

## The wife's contribution to household expenses: Between Islamic law and maghrebi family codes (Algeria, Tunisia, Morocco)

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**Abstract---**Maintenance (nafaqa) is among the legal consequences of a valid contract of marriage. Under Islamic law, the husband is obliged to support his wife according to his means, even if she is wealthy. However, due to evolving economic and social conditions affecting Arab society and families, numerous emerging issues have arisen most notably, women's participation in the workforce. This has generated ongoing debates between spouses, particularly regarding whether and to what extent a working wife is entitled to maintenance. Among the contemporary legal questions addressed in modern family codes in some Arab countries, reflecting current realities and based on the principle of equity between spouses in marriage and family relations is the issue of the working wife's contribution to household expenses.

**Keywords---**Contribution, Wife, Maintenance, Marital Obligations, Family.

### Introduction

Islamic law assigns a series of mutual rights and obligations to spouses through the contract of marriage. Some rights are specific to the husband, others to the wife, while certain responsibilities are shared between both. The rights granted to each spouse correspond to duties upon the other. Allah, the Exalted, affirms these mutual responsibilities, stating: "And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility]." (Quran 2:228, Sahih International translation)

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Maintenance (*nafaqa*) is one of the most important financial rights arising from the contract of marriage. It is a right established for the wife by Islamic law and, correspondingly, one of the principal financial duties imposed upon the husband. Islamic law obliges the husband to provide for his wife according to his capacity, even if she is wealthy. Maintenance here refers to everything the wife needs for her livelihood such as food, clothing, housing, and all daily necessities based on customary standards in society.

The issue of spousal maintenance is intimately tied to the institution of marriage itself and is therefore affected by the specific circumstances and conditions of the spouses. Among the most prominent contemporary developments is the increasing participation of women in the workforce a phenomenon that has generated considerable legal and social debate, particularly in relation to whether working wives are entitled to full maintenance and whether their income impacts the husband's financial obligation.

One of the most pressing questions that has emerged in modern jurisprudence, and that has found partial accommodation within certain Arab family law systems, relates to the working wife's contribution to household expenses. This debate is often framed within the broader context of evolving socioeconomic realities and in reference to the principle of equity between spouses in marriage and family life, as adopted in recent legal reforms.

The importance of this topic lies in its contemporary relevance and the sensitivity it carries within the structure of the family unit. Requiring a wife to bear a portion of the family's financial burden raises practical and ethical questions especially when it intersects with the issue of maintenance (*nafaqa*), traditionally understood as a non-negotiable right of the wife and an obligatory duty upon the husband. Accordingly, this paper seeks to address the following core questions:

- To what extent may (or must) a wife contribute to household expenses?
- Is she legally or religiously obligated to financially support the marital household?
- How have the Maghrebi family laws specifically in Algeria, Tunisia, and Morocco addressed this matter?

To answer these questions, this study employs both comparative and analytical methodologies, by examining Islamic legal sources alongside the relevant statutory provisions in contemporary family law. The research is structured into two main sections:

- The first section addresses the position of Islamic jurisprudence on the working wife's contribution to family maintenance.
- The second section analyzes the Maghrebi family codes specifically those of Algeria, Tunisia, and Morocco and their treatment of the wife's financial responsibility within the household.

### **Section One: The Working Wife's Contribution to Household Expenses in Islamic Jurisprudence**

Maintenance (*nafaqa*) is among the most significant consequences of a valid marriage contract and represents one of the established financial rights of a wife. According to Islamic jurisprudence, the husband must financially support his wife according to his means, even if she possesses personal wealth.

Therefore, we will address first the concept and definition of marital maintenance, followed by a discussion of the working wife's contribution to household expenses from the perspective of Islamic jurisprudence.

#### **First: The Concept of Marital Maintenance (*nafaqa*)**

We examine marital maintenance by clarifying its definition, ruling, evidences of its obligation, conditions for entitlement, and instances when this entitlement is waived.

## 1. Definition of Nafaqa

Linguistically, the term *nafaqa* carries several meanings, primarily: Exhaustion or depletion: Arabs say “*nafaqat al-darāhim*” meaning the dirhams (money) are depleted (al-Fayūmī, n.d., Vol. 2, p. 618). Similarly, “*anfaqa mālahu*” means he exhausted or spent all his money (al-Fayrūzābādī, 2005, p. 926). Likewise, “*nafaqa al-zād*” means provisions have run out. From this usage derives Allah’s saying: “...then you would withhold out of fear of spending...” (Qur’an 17:100, Sahih International translation), meaning fear of depletion or exhaustion (Ibn Manẓūr, 1994, Vol. 10, p. 358). Additionally, *nafaqa* signifies death, as in “*nafaqat al-dābbah*”, meaning the animal died (al-Jawharī, 1987, Vol. 4, p. 1560).

Spending money: In the Qur’an, Allah states: “And when it is said to them, ‘Spend from that which Allah has provided for you’...” (Qur’an 36:47, Sahih International translation), meaning spend for Allah’s sake, feed others, and give charity. Thus, a generous spender is described as *minfāq*, and *nafaqa* refers generally to what is spent or disbursed upon oneself and dependents (al-Farāhīdī, n.d., Vol. 5, p. 177).

In Islamic jurisprudence (Fiqh terminology), classical jurists define maintenance as what an individual is required to spend on those dependent upon him, such as his wife, slaves, or animals (al-Ḥaddādī, 1990, p. 328). They identified three bases for maintenance obligations: kinship, slavery, and marriage. Marriage is considered the strongest of these bases. Thus, maintenance is obligatory for a wife who makes herself available to her husband, meaning she does not refuse marital intimacy without valid reason (al-Dusūqī, n.d., Vol. 2, p. 508).

Contemporary Islamic jurists define marital maintenance specifically as: “the provision of necessities required by a wife for her livelihood, including food, clothing, shelter, services, and all essential furnishings, bedding, and household items as recognized by customary standards among people.” (Badrān, 1967, p. 232).

## 2. Ruling and Evidence for Its Obligation

Islamic scholars unanimously agree that maintenance for the wife is obligatory upon her husband (Ibn al-Mundhir, 1999, p. 109). The evidence for this obligation is derived from both the Qur’an and Sunnah.

- **From the Qur’an:**

Allah the Almighty says: “Let a man of wealth spend from his wealth, and he whose provision is restricted – let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease.” (Qur’an 65:7, Sahih International translation). In this verse, Allah commands husbands to spend on their wives, and the imperative here indicates an obligation (al-Bābartī, n.d., Vol. 4, p. 378).

Allah the Almighty also says: “Upon the father is their [i.e., mothers’] provision and clothing according to what is acceptable.” (Qur’an 2:233, Sahih International translation). This verse explicitly establishes the husband’s duty to provide for his wife during her postpartum period, clarifying that maintenance remains obligatory regardless of whether the wife is engaged in breastfeeding or not (al-Qurṭubī, 1964, Vol. 3, p. 160). Therefore, the obligation of maintenance under normal circumstances (other than postpartum) is even more evident.

- **From the Sunnah:**

Numerous hadiths affirm the obligation of marital maintenance. Among these hadiths are:

Narrated by ‘Ā’ishah (may Allah be pleased with her), Hind bint ‘Utbah said: "O Messenger of Allah, Abu Sufyān is a stingy man who does not give me enough for myself and my children, except what I take from him without his knowledge." The Prophet (peace be upon him) replied, "Take from his wealth what reasonably suffices you and your children." (al-Bukhārī, 2001, Vol. 7, p. 65, Hadith No. 5364). This hadith indicates that the husband’s obligation to provide maintenance is mandatory. Had it not been obligatory, the Prophet (peace be upon him) would not have permitted her to take from her husband’s wealth without his knowledge (al-Ṣan‘ānī, n.d., Vol. 2, p. 319).

Jābir ibn ‘Abdullāh reported that the Messenger of Allah (peace be upon him) said:

"Fear Allah concerning women, for you have taken them under Allah's trust and have made their intimacy lawful by Allah's word. You have rights over them, that they should not allow anyone whom you dislike to enter your home. If they do so, you may discipline them lightly. They have a right upon you to provide for them and clothe them in a reasonable manner." (Muslim, n.d., Vol. 2, p. 886, Hadith No. 1218). This hadith demonstrates clearly the husband's obligation to provide maintenance and clothing according to what is customary and reasonable (al-*Ṣan'ānī*, n.d., Vol. 2, p. 321).

Ḥakīm ibn Mu'āwiyah narrated from his father that a man asked the Prophet (peace be upon him): "What is the right of a wife upon her husband?" He replied, "You feed her as you feed yourself, clothe her as you clothe yourself, do not strike her on the face, do not revile her, and do not forsake her except within the home." (al-Nasā'ī, 1986, Vol. 8, p. 266, Hadith No. 9126).

### 3. Conditions for the Obligation of Maintenance for the Wife

We outline here the conditions stipulated by the majority of jurists and then those specific to Mālikī jurists regarding a husband's obligation to maintain his wife.

#### A. Conditions According to the Majority of Jurists:

The majority of Islamic jurists enumerate four primary conditions for the wife's entitlement to maintenance:

- Validity of the marriage: Maintenance obligation arises from the husband's right to marital intimacy (*ḥabs*). If the marriage contract is invalid (*fāsid*), the husband is not obligated to provide maintenance since an invalid marriage must be annulled, thus eliminating the right of marital retention. Furthermore, conjugal rights cannot legitimately exist within an invalid marriage, thus negating maintenance obligations (Zaydān, 1993, Vol. 7, pp. 156–157).
- The wife's full submission (*tamkīn*) to her husband: This involves the wife making herself fully available to her husband or clearly indicating readiness for marital intimacy without refusal upon demand. Whether the husband has consummated the marriage or not, or whether the invitation to consummate came from her or her guardian, if the wife remains in her family's home by her husband's consent and choice, her maintenance remains obligatory upon him. Conversely, if she or her guardian withholds her without valid reason or remains silent after the contract (i.e., she neither offers herself nor does he request consummation), she forfeits her right to maintenance, irrespective of how long the situation lasts. If her refusal is justified—such as awaiting payment of her immediate dowry or preparation of suitable marital accommodation—her entitlement to maintenance remains intact (al-Zuhaylī, n.d., Vol. 7, p. 789).
- The wife's suitability for marital intimacy: Maintenance requires the wife to be physically suitable for marital intimacy, whether mature or young yet capable of intercourse, ensuring the legitimate marital purpose is fulfilled. A minor wife incapable of marital intimacy receives no maintenance since retention (*ḥabs*) would serve no marital purpose (Imām, 2006, pp. 184–185).
- Non-forfeiture of the husband's conjugal rights without legitimate justification: If the husband's rights are unjustifiably denied, such as through the wife's rebellion (*nushūz*) or obstruction from her side, she forfeits the right to maintenance. However, if the denial arises legitimately or from the husband's side, maintenance remains obligatory (al-Zuhaylī, n.d., Vol. 7, pp. 789–790).

#### B. Conditions According to Mālikī Jurists:

Mālikī scholars specify conditions for maintenance entitlement both before and after consummation:

##### Pre-consummation Conditions:

- Invitation to consummation (*tamkīn*): The wife or her guardian must explicitly invite the husband to consummate the marriage after the contract. If such an invitation does not occur or if the wife refuses without valid reason, she forfeits the right to maintenance.
- Physical suitability for marital relations: If the wife is too young or otherwise physically unsuitable for marital intimacy, no maintenance is owed to her before consummation. However, if

the husband consummates marriage despite this, maintenance becomes obligatory. If an impediment prevents marital intimacy, no maintenance is required unless the husband knowingly proceeds and derives pleasure despite the impediment. The majority of scholars also obligate maintenance for a minor husband married to an adult woman, provided she offers full conjugal availability similar to marriage with an adult husband.

- Neither spouse being on the verge of death at the time of invitation to consummation: If either spouse is in a critical health condition (near death) (Mas'ūd, 1992, p. 802) when invited for consummation, maintenance does not become obligatory due to the impossibility of benefiting from marital intimacy. However, if consummation occurs despite such circumstances, maintenance obligation arises (al-Ṣāwī, n.d., Vol. 2, p. 370).

#### **Post-consummation Conditions:**

- Husband's financial capability (affluence): The husband must have the means or earning capacity to provide maintenance. A financially incapable husband (mu'sir) is exempted from providing maintenance for the duration of his hardship, as Allah states: "Allah does not charge a soul except [according to] what He has given it." (Qur'an 65:7, Sahih International translation)

- Non-denial of conjugal rights by the wife without valid reason: If the wife unjustifiably denies the husband his conjugal rights, demonstrating rebelliousness (nushūz) or refusing obedience without valid reason, she forfeits maintenance (al-Zuhaylī, n.d., Vol. 7, p. 791).

In summary, after consummation, maintenance is always obligatory for the wife regardless of physical suitability or the husband's maturity. Before consummation, maintenance is not obligatory if the wife is unsuitable for marital intimacy, refuses consummation without valid reason, or neither she nor her guardian invites consummation explicitly.

#### **4. Circumstances that Nullify a Wife's Right to Maintenance (Nafaqa):**

A wife's right to maintenance may cease under specific circumstances, most notably:

##### **A. Disobedience (Nushūz):**

Nushūz refers to the wife's disobedience to her husband in obligations imposed by Allah. For instance, if she refuses marital intimacy, leaves her marital home without her husband's permission, refuses to move with him to suitable housing, or refuses to travel with him, she forfeits her right to both maintenance and accommodation (Ibn Qudāmah, 1968–1969, Vol. 7, p. 318).

##### **B. Young Age (Immaturity):**

This pertains to a wife who is too young and physically incapable of marital intimacy due to her age (Zaydān, n.d., Vol. 7, p. 171). If a wife is immature and unable to engage in marital relations, the majority of jurists hold that she is not entitled to maintenance, as she cannot fulfill the marital purpose of intimacy (al-Dardīr, n.d., Vol. 2, p. 730).

##### **C. Illness Before Mariages (Preventing Cohabitation):**

If the wife becomes ill prior to moving into the marital home, thus preventing cohabitation, she is not entitled to maintenance because the required marital retention (iḥtibās) is unattainable. However, if the illness occurs after she moves to her husband's home, her right to maintenance remains intact (al-Kāsānī, 1986, Vol. 4, p. 19).

#### **Second: The Working Wife's Contribution to Household Expenses in Islamic Jurisprudence**

Under Islamic law, the fundamental principle based on the Qur'an, Sunnah, and juristic consensus, is that maintenance of the wife is exclusively the husband's obligation. The wife possesses independent financial rights distinct from her husband's, allowing her full ownership and control of her income and property. She is not obligated to contribute financially to her husband or household expenses unless she willingly agrees or a prior agreement exists between them. However, given modern economic, social, and cultural developments within Arab societies, the issue of a wife's financial contribution, particularly when she earns her own income, has become contentious.

This contemporary issue was not addressed explicitly by classical jurists due to differences in women's societal roles historically. Today, women's employment is recognized as a fundamental right protected by legal systems. Contemporary scholars have thus examined this matter (Mish'al, 2018a, pp. 122–123), concluding that it is impermissible to compel a working wife to contribute part of her salary to household expenses. Requiring her to do so is considered an infringement on her financial rights (al-Qaṭṭān, 2009, p. 216).

Any contribution she makes should be voluntary, as affirmed by the resolution of the International Islamic Fiqh Academy (International Islamic Fiqh Academy, 2005), and the fatwas of Dar al-Iftā al-Misriyya (Dār al-Iftā' al-Miṣriyyah, 2017). These positions are supported by several evidences, including:

- General Islamic evidences previously mentioned, explicitly obligating husbands to provide maintenance for their wives.
- Several texts encourage voluntary contributions by women to their families without mandating it. Among these is the hadith narrated by Abu Sa'īd al-Khudrī (may Allah be pleased with him): "The Messenger of Allah (peace be upon him) went out on the day of Eid al-Adha or Eid al-Fitr to the place of prayer, then returned, gave a sermon to the people, and encouraged them to give charity. He passed by the women and said: 'O women, give charity, for I have seen you to be the majority of the inhabitants of Hellfire.' They asked, 'Why is that, O Messenger of Allah?' He said, 'You curse frequently and are ungrateful to your husbands. I have not seen anyone more deficient in intelligence and religion who can distract a prudent man more than one of you.' Then the Prophet returned home, and Zaynab, the wife of Ibn Mas'ūd, came seeking permission to see him. It was said, 'O Messenger of Allah, it is Zaynab.' He asked, 'Which Zaynab?' They said, 'The wife of Ibn Mas'ūd.' He replied, 'Yes, permit her to enter.' She said, 'O Prophet of Allah, today you encouraged giving charity, and I have some jewelry I wished to donate. But Ibn Mas'ūd claims that he and my children deserve it most as recipients of my charity.' The Prophet replied, 'Ibn Mas'ūd has spoken the truth. Your husband and children have the most right to receive your charity.'" (al-Bukhārī, n.d., Vol. 2, p. 120, Hadith No. 1462).
- Additionally, it is reported about Khadijah (may Allah be pleased with her) that she provided financial support to the Prophet (peace be upon him). He praised her, saying: "She supported me with her wealth." (Aḥmad ibn Ḥanbal, 2001, Vol. 41, p. 356, Hadith No. 24864).
- The Qur'anic verse establishing men's guardianship (qiwāmah) explicitly attributes this role to men's responsibility for maintenance. Allah says: "Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth." (Qur'an 4:34, Sahih International translation) Thus, compelling the wife to contribute from her salary contradicts the explicit text, undermining the basis of the husband's qiwāmah (Mish'al, 2018b, p. 125).

Contrary to the majority view, some contemporary jurists argue that a working wife should contribute to household expenses (Sulaimān & al-Daftār, 2018, as cited in Mish'al, 2018b, p. 125). They reason that her employment affects marital life, as she dedicates part of her time originally the right of the husband and family to work. This situation reduces the husband's right to marital retention and simultaneously increases household expenses, potentially causing neglect of her marital and familial responsibilities. Therefore, they argue the family has a right to part of her income, especially if the husband's salary alone does not suffice in covering essential household needs, thus relieving him of undue hardship in a period marked by increasing financial demands (Mish'al, 2018c, p. 126).

Some jurists suggest that household expenses be divided between spouses, assigning the husband basic necessities such as food and clothing, while additional expenses such as domestic help or a driver should be borne by the wife if she specifically requests them (Mish'al, 2018d, p. 127). From the preceding discussion, the most suitable solution appears to be mutual agreement and voluntary cooperation between spouses regarding household contributions, rather than enforcing mandatory obligations.

Voluntary contributions from the wife are encouraged according to the Shariah as demonstrated by the hadith of Zaynab promoting harmony, mutual understanding, and family stability while preventing disputes. Such arrangements should occur with mutual consent, since the original Islamic ruling places financial responsibility for maintenance solely upon the husband.

## **Section Two: The Wife's Contribution to Maintenance in the Maghrebi Family Laws (Algeria, Tunisia, Morocco)**

The foundational rule in family law is that the husband alone bears the obligation of providing maintenance for his wife and children. However, certain Arab legislations have exceptionally stipulated various forms of financial contributions by the wife towards household expenses.

### **First: The Algerian Family Code:**

The Algerian legislator regulated the maintenance (*nafaqa*) of the wife under Family Code No. 05-02 (People's Democratic Republic of Algeria, 2005, p. 19), specifically addressed in articles 74 through 80. Article 74 explicitly states: "Maintenance for the wife is obligatory upon the husband from the time of consummation or when the husband formally invites her to consummate the marriage, supported by evidence".

Thus, the Algerian legislator derives the obligation of maintenance from Islamic law. Article 78 further details maintenance as including food, clothing, medical care, housing or rent thereof, and other necessities as determined by local customs and norms.

The wife's entitlement to maintenance for herself and her children remains valid regardless of her own financial situation. Article 74 confirms this, and Algerian judicial practice has further reinforced it. In a decision issued by the Supreme Court of Algeria, the court stated: "It is established by Islamic law that the wife's wealth does not absolve her husband from his obligation of maintenance for her and their children without legitimate cause. Therefore, the lower courts erred in cancelling previously adjudicated maintenance payments solely because the wife (the appellant) was wealthy, without proving the husband's inability to pay." (Algerian Supreme Court, Personal Status Chamber, 2000, p. 284).

Among notable provisions in the Algerian Family Code is the requirement that the mother contribute to child maintenance in specific circumstances. Article 76 stipulates: "In the event the father is incapable of providing for the children, the mother must bear their maintenance if she is financially able to do so".

Thus, the Algerian legislator imposes an exceptional obligation on the wife to contribute financially only in situations where the husband faces financial hardship, provided the wife has the financial means. In contrast, the code does not compel a working wife to contribute under normal circumstances, differing from other Arab legislations such as the Tunisian law.

Some legal experts argue that the Algerian legislator should explicitly address the issue of the working wife's contribution due to its social significance and frequent disputes arising within Algerian families, suggesting that it should consider approaches adopted by modern legislations (Mas'ūdī, n.d., p. 294).

Conversely, others commend the legislator for not mandating the wife's financial participation, despite legislative reforms aimed primarily at promoting women's rights and equity between spouses (Būkāyis, 2018, p. 211). This latter position aligns with our view that it is preferable for a wife's financial contribution to family expenses to remain voluntary rather than obligatory, as women in Algerian society frequently contribute willingly, supporting their husbands to ensure a dignified and prosperous family life.

### **Second: The Tunisian Personal Status Code**

The Tunisian legislator regulated spousal maintenance in articles 37 to 42 of the Tunisian Personal Status Code (Tunisian Official Gazette, 1956, p. 1545), explicitly addressing this obligation in Article 23, which governs marital duties and relationships. Article 23 mandates that the husband, as head of the family, must provide maintenance for his wife and children according to his means and their needs.

Initially, the Tunisian legislator had stipulated voluntary financial contributions by wives toward family expenses. Article 23 originally stated: "...and the wife contributes to family expenses if she has financial

means." Here, the wife's financial contribution was considered voluntary. However, the 1993 amendment Law No. 74/1993 (Tunisian Official Gazette, 1993, p. 1004) modified this provision, transforming it into a compulsory obligation: "The wife must contribute to family expenses if she possesses financial means".

This amendment sparked significant debate among legal experts. Some argued that mandating the wife's contribution was necessary, reasoning that labeling the contribution as voluntary stripped it of practical legal significance, especially given the mandatory wording of the section titled "Obligations of Spouses." Conversely, others maintained that the provision merely indicated the potential for voluntary contribution, contingent upon the wife having sufficient financial means (Būkhātim, n.d., pp. 224–225). Tunisian judicial practice clarified this provision further, emphasizing that Article 23's requirement for the wife's contribution implies assisting the husband financially but does not absolve him entirely of his fundamental obligation to provide maintenance. A decision by the Tunisian Court of Cassation highlighted:

"Although Article 23 of the Personal Status Code requires the wife to contribute financially to family expenses, it sets criteria without which such an obligation does not arise, namely that the wife must have a stable and sufficient income enabling her to contribute. While the wife's contribution entails covering a portion of her own and her children's expenses and assisting her husband financially when necessary, this duty remains within the framework of mutual support and cooperation, without relieving the husband of his primary obligation of maintenance".

This amendment aimed to reflect contemporary economic, social, and cultural shifts regarding women's status (Tunisian Civil Court of Cassation, 2009; CAWTAR, 2022), while reinforcing the principle of good marital relations (al-Ḥawāshī, 2010, p. 41). However, criticisms arose regarding the lack of clear guidelines defining the nature, scope, method of execution, and the potential penalties for non-compliance with the wife's financial contribution (Būkāyis, n.d., p. 117).

Furthermore, some Islamic jurists vehemently criticized this compulsory financial obligation as a clear deviation from Islamic principles, arguing unanimously that the Shariah does not impose financial responsibilities upon the wife for family expenses. Islamic law explicitly holds the husband responsible for providing maintenance, as Allah states:

"Upon the father is their [mothers'] provision and clothing according to what is acceptable." (Qur'an 2:233, Sahih International translation) Women may voluntarily spend on their families out of goodwill, especially if the husband faces hardship (Ibn 'Alī, n.d., pp. 54–55), as evidenced by the previously mentioned hadith involving Zaynab, the wife of Abdullah ibn Mas'ūd, who voluntarily gave charity to her husband and children with the Prophet's approval (al-Bukhārī, n.d., Vol. 2, p. 120, Hadith No. 1462).

Notably, regarding the extent of the wife's financial obligation, the Tunisian Court of Cassation clarified that it does not imply an equal division of household expenses:

"Assigning half the household expenses to the mother merely because she has employment and thus a stable income constitutes a violation of articles 46 and 47 of the Personal Status Code, which explicitly place the obligation of maintenance upon the father".

Thus, the court affirmed that the wife is not required to equally share expenses, and her financial contributions do not negate the husband's fundamental maintenance obligations (Tunisian Court of Cassation, 1989, cited in Bin Maḥmūd & Dawlah, n.d., p. 218).

Therefore, the Tunisian legislator's intention behind requiring the wife's contribution was primarily to assist husbands in meeting family expenses, embodying cooperation and partnership principles between spouses. This legislative step aligns with international conventions, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thereby promoting equity between spouses.

### **Third: The Moroccan Family Code**

The Moroccan Family Code introduced new provisions significantly altering the legal status of spouses, particularly by enhancing the position of the wife. Article 4 (Moroccan Royal Decree, 2004, p. 423)



explicitly states that the family is under the joint care of both spouses. Additionally, Article 51 emphasizes reciprocity in rights and duties, asserting that marital obligations both moral and material are shared between husband and wife. This underscores the concept of joint responsibility within the family, suggesting that the wife might also be expected to contribute financially to household expenses (Nāji, 2004, Vol. 2, pp. 39–40), as she shares responsibility for the family's wellbeing.

However, upon examining the texts of the Family Code more closely, maintenance (*nafaqa*) remains fundamentally an obligation placed upon the husband. According to Article 194, the husband is primarily responsible for maintenance. An exception appears only in the situation described in Article 199, which states: "If the father is completely or partially unable to maintain his children and the mother has sufficient means, she is obligated to provide maintenance in proportion to the father's incapacity".

Despite the lack of an explicit legal provision obliging working wives to contribute financially to the household, the practical reality shows that working wives regularly assume financial responsibilities (Cours Droit Arab, 2017).

Some legal scholars argue that when employed wives contribute financially, it allows them to actively engage in supporting their families alongside their husbands (al-Fākhūrī, 2016, Vol. 1, p. 382). Additionally, some suggest the need to reconsider and possibly reformulate the legal texts governing household financial obligations, particularly those related to maintenance (Nāji, 2004, p. 44).

It can therefore be said that the Moroccan legislator, consistent with Islamic jurisprudence and principles, places primary responsibility for maintenance upon the husband. This position contrasts with the demands of international conventions, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which advocate broader parity between men and women, including spouses.

## Conclusion

In conclusion, this research reaffirms that maintenance (*nafaqa*) is, under Islamic law, an obligatory financial duty upon the husband toward his wife, regardless of the wife's financial status. This principle is explicitly reflected in the family laws of the Maghrebi countries (Algeria, Tunisia, and Morocco), which uniformly place the primary obligation of household financial maintenance upon the husband, even if the wife is affluent.

Notably, the Tunisian legislator stands apart by explicitly requiring the wife's financial contribution to family expenses when she has sufficient financial means, influenced significantly by international conventions advocating parity between spouses, particularly the Convention on the Elimination of All Forms of Discrimination Against Women.

Ultimately, it is most appropriate and beneficial for spouses to agree voluntarily on financial contributions within the household. Such contributions should stem from mutual cooperation and solidarity rather than legal compulsion. Indeed, voluntary financial support from wives is commonplace and culturally accepted within Arab and Islamic societies, as women frequently contribute willingly to family expenses, thereby promoting a dignified and harmonious family life.

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