di mana hukum Islam menekankan aspek ketaatan istri kepada suami dalam hal yang ma'ruf, sedangkan Undang-undang mengatur lebih rinci tentang perlakuan baik suami kepada istri secara fisik dan emosional. Hak dan kewajiban suami kepada istri menurut UU No. 1 Tahun 1974 Pasal

34 dan Hukum Islam menekankan nafkah, perlindungan, serta kepemimpinan keluarga. serta Suami harus memahami dan menjalankan hak serta kewajibannya dengan adil, sesuai hukum negara dan syariat Islam, demi keharmonisan keluarga.

**Kata Kunci:** Hak dan Kejiban, Suami Istri, UU 1974 pasal 34, Hukum Islam.

## INTRODUCTION

The rights and obligations of a husband toward his wife in Article 34 of Law No. 1 of 1974 reflect the principle of household responsibility. In Islamic law, this concept is rooted in the duty of financial support, protection, and family leadership. However, differences in interpretation may create challenges in harmonizing their implementation.

The ideal family according to Islam is a sakinah family, which means a peaceful, harmonious, and happy domestic environment surrounded by a religious atmosphere; having righteous offspring; sincere affection and loyalty between father, mother, and child; and a system of fair division of labor between husband and wife based on needs and reality (al-sabbaq, 1994).

In married life, each husband and wife couple has rights and obligations. Husbands must meet all the needs of their wives and take good care of their children as the head of the household. Many scientific papers, of course, by referring to Islamic legal sources, state that the role and responsibility of the husband is greater than that of the wife. Therefore, as a wife's responsibility, the husband must meet the needs of clothing, food, and board for his wife (Amiur Nurudin & Azhari Akmal Taringan, 2012)

One of the goals of marriage is for married couples to live happily ever after. If one of the parties is unable to fulfill his or her responsibilities properly and one of the parties is unable to accept them, and there is no other option but to divorce, divorce is allowed in Islamic law. Divorce is an action taken by a married couple when their domestic relationship can no longer be reunited and if it continues, it will cause harm to the husband, wife, children, and their environment. (Anshori, 2011)

From Mu'awiyah al-Qusairi (may Allah be pleased with him), he asked the Messenger of Allah (*peace and blessings of Allaah be upon him*) about the obligation of a husband to his wife, and the Messenger of Allah (*peace and blessings of Allaah be upon him*) said:

أَنْ تُطْعِنَهَا إِذَا طَعِنْتَ وَتُكْسُوْهَا إِذَا اكْتَسَيْتَ - أَوْ اكْتَسِيْتَ - وَلَا تَصْرِبِ الْوِجْهَ وَلَا تُقْبَحْ وَلَا تَمْجِزْ إِلَّا فِي الْأَبْيَتِ

*It means: "You feed him as you eat. You give her clothes as you dress – or you try to, and you do not hit your wife in the face, and you do not vilify her and do not boycott her (in the order of advice) except at home" (HR. Ahmad, Abu Dawud, an-Nasa'I, and Ibn Majah Some of these hadiths were narrated by Bukhari in mu'allaq and considered saheeh by Ibn Hibban and al-Hakim) (Asqalani, 2013)*

In fact, lately many households find it difficult to get married. This is because many households are unhappy due to various problems such as disharmony, economic problems, infidelity, and so on. In domestic life, couples often complain to other people or family members for not fulfilling their rights or not fulfilling their obligations (J.Satrio, 1991).

Previous research discussed the rights and obligations of husband and wife in domestic life based on Law Number 1 of 1974. It is emphasized that the rights and position of the wife are balanced with the husband, both in domestic life and in community relations. Everything in the family should be negotiated and decided together by husband and wife (Anwar, 2019). As well as in the previous indentation of

research on the analysis of the rights and obligations of husband and wife according to Law Number 1 of 1974 and the Compilation of Islamic Law from the perspective of gender justice. It was found that some articles in the law still have gender biases, so reformulation is needed to achieve gender justice in family law in Indonesia. (Bakar, 2020)

Disharmony and rifts in the household often occur because husband and wife do not understand or even know each other's rights and obligations. A good household has members who know each other, understand each other, and carry out their respective rights and obligations.

The differences in the concepts of rights and obligations in Article 34 of Law No. 1 of 1974 and Islamic law regarding the rights and obligations of husbands and wives sparked the author's interest and curiosity about the true concept of balance in the rights and status of spouses within these legal frameworks. Additionally, the author seeks to understand the fundamental principles that cause these conceptual differences. This discussion is essential because both legal references are applied to Indonesian society, helping people gain a better understanding of the rights and obligations of a husband toward his wife according to Article 34 of Law No. 1 of 1974 and Islamic law.

## METHODS

The research conducted is literature research, which means that the source of data comes from libraries, books, or papers that are relevant to the research subject. Marriage Law No. 1 of 1974, the rights and obligations of husband and wife, is taken from various works. (Mardelis, 2008)

Collecting data is a crucial step in research, as it involves gathering primary information that must be reliable and valid. Meanwhile, data analysis plays an essential role in the scientific process, helping to interpret findings in a meaningful way to address research problems effectively (Arikunto, 2002)

A *qualitative approach* is used in this study, specifically through library research. This method involves gathering relevant information from books, journals, and other academic sources to support the research (Denzin, Norman K., & Lincoln, Yvonna S, 1994). The qualitative research approach aims to explore a phenomenon in depth within its specific context by analyzing non-numerical data, including interviews, observations, and document studies (Bogdan, R. & Biklen, S.K., 2007). the comparative method will be used to find material similarities and differences about the rights and obligations contained in them, as well as the basic principles that lead to the concept of the balance of rights and position of husband and wife in Law Number 34 of 1974 and Islamic law.

## RESULTS AND DISCUSSION

### What are the rights and obligations of husbands to wives according to Law of 1974 no 1 article 34

Rights and obligations related to marriage include maintenance used to meet household needs. In terms of household needs, the role of the husband is very important, as indicated by Article 34, paragraph 1, which states that the husband is responsible for taking care of his wife and providing all household needs according to their capabilities. The economic aspect, which is important to meet daily needs, is fulfilled by husbands and wives by earning a living. Married couples usually work together, either in the formal or informal sector. In addition, it is not uncommon for husbands and wives to try to make money by setting up a business. They can act as

business owners on behalf of each or both (Yosephine Adinda Dwika Sandra & Anjar Sri Ciptorukmi Nugraheni, 2024)

According to Article 34 of the Marriage Law, "The husband is obliged to protect his wife and provide all the necessities of domestic life according to his ability." In the Marriage Law, the amount of alimony that must be given is not determined; It is only said that it is in accordance with the husband's ability (At-Tatbiq, 2024) However, Article 80 Paragraph 1 of the KHI states that the husband is responsible for his wife and household, but the husband and wife jointly decide important household issues. This shows that there is actually no special law regulating the methods used by the Anjir market community as long as it does not violate the law, does not harm any spouse or party, and is carried out deliberatively with the priority of family interests. Problems arise when techniques involve coercion, neglect, or transfer of responsibility to another party (Prasnanda, 2024)

However, Article 34 paragraph (1) of Law No. 1 of 1974 concerning Marriage (Marriage Law) regulates maintenance. One of the articles states that husbands are responsible for protecting their wives and providing for all household needs according to their capabilities. In the marriage law, the amount of alimony to be given is not determined; It is only said that it must be in accordance with the husband's ability.

A critical look at Article 34, Paragraph (1) of the Marriage Law reveals that it grants both husbands and wives the right to take legal action if their spouse fails to fulfill their responsibilities. In theory, this ensures a balance of rights within marriage, reflecting the principle of justice in national law.

However, in reality, applying this regulation is not always straightforward, given Indonesia's diverse cultural landscape and varying levels of legal awareness. In regions where patriarchal traditions remain strong, many wives face significant challenges in filing legal claims against their husbands due to social pressure and customary norms that still place women in a subordinate position. Economic dependence also plays a major role many wives rely on their husbands financially, making it difficult or even unthinkable to take legal action, even when their rights are violated.

From an Islamic legal perspective, a husband's responsibility to provide for his wife is a fundamental principle, clearly stated in the Qur'an (QS. An-Nisa: 34). At the same time, Islamic law also allows wives to seek divorce if their husbands fail to meet their obligations. This suggests that Indonesia's Marriage Law is largely in line with Islamic principles. However, for it to be truly effective, legal enforcement must take a more progressive approach to ensure that women's rights are protected and upheld in the country's diverse social and cultural contexts.

Article 34 of Law Number 1 of 1974 states that the wife has the obligation to protect and provide all household needs according to her ability, and the husband has the obligation to run the household as best as possible. A husband or wife can file a lawsuit in court if they neglect their respective obligations. From this provision, it can be concluded that the responsibility to meet the needs of life is related to the responsibility to live together. The husband has an obligation to his wife to protect her from all dangers that threaten her life and body. In addition, the husband must provide all the necessities of his wife's life according to their ability. If the husband or wife does not carry out their responsibilities to run the household, each party has the right to file a lawsuit in court (Waluyo, 2020).

A father already has to provide for his child. In general, the language of the law does not explicitly stipulate what the minimum and maximum salary amounts are, but the salary must be proportional so that no party is harmed. In fulfilling alimony, the

proportion of alimony must be considered from both sides, namely the father's ability and the needs of the child. Article 34 Paragraph 1 of Law of the Republic of Indonesia No. 1 of 1974 stipulates in a positive legal way in Indonesia that a father must provide alimony by adjusting his financial condition or ability (Nuriyah Wulan Adiningrum & Rayno Dwi, , 2024).

### **What are the Rights and Obligations of a Husband to His Wife According to Islamic Law**

Marriage is considered sacred and noble in Islam. Marriage has the value of falah (hereafter) and is not just an ordinary legal action like civil marriage (yaiful Anwar Al-Hidayatulloh, 2020). Basically, there is a reciprocal relationship between the obligations and rights of husband and wife; That is, what a husband should do should be done by his wife, and what a wife should do should be done by her husband (see Al-Baqarah verse 228 and Al-Nisa verse 19). Both husband and wife couples are required to carry out their obligations responsibly. While there are obligations for each party, there are also joint obligations for husband and wife. This obligation must be considered as an obligation that must be fulfilled, not as a burden.

However, in Islam, marriage is seen as a noble and holy act. Marriage has the value of the hereafter and is not just an ordinary legal action like civil marriage. However, how the law does it depends on the circumstances of the subject of the law. Because the wife is not burdened with material obligations necessary to meet the needs of the family, the rights of the husband that the wife must fulfill are only non-material rights. If the husband is able to support the family well, the wife does not need to work to earn a living. This is done so that wives can devote their attention to maintaining a healthy family and preparing a good generation. Basically, the rights of husbands include the right to be protected in matters related to marital life and the right to educate wives in a manner that is appropriate to their status as husband and wife. Broadly speaking, husbands have two types of responsibilities towards their wives: the material (roses and livelihood) and the immaterial (association, mu'amalah, and justice).

#### **1) Bride price**

Dowry is property that is the right of the wife that must be fulfilled by the husband because of the contract or dukhul. There are at least nine other names of dowry, namely *shadaq* or *shaduqah*, *nihlah*, *ajr*, *faridhah*, *hiba*", *uqr*, *'alaiq*, *thaul* and *nikah* (Masruchin Masruchin & Wiwin Nuraeni, 2021). The verses that show the obligation to pay dowry include in Surah al-Nisa verse 4:

وَآتُوا النِّسَاءَ مَا دُقَّتْهُنَّ بِخَلَةً، فَإِنْ طَبِنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِئًا مَّوِيزًا

Meaning: "Give a dowry to a woman (whom you marry) as a gift willingly. Then if they give you a part of the maskavin gladly, then eat (take) the gift (as food) which is delicious and good as a result."

In a hadith from Anas bin Malik, the Prophet (peace and blessings of Allaah be upon him) emphasized the importance of dowry. Shafiyah was released and became his dowry by the Prophet (peace be upon him). The recommendation to give the best dowry to a man who wants to marry a woman comes from the essence of this hadith (Abdul ghaniy, 2011)

#### **2) Providing Inner Zahir**

"An-nafaqah" is an Arabic word meaning "expenditure". In other words, the cost that is usually spent by a person for a positive cause or given to the people responsible for them. In other words, alimony can be defined as anything that is given to the wife,

such as money, clothing, or anything else. Because basically, alimony is God's promise for a husband to give to his wives, even after divorce (Muhammad Al-Jamal, 2008)

Fiqh scholars agree that a husband should provide for his wife if she stays and works. However, Imam Abu Hanifah said only if the rulers decided. Regarding this obligation of maintenance, Allah SWT., in the Qur'an surah Al-Baqarah verse 233

وَالْوَالِدَاتُ يُرْضِعْنَ أُولَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لَمَنْ أَرَادَ أَنْ يُتَمَّ الرَّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَهُنَّ بِالْمَعْرُوفِ  
لَا تُكَلِّفُ نَفْسَ إِلَّا وُسْعَهَا.

Meaning: Mothers should breastfeed their children for two full years, that is, for those who want to perfect breastfeeding. And the obligation of the father to feed and dress the mothers by means of ma'ruf. A person is not burdened but according to his level of ability

### 3) Getting Along With Your Wife Well

Getting along with the wife well and fairly is one of the obligations of a husband to his wife. As Allah says in the Qur'an, Surah An-Nisa verse 19:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَجِدُ لَكُمْ أَنْ تَرْثُوا النِّسَاءَ كَرْهًا وَلَا تَعْضُلُوهُنَّ لِتَنْهَيُوهُنَّ بِعَضٍ مَا أَتَيْتُهُنَّ إِلَّا أَنْ يَأْتِيَنَّ  
بِفَاحِشَةٍ مُّبِينَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوْهُ شَيْئًا وَيَعْلَمَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

Means; O believers! It is not lawful for you to inherit a woman by force and do not trouble them because you want to take back some of what you have given her, unless they commit a real heinous act. And associate with them in the proper way. If you don't like them, then be patient, for you may not like something, but Allah has done him a lot of good

The word "wa'asiruhunna bi-l-Ma'ruf" means that husband and wife must behave and speak well towards their wives. The husband should do the same with his wife if he likes her too. In a hadith from the narration of "A'isha ra.", the Prophet (peace and blessings of Allaah be upon him) said, "The best of you are the best to his family, and I am the best to my family." In addition, he treats his family well, always plays with them, has a sweet face, is gentle, gives space in terms of maintenance, and jokes with his wives (Al-khalidi, 2017).

This is also reinforced by the words of Abu Jafar, who said, "Men treat your wives well and associate with them appropriately according to my command to you to marry them or divorce them amicably." Muhammad bin Al Hasan said that "association" means to associate by accompanying." (Ath-thabari, 2009).

### 4) Protecting the Wife from Sin

A head of household has an obligation to teach his wife and children about religion so that they obey Allah and His Messenger. With religious knowledge, one can distinguish between good and bad actions, and they can prevent themselves from sinning. In addition to religious knowledge, a husband is also responsible for giving advice or reprimands to his wife when they mistaken, forget, or abandon their responsibilities. They should do it with wise words that will not hurt their wives' hearts, as stated by Allah SWT., Surah At-Tahrim verse 6 :

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوَّا أَنفُسَكُمْ وَأَهْلِيْكُمْ نَارًا وَقُوْدُهَا النَّاسُ وَالْجَاهَةُ عَلَيْهَا مَلِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُمُونَ اللَّهَ مَا  
أَمْرَهُمْ وَيَفْعَلُونَ مَا يُوْمِرُونَ

Meaning: O you who believe, protect yourselves and your families from the fire of hell whose fuel is man and stone; the guardians of the angels who are harsh, harsh, and disobey Allah against what He commands them and always do what He commands.

In the tafsir Muyassar it is explained that those who justify Allah and His Messenger and carry out His laws will protect themselves by doing His commands. By doing His commandments, we are protecting our families, including our wives and children, from the fires of hell. If we don't guard it by doing His commands, then we will plunge ourselves and our families into hellfire

A husband must give love and affection to his wife because it is her right and her obligation. If hubb is in dommahkan, "ha' is masdar habba-yuhibbu-hubban-hubb, meaning love, helpfulness, and love to fight is al karahiyyah (anger), the word hubb means a tendency to the heart based on reason, but if it is excessive, it is termed Al-Asyq (Alfaazh, 2017).

### **What are the Differences and Similarities Between the Rights and Obligations of Husbands to Wives According to Law of 1974 No 1 Article 34 and Islamic Law**

Law No. 1 of 1974 on Marriage and Islamic law have different foundations in regulating the rights and obligations of husband and wife. Law No. 1 of 1974 is a positive legal regulation that applies in Indonesia, while Islamic law is based on sharia sourced from the Quran, Hadith, Ijma', and Qiyas. Although they come from different foundations, these two sources of law have similarities and differences in the arrangement regarding the rights and obligations of husband and wife.

According to Article 34 Paragraph 1 of Law Number 1 of 1974, "A husband is obliged to protect his wife and provide everything necessary for married life according to his ability. The wife is obliged to manage household affairs as well as possible." In this provision, it is clear that the husband has the primary responsibility to protect his wife and meet the needs of the family according to her ability. On the other hand, wives have the responsibility to take care of the household.

The joint right owned by husband and wife to use each other's property together with the willingness of both is a natural thing, where the rights and position of husband and wife in marriage and society are balanced where both have the right to perform legal acts (Rahmawati, 2023).

The rights and obligations of husband and wife in Islamic law are broader and comprehensive, focusing on the balance of their respective rights and obligations. One of the responsibilities of a husband is to provide for himself, protect, and treat his wife well. On the other hand, wives have the responsibility to obey their husbands in matters that do not contradict the law, as well as to take care of their household and children.

In the Quran, Surah An-Nisa verse 34, it is stated that "Men are leaders for women, because Allah has exceeded some of them (men) over others (women), and because they (men) have provided for a part of their possessions." The hadith also emphasizes that the husband must provide a decent living and place for his wife, while the wife must be obedient in matters of ma'ruf.

Some of the similarities between Law No. 1 of 1974 and Islamic Law are as follows:

- a) Obligation of Maintenance: These two laws stipulate that the husband is obliged to provide maintenance to his wife. This includes basic necessities such as clothing, food, and board.
- b) Protection of Wives: Both also emphasize that husbands have an obligation to protect their wives, both in physical and emotional contexts.
- c) Household Arrangement by Wife: In both legal systems, the wife has a major role in managing the household, although in modern practice, this role is often flexible and adaptable.

- d) Balance of Dignity and Dignity: Both sources state that the rights and position of the wife are balanced with the rights and position of the husband in domestic life and association of living together in society (Mamahit, 2013)
- e) Child Care: In Islamic Law and the Marriage Law 1974, husbands and wives are obliged to love, respect, be loyal, and give one inner birth support to the other, including childcare

Some of the differences between Law No. 1 of 1974 and Islamic Law are as follows:

- a) Legal Basis: Law No. 1 of 1974 is based on positive law that applies in Indonesia, while Islamic law is based on sharia derived from the Quran and Hadith.
- b) Obligation: Islamic law emphasizes the obligation of wives to obey their husbands in matters that are ma'ruf, while Law No. 1 of 1974 does not explicitly mention the obedience of wives to their husbands.
- c) Obligation Details: Islamic law provides a more detailed explanation of the husband's obligation to not only provide for his life but also to treat his wife well physically and emotionally. Meanwhile, Law No. 1 of 1974 focuses more on meeting the material needs of life.
- d) Wife's Obligations: In Islamic Law, wives are obliged to manage household affairs as well as possible, while in the 1974 Marriage Law, wives are obliged to serve their husbands in having sexual intercourse.
- e) Gender Influence: The Marriage Law 1974 still has indications of gender bias in the regulation of the rights and obligations of husband and wife, while Islamic Law seeks to refresh the position of women and men in the balance of rights and obligations.

Thus, although there are some differences in the arrangement and implementation, the rights and obligations of husband and wife in the 1974 Marriage Law Article 34 and Islamic Law have some important similarities in building a harmonious household and sakinah mawaddah wa rahmah.

## CONCLUSIONS

This study highlights that both Article 34 of Law No. 1 of 1974 and Islamic law share a common principle in emphasizing a husband's role as the head of the family and financial provider. However, in practice, the enforcement of these laws still faces social and cultural challenges that can make it difficult for wives to fully access their rights. Islamic law stresses the importance of a wife's obedience to her husband in matters that are fair ma'ruf while also outlining in detail how a husband should treat his wife with kindness, both physically and emotionally. Given these complexities, fostering a deeper understanding and raising legal awareness in society is essential. By doing so, the rights and responsibilities of both spouses can be upheld fairly, ensuring a balance that aligns with both national legal values and Islamic principles, which prioritize justice and family well-being.

Future research can analyze the implementation of Article 34 in modern life, its relevance to gender justice, and its comparison with family law in other countries. Additionally, a more in-depth study of legal sanctions for violations of a husband's obligations is also needed.

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