

Gender Equality in the Concept of Family Maintenance and Marital Property in Indonesian and European Legal Context: A Comparative study

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Abstract: This paper examines the concept of family maintenance and marital property in Indonesian and European law through a gender-based comparative analysis. This normative-comparative study aims to formulate a gender-equitable concept of family maintenance that can inform reconstructive thinking to the Indonesian legal reform. The findings show that the concept of family maintenance in European law reflects greater gender equality than that found in Indonesian law. In Indonesian law, the obligation to provide maintenance falls solely on the men, or husbands, while in European law, both spouses share equal responsibility for meeting household needs. This difference stems from the influence of Islamic law (which also places the obligation to provide for on husbands) and from the sociocultural context surrounding the Law No. 1 of 1974 on Marriage, which was enacted at a time when women did not yet possess equal legal and social status. Meanwhile, European countries adhere to the European Union's Human Rights Treaty, which adheres to the principle of equality and nondiscrimination. This gender inequality of family maintenance obligation in Indonesian law raises concerns, as women now have attained higher education, held professional positions, and earned substantial incomes, often exceeding those of their spouses. This situation has also contributed to an increase in divorce cases, as many women file for divorce due to economic reasons. Family maintenance is closely linked to marital property, as both relate to the financial and economic structure of the household. Indonesian marital property law also shares similarities with European law due to the influence of Dutch civil law. Understanding this concept of marital property should help balance the concept of maintenance to be equal for both spouses, because since after marriage, both spouses' incomes become community property, unless otherwise stipulated in a marriage agreement. Therefore, this study contributes to ongoing discussions on family maintenance in Indonesian marriage law, which has remained largely unchanged since 1974 despite extensive social transformation.

Keywords: Comparative Law; European Law; Family Maintenance; Gender Equality; Indonesian Marriage Law; Marital Property

Introduction

The issue of family maintenance (*nafkah*) is currently a critical concern in Indonesia (Utami & Dalimunthe, 2023). The concept of family maintenance in Indonesian law, particularly Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law), places primary financial responsibility on husbands and has generated. Many divorces arise from economic problems (Nadiatusholikha et al., 2024). Women frequently file for divorce because they receive inadequate maintenance (Prasetya et al., 2023). In today's consumer-driven and pragmatic social environment, intensified by social media, many wives demand a standard of living that exceeds their husbands' financial capacity. Meanwhile, women increasingly attain higher levels of education and hold senior professional positions with salaries that sometimes exceed those of their husbands (Rafiqi & Hanifah, 2025). A public figure stated on social media that "there are many independent women today, but there are few established

men," highlighting the growing phenomenon of women becoming the primary financial providers in their families (Fadilah, 2018). This trend reflects broader contemporary social dynamics and raises questions about the relevance of laws enacted in 1974 to current societal values. Therefore, the legal concepts governing family maintenance in Indonesia warrant further examination.

Family maintenance is closely linked to the regulation of marital property. In Indonesian society, when women work, a common saying suggests that the husband's income belongs to the wife while the wife's income is for her alone, a perception that often intensifies marital conflict and contributes to economic-related divorce. As a result, when a woman becomes more financially secure, she may decide to divorce her husband (Rosa, 2025). This stems from the misconception that family maintenance must come solely from the husband. However, under the concept of marital property, unless a prenuptial agreement is reached, marital property constitutes joint community property, including both spouses' income, regardless of whether the wife works. Therefore, the discussion of family maintenance is inherently connected to the regulation of marital property.

Research on *nafkah* from an Islamic perspective shows that the husband bears the primary obligation to provide for his wife and family, including food and clothing. Taheras et al (2022) emphasize that the maintenance given by a husband with the intention of seeking Allah's pleasure is considered charity, while the wife is not obliged to earn a living except under certain conditions. Paryadi and Isaliyah (2019) find that the fulfillment of clothing needs is influenced by income, awareness of obligations, and priority of needs. In the case of a husband with a disability, as examined by Aziz Azhari and Muh. Zaim Azhar (2021), the wife may assume a role in earning a living, although the primary responsibility remains assigned to the husband. Syaidun (2019) explains that Islam permits wives to work as long as doing so does not violate Islamic law and emphasizes that a wife's support for the family is considered charity. However, if the husband is unable to provide for the family, the wife has the legal right to file for divorce. Overall, these studies highlight that the duty of family support and maintenance is placed primarily on husbands.

This paper examines the concept of family maintenance and marital property in Indonesian law using gender analysis, and compare these concepts with the laws of European countries that have adopted gender equality principles (Rillery, 2015). The issues discussed in this paper include the following: the formulation of family maintenance and marital property in Indonesian and European law; a comparison of these frameworks; the application of gender analysis to these concepts; and the implications for social life. This study aims to analyze Indonesian law on family maintenance and marital property using gender equality theory and then compare these concepts with European law. The comparative approach here goes beyond examining similarities and differences; it also examines the underlying causes of these similarities and differences, evaluates their social implications, and identifies potential improvements future legal reforms.

Literature Review

Gender Equality in Family Law

Gender refers to socially constructed characteristics associated with male and female sexes, which are formed by social construction (Mansour, 1996). Therefore, these traits are not fixed but vary from one condition to another, from one place to another. For example, women are often described as gentle and caring, but some women are also tough and fierce. Conversely, men are commonly characterized as tough and brave, but some men are also gentle and patient. Labeling individuals based on gender stereotypes may lead to discrimination (Apriliandra & Krisnani, 2021). Thus, the question arises: how can gender be understood in a way that promotes equality? For example, some women demonstrate nurturing characteristics, while others exhibit resilience and assertiveness. In the context of income, some families have a husband who works while the wife does not, so the husband becomes the primary provider. However, some families consist of both spouses working and sharing financial responsibilities, while in others, the wife earns significantly more than the husband and therefore contributes a larger share to household expenses.

Research on gender equality in the domestic sphere shows that despite differences in the level of gender equality across countries, women still bear the main burden of household work (Baxter, 1997). In Indonesia, social and cultural norms play a significant role in shaping women's economic participation, with many women leaving the workforce after marriage due to limited workplace flexibility (Cameron, 2023). Research on peat-based communities in Riau shows that gender roles in households vary based on economic level; women in poorer families participate more actively in agricultural labor activities, whereas women in wealthier families tend to assume a greater role in decision-making (Herawati et al., 2019). However, the discourse on gender equality in Indonesia is also influenced by state policies that emphasize the concept of "gender harmony," a framework that often reinforces heteronormative norms and traditional female roles within the family (Wieringa, 2015). This shows that, despite efforts to improve gender equality, structural barriers and social norms remain major challenges in achieving more substantive progress.

In the context of Islamic family law, gender equality in terms of maintenance still faces various challenges, even though legal provisions require husbands to provide maintenance to their wives (Yani, 2024). Gender inequality in livelihood responsibilities is also seen in customary law, such as in Balinese society, where married women are still expected to contribute economically, despite the prevailing patrilineal family system (Masruroh, 2022). In addition, in the case of *iddah* maintenance after divorce, Indonesian marriage law has not fully ensured wives' entitlement to maintenance during the *iddah* period, revealing an imbalance from the perspective of gender justice (Maulida & Busyro, 2018). The Compilation of Islamic Law (Kompilasi Hukum Islam, or KHI), which serves as a reference in religious courts, also still faces challenges in interpreting the principle of gender justice in the maintenance provision (Zakaria, 2020). Meanwhile, gender inequality in economic aspects is also visible in traditional Sasak society, where women still experience marginalization in accessing and controlling economic resources (Khaerani, 2017). Therefore, comprehensive legal and social reforms are needed to ensure that women obtain equal rights to livelihood and economic well-being.

Family Maintenance and Marital Property

According to Yusuf Al-Qaradhawi, as cited in Armi and Nurhayati, Islamic law places the responsibility for family maintenance on the husband (Armi & Nurhayati, 2022). This principle aligns with Indonesian family law, which similarly recognizes the concept of joint marital property. However, its implementation raises several issues that may affect legal certainty and fairness. When marital property is implemented, the obligation to provide maintenance becomes a shared responsibility between spouses, along with other household duties. This arrangement reflects the Islamic principle of balance and justice within marriage (Nelli, 2017). Marital assets include each spouse's personal property brought into the marriage and joint or community property (*gono-gini*) acquired through their mutual efforts. Most scholars classify this joint property as *syirkah abdan*, a concept derived from the word *syirkah* in 'uruf or customary law in Indonesia. In this context, *syirkah* refers to community property between spouses resulting from their partnership in marriage. According to Ismail Muhammad Syah in Nawawi, marriage-based *syirkah* establishes a partnership between spouses that produces joint assets (Nawawi, 2013). Scholars, including Ibn Rushd Al-Qurtubi, in Nawawi, explain that *syirkah abdan* generates joint property arising from the marital bond, which may be divided equally or proportionally according to each spouse's contribution (Nawawi, 2013). Following the principles of joint service partnerships, the division of marital property after divorce may follow *syirkah abdan* or other agreements that allocate assets equally or proportionally (Nawawi, 2018).

Under both Islamic law and Indonesian positive law, family maintenance is the husband's responsibility, while marital property is the result of the husband and wife's joint efforts during the marriage. Article 97 of the Compilation of Islamic Law (KHI) stipulates that upon divorce, marital property is divided equally, with each spouse receiving half, unless a marriage agreement provides otherwise (Jayusman et al., 2022). However, in practice, wives who also contribute economically often face a double burden, managing both domestic responsibilities and income-earning activities (Sutini & Dewi, 2021). Several court decisions indicate that judges increasingly consider each spouse's contribution when

determining a more proportional division of joint marital assets. Judges' reasoning aligns with the concept of *syirkah abdan inan* within *syirkah uqud*, which bases asset division on consensus or proportional contributions. *Syirkah uqud* comprises *syirkah abdan mufawwadhat*, which divides property equally (1:1), and *syirkah abdan inan*, which divides property proportionally according to each spouse's contribution (Nawawi, 2013). This approach is reflected in decisions such as Religious Court Ruling No. 1349/Pdt.G/2023/PA.Bm, which awarded 60% of the marital assets to the wife due to the husband's failure to fulfill his maintenance obligations (SNA Firdaus et al., 2024). From a maqashid al-shari'ah perspective, *syirkah abdan inan* supports a just division of marital property based on each spouse's active contribution. Thus, several scholars argue that a wife's income should be considered personal property rather than joint marital property to ensure fairness and well-being (Firdausia & Attamimi, 2024; Darussamin & Armansyah, 2017). This approach contradicts Indonesian positive law, which still mandates a 50:50 division of marital property in divorce proceedings, without taking into account the wife's dual role (Farida et al., 2024). Therefore, scholars propose adopting a more flexible distribution, for example 1/3:2/3 or 1/4:3/4, based on each spouse's contribution, similar to practices in Australia, Malaysia, and Japan (Elviyanti & Sitorus, 2022).

Comparison of Indonesian and European Law

Indonesian law is closely connected to the legal traditions of several European countries. In addition to drawing from Islamic law (Wahyuni, 2022), Indonesian law also incorporates elements of Dutch colonial law, which reflects the continental European civil law system adopted in countries such as France, Germany, Italy, Belgium, Austria, and other mainland European jurisdictions (Noho, 2020).

Several studies have conducted comparative analyses on marriage law, community property, and contract law across different jurisdictions, particularly between Indonesia and European countries. Rizqullah, Umar, and Fuad (Rizqullah & Fuad, 2024) highlights the differences in the recognition of royalties as marital properties in the legal systems of Indonesia, Malaysia, and the United States, emphasizing the importance of protecting creators' rights and the role of prenuptial agreements. Similarly, Portuna (Portuna, 2024) compares the civil law-based contract system in Indonesia with the common law system in the United States, showing that despite regulatory differences, both systems uphold the principles of contractual freedom and legal certainty. Another study by Nurdiansyah, Damiri, and Lailiyah (Nurdiansyah & Damiri, 2023; Nurdiansyah et al., 2023) examines differences in marriage regulations in Indonesia, the United Kingdom, and the United States, including marriage requirements and the legal implications for married couples. In addition, Wahyuni (2014) analyzes the application of Islamic family law to Muslim migrants in Western countries, showing that the acceptance of Islamic law differs in common law countries such as the United States and the United Kingdom and civil law countries such as Germany and France.

Despite these comparative studies, research specifically examining the concepts of family maintenance and marital property in Indonesian and European legal systems through a gender-equality lens remains limited and necessary. Furthermore, gender inequality continues to shape contemporary family life, particularly as economic pressures contribute significantly to rising divorce rates.

Method

This study employs a library-based research design and adopts a normative legal research approach that analyzes legal norms governing Indonesian and European law, related to the concepts of family maintenance and marital property. A comparative approach is used to examine and contrast relevant provisions in Indonesian and European legal systems. The study relies exclusively on secondary data, including primary legal materials such as Indonesian marriage law, the German Civil Code (as a representative sample of European law), and the Dutch Burgerlijk Wetboek, which historically influenced Indonesian law. Secondary legal materials consist of scholarly books and academic publications, including journal articles discussing maintenance and marital property in Indonesian and European contexts. Tertiary legal materials, including legal dictionaries and encyclopedias, are used to clarify concepts and support the interpretation of primary and secondary sources. All collected data are described and

systematically presented, then analyzed using gender theory and comparative legal analysis to formulate a conceptual framework that may inform future legal reform.

Results and Discussion

The Concept of Family Maintenance and Marital Property in Indonesian and European Law

The concept of family maintenance in Indonesian law is regulated in Law Number 1 of 1974 concerning Marriage, specifically Article 34, which reads:

- (1) The husband is obliged to protect his wife and provide all the necessities of household life according to his ability
- (2) The wife is obliged to manage household affairs to the best of her ability.
- (3) If either spouse neglects their respective obligations, the other can file a lawsuit in court.

Based on this provision, it is evident that the obligation to provide maintenance rests primarily with the husband, who must provide all the necessities of life for the household according to his means. Meanwhile, the wife's sole responsibility is to manage the husband's income to meet the family's needs.

This concept reflects the influence of Islamic law (Muin, 2022) and Indonesian culture (Rahmayanty et al., 2023) in shaping the 1874 Indonesian Marriage law. Because the majority of Indonesians are Muslim, Islamic legal principles have significantly shaped the country's legal development. Likewise, Indonesian cultural norms at that time also played a major role, as women were generally positioned as housewives and did not yet enjoy equal access to education or professional opportunities (Junaidi, 2017). In Islamic law, the obligation to provide financial support rests with the husband (Hidayatulloh, 2019), and in Indonesia's traditional culture, wives were viewed primarily as homemakers who depended economically on their husbands (Junaidi, 2017). Thus, the maintenance concept embedded in Indonesian marriage law has not fully incorporated gender equality, as it assigns the economic responsibility of maintenance solely to the husband.

The maintenance concept in Indonesian law may also have been influenced by the Dutch Civil Code of 1837, which was applied in Indonesia during the colonial era and similarly did not reflect gender-equitable principles. For example, Article 105 of the Civil Code states:

"Every husband is the head of the marital household. As such, he is required, subject to certain exceptions, to assist his wife, represent her in court, and manage her personal assets unless otherwise agreed. He must administer these assets with due care and is liable for any negligence...."

Article 107 further requires the husband to accept his wife into the house he lives in, protect her, and provide for her in accordance with his social position and economic ability."

This law was enacted in the early 19th century, a period when women did not enjoy equal social or legal standing with men. Accordingly, Dutch colonial law likely influenced the development of Indonesia's 1974 Marriage Law, particularly because Indonesian women at that time also lacked equal status. Overall, the family maintenance framework, which assigns primary responsibility to husbands, reflects an effort to protect women who, at the time, were predominantly homemakers with limited economic independence.

The concept of maintenance is closely related to the concept of marital property, as both concern the economic and financial aspects of family life. In Indonesian law, marital property is regulated in Articles 35-37 of the Marriage Law (Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, 1974), which state that:

- (1) Property acquired during the marriage constitutes community property.
- (2) Inherited assets and assets obtained as gifts by either spouse remain under their respective control unless otherwise agreed.

Article 36

- (1) Legal actions involving community property require the mutual consent of both spouses.
- (2) Each spouse has full rights to manage and take legal action regarding his or her own separate property.

Article 37

If the marriage ends due to divorce, joint property is divided according to the respective law.

This concept of marital property actually supports gender equality, as both spouses have rights over community property and must obtain each other's consent before taking legal action that affects it. In the event of divorce, each spouse is entitled to a share of the community property. Therefore, if the wife does not engage in paid work, her domestic labor is nonetheless recognized through her share of community property. However, if the wife does work, her income also becomes part of community property. When the concept of maintenance is understood alongside the concept of marital property, the overall framework can support gender equality. However, in practice, societal perceptions still emphasize the husband's role in providing maintenance.

The concept of marital property remains relatively unfamiliar to the public, particularly when compared to the more widely understood notion of maintenance. This lack of understanding is especially evident in matters concerning prenuptial agreements. Empirical evidence also indicates the limited use of such agreements. For example, a 2022 study by Edi Purwanto in Jember Regency reported that over the past decade, only two marriage contracts had been recorded, one involving a foreign spouse. Furthermore, 99% of notaries in Jember Regency reported no record of marriage contracts (Purwanto, 2022). This trend may reflect the general absence of written contractual practices in Indonesian society, where couples typically marry and manage their household finances without a prenuptial agreement, regardless of whether one or both spouses are employed.

In European jurisdictions such as the Netherlands, France, and Germany, marital property is regulated through codified civil law systems. The laws across many European Union member states are nearly identical. The following provision from the German Civil Code illustrates the legal definition of maintenance:

Section 1359 Scope of duty of care

In the performance of the duties arising from the marital relationship, the spouses are answerable to each other only for the care they usually exercise in their own affairs.

Section 1360 Duty of family maintenance

The spouses have a duty to each other to appropriately maintain the family through their work and with their assets. If the household management is entrusted to one spouse, he normally performs his duty of contributing to family maintenance through work by carrying out the household management.

Section 1360a Scope of the obligation to maintain

(1) The reasonable maintenance of the family includes everything that is necessary, depending on the circumstances of the spouses, to pay the costs of the household and to satisfy the personal needs of the spouses and the necessities of life of the children of the family entitled to maintenance.

(2) Maintenance must be provided in the manner that is required by conjugal community. The spouses have a duty to each other to provide for a reasonable period of time in advance which means necessary for the collective maintenance of the family.

(3) The provisions of sections 1613 to 1615 that govern the duty of relatives to maintain apply with the necessary modifications.

(4) If a spouse is not in a position to bear the costs of a legal dispute which relates to a personal matter, the other spouse has a duty to advance him these costs, insofar as this is equitable. The same applies to the costs of defense in criminal proceedings in which a spouse is the defendant.

Section 1360b Overpayment

If a spouse makes a larger contribution to the maintenance of the family than he is obliged to, then in case of doubt it is to be assumed that he does not intend to demand reimbursement from the other spouse.

Based on the articles above, it can be stated that the obligation to provide maintenance under European law is imposed on both spouses. According to Glendon and Ann (pages 524 and 526, 1978), this obligation does not rest solely on the husband, as is the case in Indonesian law. If one spouse contributes more than the other, the excess may be considered a debt owed by the spouse who contributes less; moreover, if a spouse leaves the household, the remaining spouse may still demand continued financial

support. Thus, European legal systems generally impose a balanced maintenance obligation, requiring both spouses to contribute to family needs on an equal basis (Glendon & Ann, 1978).

European Union member states adhere to the International Human Rights Agreement, which mandate equality and prohibit discrimination, including discrimination based on gender (Febriana, 2021). In everyday life in European societies, men and women are equal in many ways, including within family relationships. This equality also extends to personal autonomy, including gender identity and sexual orientation. Family relationships may take diverse forms in Europe, including marriage or non-marital partnerships, whether heterosexual or same-sex. Therefore, the concept of community property does not necessarily involve a marriage bond (Barzó, 2011).

In European law, especially the German civil code, marital property is regulated through the following provisions:

Section 1363 Community of accrued gains:

- (1) The spouses live under the property regime of community of accrued gains if they do not by marriage contract agree otherwise.
- (2) The property of the husband and the property of the wife do not become the common property of the spouses; the same applies to property that one spouse acquires after marriage. The accrued gains that the spouses acquire in the marriage, however, are equalised if the community of accrued gains ends.

Section 1364 Management of property:

Each spouse manages his property independently; however, he is restricted in the management of his property under the following provisions.

Section 1365 Disposition of property as a whole

- (1) A spouse may only with the consent of the other spouse agree to dispose of his property as a whole. Where he has agreed without the approval of the other spouse, he may perform the duty only if the other spouse consents.
- (2) Where the transaction complies with the principles of proper management, the family court, on the application of the spouse, may substitute the consent of the other spouse if the latter refuses it without adequate cause or is prevented by illness or absence from making a declaration and delay entails risks.

These provisions state that assets acquired before marriage remain the personal property of each spouse, while assets acquired during the marriage constitute community property; similar rules apply in France and the Netherlands (Glendon & Ann, 1978). Based on these provisions, it is evident that Indonesian and European legal systems share similarities in regulating joint property, particularly the principle that property acquired during marriage becomes community property unless otherwise agreed in a marital contract. As in Indonesia, many couples in European jurisdictions also do not enter into marriage contracts or prenuptial agreements. Navarro (2006) notes that many European couples refuse to create prenuptial agreements (Navarro, 2006). Similarly, in Italy, the practice of drafting marital agreements remains limited (Italy, 2025).

Comparative Analysis and Its Implications

In Indonesian law, there is no gender equality between husbands and wives in the obligation to provide maintenance or fulfill family needs in marriage (Stefanie et al., 2022), whereas European law accommodates gender equality in this regard. Indonesian law places the responsibility for family maintenance primarily on the husband based on his financial capacity, while European law requires both spouses to share this responsibility according to mutual agreement.

The concept of marital property in both Indonesian and European law is similar. Both systems stipulate that property acquired by spouses after marriage constitutes marital property, and both treat the community property based on the agreement or mutual consent unless there is a prenuptial agreement (Aznal, 2023). Indonesian marital property law reflects provisions adopted from the Dutch Burgerlijk

Wetboek (BW), introduced during the colonial period, which explains the doctrinal similarities between Indonesian and European legal frameworks (Ahmad, 2021).

The concept of maintenance in Indonesian law, which does not uphold gender equality, can contribute to rising divorce rates driven by economic pressures. Nowadays, when women are highly educated and hold professions equal to men, their salaries can sometimes even exceed those of their husbands', which can create marital tensions. In some cases, women may expect a standard of living that surpasses their husbands' financial capacity, particularly within increasingly consumer-oriented social environments. Recent data indicate that divorce rates linked to economic hardship increased significantly during the COVID-19 pandemic, a period marked by widespread business closures and economic decline (Madhory et al., 2023). Financial instability, such as job loss, business failure, or reduced income, may prompt wives to file for divorce when the husband can no longer fulfill his maintenance obligations. Similarly, research shows that higher female income levels correlate with a greater likelihood of initiating divorce (Najichah, 2020). Thus, the gender inequality in the concept of maintenance in Indonesia can have adverse social implications, including wives' dissatisfaction with their husbands' financial contributions and an imbalance in expectations and responsibilities within the household.

According to the concept of marital property, in today's society where both spouses work, income from their work becomes community property within the marriage. Therefore, both partners must understand this principle so that the wife does not demand support beyond the husband's financial capacity. A wife's income also becomes community property, rather than solely belonging to her, which contrasts with the common societal assumption that the husband's salary belongs to the wife while the wife's salary belongs exclusively to herself (Risky, 2020). Both spouses must compromise and obtain each other's consent before conducting legal actions regarding joint assets, as stipulated in Article 38 (1) of the Indonesian Marriage Law. Thus, the concept of marital property which places husbands and wives on equal footing, can help balance Indonesia's family maintenance framework, which has not yet achieved full gender equality.

This comparative study on the concepts of maintenance and marital property aims to identify the strengths and weaknesses of each concept to inform future legal development (Rahman & Rizkianti, 2024). Comparative analysis commonly focuses on similarities and differences; however, these variations often arise from differences among legal families, making it essential to consider their origins. Incorporating an examination of societal culture – particularly regarding maintenance, marital property, gender equality, and gender relations – further enhances the comprehensiveness of this study. Thus, this research contributes meaningfully to the fields of family law, civil law, and comparative state law.

Based on the comparative analysis above, it can be stated that Indonesian and European law differ in their regulation of maintenance, while they share notable similarities in the concept of marital property. Gender equality in the European concept of maintenance reflects longstanding cultural values that emphasize equality and non-discrimination, and is reinforced by the European Union's human rights framework. In contrast, Indonesian law has not yet fully incorporated gender equality into its maintenance framework, as the obligation to provide maintenance remains imposed solely on the husband as the head of the household. This legal structure no longer aligns with current social conditions, where women increasingly possess comparable levels of education, professional standing, and income – sometimes even surpassing that of men. Such disparities may generate tension within households and contribute to the growing number of divorce petitions filed by wives for economic reasons.

Based on this study, Indonesian law on family maintenance should be revised to reflect contemporary societal conditions and evolving gender roles. Such reform could be pursued through a government-initiated amendment to the Marriage Law, which has remained largely unchanged since its enactment in 1974. The most recent amendment in 2019 addressed only the minimum marriage age, following a Constitutional Court ruling, and did not revise other substantive provisions. If the government does not initiate reform, the public may seek constitutional review to ensure that maintenance provisions reflect current social realities, particularly the increasing labor-force participation of women. Thus, this comparative analysis demonstrates that Indonesian law may draw on the European gender-equality model in family maintenance to better align with the nation's contemporary social and economic context.

Conclusion

This comparative study reveals differences between the concept of family maintenance in Indonesian law and European law with respect to gender equality. In Indonesian law, the obligation to provide maintenance remains exclusively assigned to husbands, whereas in European law, both spouses share equal responsibility for meeting household needs. This difference stems from the influence of Islamic law, which also places the obligation to provide to husbands, and from the sociocultural context at the time Law No. 1 of 1974 on Marriage was enacted, when women did not yet hold equal legal and social status. Meanwhile, European countries adhere to the European Union's Human Rights Treaty, which adheres to the principle of gender equality and nondiscrimination. This gender inequality in maintenance in Indonesian law can be problematic today, as women have now attained higher education, hold professional occupations, and earn substantial incomes, often surpassing those of their spouses. Family maintenance is closely related to marital property, as both constitute the financial and economic foundations of the family. There are also similarities between Indonesian and European law, as Indonesian marital property is influenced by Dutch civil law. This concept of marital property should be able to balance the concept of family maintenance to be equal for both spouses, because since after marriage, both spouses' income becomes community property, unless otherwise stipulated in a marriage agreement.

This study contributes to ongoing discourse on the concept of maintenance in Indonesian marriage law, which has remained largely unchanged since 1974 despite substantial social transformation. Gender-equitable reforms to maintenance and marital property law may be developed by the executive and legislative branches or may be pursued through judicial review, as exemplified by the 2019 decision revising the minimum marriage age. This paper has not addressed the reinterpretation of Islamic law regarding the husband's maintenance obligation; future research should therefore examine contemporary reinterpretations of Qur'anic verses and hadiths on maintenance to support renewed Islamic legal thought that aligns with current social conditions in which women have achieved greater equality and elevated socio-economic status.

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Conflict of Interest

The author declares that there is no conflict of interest.

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