

# Awareness of Right to Maintenance of Wife in Islamic Law: A Study of Kaduna North Local Government, Kaduna State, Nigeria

By  
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## Abstract

*Islamic law imposes an obligation on the husband to maintain his wife. The obligation arises as soon as the valid marriage contract is completed. This article seeks to examine the provisions of Islamic law on the rights of wife to maintenance as well as the extent of awareness of duty of maintenance of wife applicable in Kaduna North Local Government, Kaduna State. Maintenance to the wife also means the fulfillment of the wifes need in her life. This consists of food, cloth, shelter and other necessities. These are the wifes rights on her husband. Even if the wife is wealthy. The analysis shows that few of the respondents are aware of the rights to maintenance of wife in Islamic law in Kaduna North Local Government, Kaduna State. It also shows that few read the Quran in order to know the rights to maintenance of wives under Islamic law. The paper therefore strongly suggests that Islamic preachers have a greater role to play in creating awareness on the right of maintenance of wife in Islamic law in Kaduna North Local Government. The people should read the provision of the glorious Quran on maintenance of wife and follow the interpretations of those verses as provided by Prophet Muhammad (S.A.W).*

**Key words:** Islam, Rights & Wife Maintenance

## 1.1 Introduction

Islam as a religion covers all aspects of our lives include mode of worship as well as rights and duties of both the husband and wife. Globally, the level of awareness of rights to maintenance wife differs from country to country. In Islamic States such as Saudi Arabia, Iraq and Afghanistan the level of awareness is high.

While in Africa the level of awareness also differs, countries like Sudan, Egypt, Morocco and Tunisia, there is high rate of awareness being that majority of the population are Muslims. But in Nigeria there is low level of awareness of the rights to maintenance of wives though it differs from region to another. In the Southern region where Christianity is the dominant religion, and the rate of awareness is lower than the Northern part where majority of the population are predominantly Muslims. In Kaduna State for instance Muslims constitute 70% of the Population, and they are the dominant of the Northern part of the state while the Christians are the dominant of the southern part of the aforementioned State.

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In the Northern Part of Kaduna State, there is high level of awareness due to prevalence of many Islamic schools that preach the Holy Quran and Hadith of the Holy Prophet. Muslims attend such schools which help in creating awareness of the rights to maintenance of wife in Islam.

Similarly, another factor that plays paramount role in creating awareness to rights to maintenance of wife in Islam especially in Kaduna State is the Islamic preachers that spread the teach of the Holy Quran and the Hadith of the Holy Prophet especially during marriage sermon telling the husband on his rights and duties as already explained in the Holy Quran. According to holy Quran, chapter 2 verse 233 says “..... But the father of the child shall bear the cost of the food and clothing on equitable terms”.

Similarly, in another Quran verse, Allah says

Let the man of means spent according to his means and man whose resources are restricted, let him spend according to what Allah has given him Allah put no burden on any person beyond what has given him. After a difficulty Allah will soon grant relief.

Though, there are many researches conducted intensively on the maintenance of wife in Islam but little studies were conducted on the awareness of rights to maintenance of wife in Kaduna State that is why the study is covering the gap.

## 1.2 The Meaning of (*NAFAQA*) Maintenance in Islamic Law

In general term, Maintenance refers to whatever is given such as food, clothing, and residence, to whomever it is compulsory to give it.<sup>1</sup> But the term *Nafaqah al—Zaujah* was defined as the maintenance of the need of the wife in terms of food, housing, service and medicine even if she is rich<sup>2</sup>. *Nafaqah* literally, means to spend. *An-Nafaqah* is derived from the word *Al-infaq* which also means *Al—Ikhraj*, i.e. taking something out and it is not used except in good.<sup>3</sup>

The wife may voluntarily waive all or part of her rights to be maintained especially in a situation where the wife observed that the care and attention given to her by the husband diminished in order to reach an amicable settlement. This is in line with the provisions of the Glorious Quran where Allah the Exalted says, “If a wife fears cruelty or desertion on the part of her husband, there is no blame on them if arranged an amicable settlement

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<sup>1</sup> Al-Jazairi A.J. (2001) *Minhaj Al- Muslim ABook of Creed Manners, Character Acts of Worship and other Deeds vol. 1. Darussalam Riyadh* p.387.

<sup>2</sup> Muhammad M.A. (2000), *The Rights and Obligations of Spouses under Islamic Law*, An (Unpublished) LL,M Thesis Submitted to the Faculty of Law, A.B.U. Zaria.p.17. as quoted from Qarut H. pp.157-158.

<sup>3</sup> Zuhaily, W. (1401AH, 1991 A.D) *Azzawajwal-Talaq, Kuliyyatul Dawatul Islamiyya*, Tarabulus, Vol.2, p.271

between themselves and such settlement is best even though mens souls are swayed by greed but ye do good and practice self-restrain, Allah is well acquainted with all that ye do”<sup>4</sup>.

According to the Maliki School, “maintenance (*Nafaqah*) relates to all what a human being will conveniently require for subsistence of his livelihood excluding luxuries. As it also includes clothing, feeding and accommodation”<sup>5</sup> It is compulsory for a husband to feed his wife once he attains the age of adulthood irrespective of his means, source or job at hand. The judge has to rule based on his own understanding to make the husband give out any tangible amount (reasonable enough) to satisfy her.<sup>6</sup> Despite the foregoing, it is highly required that a Husband should maintained his family from what is *Halal* i.e. Lawful, this brings bountiful blessing to their marriage and the family as a whole.<sup>7</sup>

According to El-Imeri, maintenance means food with all its ingredients, clothing and lodging to the condition of both spouses and the custom and tradition prevailing in the locality.<sup>8</sup>

### 1.3 Sources of Maintenance of Wife in Islamic Law

Sources of maintenance of wife in Islamic Law are rooted in the Glorious Quran, *Sunnah* of the Prophet (S.A.W.) *Ijma*, *Ijtihad* of Islamic jurists. All these show that a wife should be maintained by her husband. In this regard Allah says, “The mothers shall give suck to their offsprings for two whole years if the father desires to complete the term. But the father of the child shall bear the cost of their food and clothing on equitable terms...”<sup>9</sup> In this verse, the father refers to the husband alone who has the imperative responsibility of taking care of both the wife and her children. The phrase on equitable term seeks to address the degree of the maintenance that is required under the *Sharia*, which means that a husband should provide what is reasonably sufficient for his wife.<sup>10</sup> It should be noted at this juncture that the foregoing verse relates to maintenance of divorce wife, the *shariah* vested her with the right of maintenance shows that if a divorce wife shall be maintained. It is more imperative on the husband to maintain his wife whose marriage is subsisting.<sup>11</sup> This verse also shows the extent to which aims at protecting maintenance right of a wife by instructing the husband to maintain even a divorced wife. Maintaining a divorce wife, may

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<sup>4</sup>Glorious Quran chapter 4 vs 128. English translation of the meanings and commentary. Published by King Fahd

<sup>5</sup> Al-Tasuliy (n.d) *Sharh al Tuhfa*, vol.1 p. 382.

<sup>6</sup>Alkali M.K (2009): *Fassara da Takaitaccen Sharhin Littafin Irshad Al-Salik* (ASKARI).AcikinilimiFikhu a mazhabar Imam Malik Juzuinadayadanabiyu. Government Printing Press Kano pp. 231, 232 & 233

<sup>7</sup> Reference?

<sup>8</sup> El-Imairi M.T, (1978) *Personal Status in Islamic Law*, (Unpublished) p. 65.

<sup>9</sup>Glorious Quran 2 verse 233. English Translation of the Meanings and Commentary. Published by King Fahd

<sup>10</sup>Muhammad M.A. op cit.p.76.

<sup>11</sup>Ibid.

serve, as a channel for reconciliation between the spouses, apart from being a duty prescribed by the *Shariah* on the husband.

In another Quranic verse, Allah says,

Let the man of means spend according to his means, and man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what he has given him. After a difficulty Allah will soon grant relief.<sup>12</sup>

Another Quranic verse provides that:

O ye who believe! Ye are forbidden to inherit women against their will. Nor shall ye treat them with harshness, that ye may take part of the dower ye have given them, except where they have been guilty of open lewdness; on the contemporary live with them on a footing of kindness and equality if ye take a dislike to them it may be that ye dislike a thing, and Allah brings about through it a great deal of good.<sup>13</sup>

Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend to support them from their wealth. Therefore, the righteous women are devoutly obedient to Allah and to their husbands and guard in the husbands absence what Allah orders them to. Similarly, it is on this vital aspect, i.e. on the maintenance of wife Under the *Sunnah* of Prophet (S.A.W.), as it was reported that the Prophet (S.A.W) in his farewell sermon said, Fear Allah in your affairs with women, indeed, you have taken them under the covenant of Allah. You have indeed made lawful the intercourse with them by the word of Allah, verily, they have rights over you to be Fed and clothed equitably.<sup>14</sup>

It was also reported that a companion of the Prophet (R.A) came to the Prophet (S.A.W.) and asked, “What are the rights of a wife over her husband?” The Prophet (S.A.W.) replied you should feed her food when you eat, cloth her when you clothe yourself. And do not strike her in the face, nor revile her by saying May Allah disfigure your face. And do not shun her except within the house<sup>15</sup>.

Where a husband refuses to provide sufficient maintenance to his wife, she is entitled to take from his property what is customarily and equitably sufficient for her and her children.

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<sup>12</sup>Glorious Quran 65 vs 7.

<sup>13</sup>Ibid 4vs 19.

<sup>14</sup>Aliyu I.A op cit p. 46 as quoted in Sabiq S. (1977) *FiqhusSunnah* p 147

<sup>15</sup>Al-Jaza iri op cit p. 337,

This is by virtue of the hadith of hind the daughter of Utbah who narrated on the authority of Aishah (RA) that Hind Bint Utbah said,

“Oh messenger of Allah, in fact, Abu Sufyan is a miserly person and so he does not give me and my son except what I take from him without his knowledge”; the Prophet (S.A.W.) then said, *“Take what will be enough for you and your son in an equitable manner”*<sup>16</sup>

It should be noted that the above-mentioned hadith is not supporting extravagance because the glorious Quran is specific about it. It is prohibited a husband should not be miser and a wife should not use what is not necessary going by the modern way of living where a wife has other means of income she can complement some things required for maintaining the family.

The prophet (S.A.W) in his farewell address on mount Arafat on his last pilgrimage said:

O men you are entitled to certain duties from your wives.  
They too are entitled to certain rights from you... if they yield to correction they are to be provided, as a matter of right, their maintenance and clothing as due.

#### **1.4 Means of Maintenance of Wife**

The scale of maintenance of wife depends upon the social status of the parties and economic condition of the husband.<sup>17</sup> To calculate the extent of maintenance, the following three elements are considered:

- i. The Customs and usages prevailing in the locality;
- ii. The financial ability of the husband;
- iii. The standard of living of the wife prior to marriage.<sup>18</sup>

According to Al — Imeri, there is no limit to either the quantity or the quality of maintenance. It is estimated according to the circumstances of both the husband and wife under the local conditions as to the availability and prices of commodities and the traditions and customs prevailing in the society.<sup>19</sup> Therefore, there may be different scales of maintenance for each of the wives and the husband.

Few Hanafi jurists concede that maintenance should be fixed according to the wives position irrespective of the husbands ability.<sup>20</sup> On the contrary, the Shafii jurists state that

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<sup>16</sup> Guerin M.A. p 150

<sup>17</sup> Abdurrahman I.D. op cit. p.204 check

<sup>18</sup> Ibid

<sup>19</sup> Al Imeiri, M.T. op cit p 68.

<sup>20</sup> Ibid p. 68.

*Nafaqah* should be fixed according to the financial ability of the husband irrespective of the wife's position.<sup>21</sup> Judge Ambali in his book made an attempt to explain the extent of maintenance to a wife as follows:

The quality of the maintenance must be based on a scale commensurate with his purse, her status and the level of urbanisation and cost of living in community where both parties live. It amounts to misfortune if she is of voracious appetite but he either puts up with it or repudiates her. He should provide extra food for the nursing mother to enable her cope with the demands of the child. He should provide her water for domestic needs and religious needs, oil for ordinary purpose, burning and for making ointment, firewood, salt and meat from time to time, mat, bed and mattresses, essential cosmetic that are recognised by the customs such as eye-brow, grease et cetera.<sup>22</sup>

### 1.5 Methods of Data Collection

The study used quantitative method of data collection and analysis, 400 questionnaires were distributed to the respondents out of which 350 questionnaires were retrieved, SPSS version 25 was used to analyse the data, regression analysis was used.

### 1.6 Analysis of an Empirical Study in Kaduna North Local Government on Maintenance of wives

**Table 1.1: Number of Questionnaires Distributed**

Option	Number	Percentage
Number distributed	400	100
No. Returned	350	87
No. Used	350	87
No. Not used	0	0
No of questionnaires used	350	87

Source: Researchers Field Work (2020)

<sup>21</sup> Ibid p.111

<sup>22</sup> Ambali, M.A, (1998) *the Practice of Muslim Family Law in Nigeria*, Tamaza Publishing Co. Ltd, Zaria. p. 172

Table 1.1 above shows that four hundred (400) questionnaire were distributed to four hundred (400) respondents on which three hundred and fifty (350) were returned which were used for the analysis of this paper.

**Table: 1.2 Awareness of the rights to maintenance of wife in Kaduna North Local Government.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	162	46.3	46.3	46.3
	D	75	21.4	21.4	67.7
	N	65	18.6	18.6	86.3
	A	36	10.3	10.3	96.6
	SA	12	3.4	3.4	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.2 the above table shows the response as to whether or not the respondents are aware of the existence or non- existence of rights to maintenance of wife /wives in Islamic law. 162 representing 46.3 percent said strongly agreed, 75 respondents representing 21.4 percent said agreed, 65 respondents representing 18.6 percent said neutral, 36 respondents representing 10.5 percent strongly disagree, while 12 respondents representing 2.4 disagreed.

These findings shows that few of the respondents are aware of the rights to maintenance of wives in Islamic law in Kaduna North Local Government, Kaduna State

**Table 1.3: Whether Respondents read the Quran to know the rights to maintenance of wives in Kaduna North Local Government.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	69	19.7	19.7	80.6
	D	46	13.1	13.1	93.7
	N	92	26.3	26.3	26.3
	A	121	34.6	34.6	60.9
	SA	22	6.3	6.3	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.3 above shows that a question was asked on how often does the respondents read the Quran in order to know the right to maintenance of wife in Islamic law. 69 respondents representing 19.7 said they strongly agreed, while 46 respondents representing 13.1 percent said agreed, while 92 respondents representing 26.3 percent said neutral, 121 respondents representing 34.6 percent said strongly disagreed, while 22 respondents representing 6.3 percent said disagreed.

Few respondents said they read the Quran in order to know the right to maintenance of wives under Islamic law.

**Table 1.4: Respondents consults Islamic clerics for clarification on right to maintenance of wives in Kaduna North Local Government.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	61	17.4	17.4	17.4
	D	100	28.6	28.6	46.0
	N	90	25.7	25.7	71.7
	A	61	17.4	17.4	89.1
	SA	38	10.9	10.9	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)



From the above table 1.4, a question was asked on whether respondents consult Islamic clerics for clarification of the rights to maintenance of wife in Islamic law where 61 respondents representing 17.4 percent said strongly agreed, 100 respondents representing 28.6 respondents said agreed, 90 respondents representing 25.7 said neutral, 61 respondents representing 17.4 percent said strongly disagreed, and 38 respondents representing 10.0 percent said disagreed.

**Table 1.5: Respondents listen to Islamic preachers regarding right to maintenance of wives in Kaduna North Local Government**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	73	20.9	20.9	20.9
	D	72	20.6	20.6	41.4
	N	76	21.7	21.7	63.1
	A	68	19.4	19.4	82.6
	SA	61	17.4	17.4	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

From table 1.5 above a question was asked on whether respondents listen to Islamic preachers regarding rights to maintenance of wife in Islamic law where 73 respondents representing 20.9 percent said strongly agreed, 72 respondents representing 20.6 said agreed, 76 respondents representing 21.7 percent said neutral, while 68 respondents representing 19.4 percent said strongly disagreed and 61 respondents representing 17.4 percent said disagreed.

**Table 1.6: Respondents participation in Islamic activities regarding right to maintenance wife in Kaduna North Local Government**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	38	10.9	10.9	10.9
	D	72	20.6	20.6	31.4
	N	99	28.3	28.3	59.7
	A	72	20.6	20.6	80.3
	SA	69	19.7	19.7	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.6 above showed how respondents participates in Islamic activities such as conferences /seminars pertaining to right of maintenance of wife in Islamic law which shows that 38 respondents representing 10.9 percent said strongly agreed, 72 respondents representing 20.6 said agreed and 99 respondents representing 28.3 said neutral, 72 respondents representing 20.6 said strongly disagreed and 69 respondents representing 19.7 said disagreed. The findings also show that majority of the respondents do not participate in Islamic activities regarding the rights to maintenance of wives in Kaduna North Local Government.

**Table 1.7: The Imam that conducted sermon during marriage sermon briefed Respondents on the right to maintenance of wife in Islamic law.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	70	20.0	20.0	20.0
	D	66	18.9	18.9	38.9
	N	57	16.3	16.3	55.1
	A	95	27.1	27.1	82.3
	SA	62	17.7	17.7	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.7 above table, seeks to find out on whether the imam who conducted sermon during the marriage of the respondents briefed them on rights to maintenance of wife in Islamic law where 70 respondents representing 20.0 percent said strongly agreed, 66 respondents representing 18.9 percent said agreed, 57 respondents representing 16.3 percent said neutral, 95 respondents representing 27.1 said strongly disagreed, and 62 respondents representing 17.7 said disagreed.

The findings showed that imams that conducted sermon during Islamic marriages do not briefed respondents on right to maintenance of wife in Islamic law. In essence, the imam usually informs the groom that he is responsible for feeding the bride without mentioning other components of maintenance. This is a serious gap. The imam usually used the following word.

**Table 1.8: The existing Islamic law sufficiently protects wives right on maintenance**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	78	22.3	22.3	22.3
	D	46	13.1	13.1	35.4
	N	86	24.6	24.6	60.0
	A	73	20.9	20.9	80.9
	SA	67	19.1	19.1	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.8 above showed how Islamic law protect wives right to maintenance in Islamic law which shows that 78 respondents representing 22.3 percent said strongly agreed, 46 respondents representing 13.1 said agreed and 86 respondents representing 24.6 said neutral, 73 respondents representing 20.9 said strongly disagreed, and 67 respondents representing 19.1 said disagreed.

**Table 1.9: Aware that some husbands provide unequal maintenance among co-wives.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	SD	80	22.9	22.9	22.9
	D	61	17.4	17.4	40.3
	N	69	19.7	19.7	60.0
	A	70	20.0	20.0	80.0
	SA	70	20.0	20.0	100.0
	Total	350	100.0	100.0	

Source: Researchers Field Work (2020)

Table 1.9 above provides responses of respondents on whether wives in Islamic law marriages suffer untold hardship and lack of proper maintenance once the marriage is broken down where 80 respondents representing 22.9 percent said strongly agreed, 61 respondents representing 17.4 percent said agreed, 69 respondents representing 19.7 percent said neutral, 70 representing 20.0 said strongly disagree, and 70 respondents representing 20.0 percent said disagreed.

### **1.7 Conclusion and Recommendations**

This paper discussed the meaning of maintenance, sources of maintenance scope of maintenance and the practical application of maintenance of the wife in Kaduna North Local Government, Kaduna State. Based on the foregoing the paper makes the following findings.

The analysis shows that few of the respondents are aware of the rights to maintenance of wife in Islamic law in Kaduna North Local Government, Kaduna State. This in turn hinders full enjoyment of right of a wife as specified by Islamic law.

It also shows that few read the Quran in order to know the rights to maintenance of wife according to the Islamic law. This affects realization of right to maintenance of a wife in Islamic law as practiced in Kaduna North Local Government of Kaduna State.

**Recommendations**

- i) Islamic preachers should play a greater role to play in creating awareness on the rights of maintenance of wife in Islamic law in Kaduna North Local Government.
- ii) The people in Kaduna State should read the provision of the glorious Quran on maintenance of wife and follow the interpretations of those verses as provided by Prophet Muhammad (S.A.W) and Muslims should acquire Islamic education expected on issues of right of maintenance of wife in Islam.