



Analysis of the Application of the Principle of Proportionality Article 31 of Law Number 1 of 1974 concerning Marriage in the Division of Rights and Obligations of Husband and Wife

Juliana Nurillah,¹ Muh. Yunan Putra,² Jainuddin^{3*}

123 Muhammadiyah University of Bima, Indonesia.

*Corresponding Author, email: jainuddin.ptais015@gmail.com

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Abstract: The principle of proportionality is a fundamental principle in law which emphasizes the balance between rights and obligations, and is relevant to apply in the context of husband-and-wife relationships. The provisions of Article 31 of Law Number 1 of 1974 concerning Marriage still base the division of roles between husband and wife on a traditional structure, which in practice is often not in harmony with contemporary social dynamics. This study uses a normative juridical approach and is analyzed qualitatively through a literature study and review of a number of Religious Court decisions. The results of the analysis show that an imbalance in the implementation of roles between husband and wife is the dominant factor in divorce cases. Although the principle of proportionality has not been explicitly accommodated in positive legal norms, its application is starting to appear in the legal considerations of several judges as a form of substantive justice. Therefore, mainstreaming the principle of proportionality in the formation of national law and family justice practices is an urgent need to realize justice, equal roles and family resilience in Islamic society in Indonesia.

Keywords: husband and wife; Islamic Law; Marriage Law; principle of proportionality; Religious Courts; rights and obligations;

Introduction

Law Number 1 of 1974, as the Marriage Law, contains norms to regulate the rights and obligations of the parties in a marriage (Nuraeni & Suryono, 2021). This norm regulates various aspects of marriage, including position, the role of husband and wife in the household, the rights and obligations of husband and wife in the household, and after divorce. However, the existence of Law Number 1 of 1974 has become controversial among women activists because this law is considered a gender-biased regulation.

In article 31 of Law Number 1 of 1974, paragraph (1) reads, "The rights and position of the wife are balanced with the rights and position of the husband in domestic life and social life together in society." And sentence (3) with sound "husband as head of the family and wife as housewife" (Hanifah, 2019). This article describes the division of public and domestic duties between husband and wife as a form of discrimination against women and through this regulation shows that government policies increasingly legitimize forms of injustice for women in the family.

The policies regulated in the Law are no longer relevant and are contrary to real life, the Law states that the husband is the head of the family and the wife is the housewife, however in real life the phenomena that occur are not in accordance with the words of the Law, at any time the wife can

replace the husband's role as head of the family, including in terms of earning a living. In real life, many wives now take on the role of a husband, even in terms of rights and obligations. In the modern era, the position of head of the family does not require gender identity. In this modern era, many women work and occupy public positions, thus requiring an exchange of domestic roles between husband and wife due to socio-economic demands (Pratama & Wijaya, 2023).

Data from the Central Statistics Agency (BPS) records that the number of women who are heads of families is relatively high. As many as 12.73% of women in Indonesia are heads of families. BPS classifies the backgrounds of women as heads of households as varied, one of which is that the husband does not earn a living because he lost his job, and the husband goes for a long time without providing support (Stevanny, 2024). The data above shows that the role of head of the family is not absolutely given to men. The dominant wife, who is the backbone of the family, can become the head of the family depending on the situation and needs of the family.

The exchange of roles of head of the family between husband and wife is related to a balance of rights and obligations of husband and wife so as to create justice in family relationships. Of course, if the wife plays a more public role, the husband will replace the wife's domestic role, and vice versa. So it is necessary to balance the fulfillment of rights and obligations between husband and wife (Hermanto et al., 2022). If there is inequality where rights are more emphasized or broader than obligations, or vice versa, injustice will undoubtedly be created. Therefore, balanced rights and obligations really determine the continuity and harmony of the relationship between the two. Marriage success cannot be achieved unless both parties pay attention to their obligations and the rights of the other party (Mubarok & Hermanto, 2023).

The principle of proportionality is a principle in realizing a fair distribution of rights and obligations between husband and wife in the household, because the principle of proportionality is a principle that creates balance in the distribution of obligations (Sweet & Mathews, 2008). The use of the principle of proportionality in the world of constitutional justice is known throughout the world. Indonesia is no exception; the use of the principle of proportionality is very far away. In Germany this principle has been recognized and constitutional judges also advise other judicial judges to use this principle. In contrast to Indonesia, it is known that the Constitutional Court has only used this principle since 2007, with very rare use (Rugian, 2021).

Research on the rights and obligations of husband and wife based on the principle of proportionality has been carried out by several researchers. The author refers to research conducted by Sar'an M and friends, entitled "Implementation of Harmonious Family in the Concept of Proportionality of Obligations and Rights of Husband and Wife Relations: A Perspective on the Compilation of Islamic Law" (Sar'an et al., 2024), which discusses the breakdown of marital ties and a family that can no longer be harmonious in carrying out rights and obligations proportionally.

Due to the rare use of the principle of proportionality in the context of constitutional justice in Indonesia, this research will try to examine more deeply if the principle of proportionality is applied in the formulation of a Bill or Legislation and becomes a reference in a Court decision. One of them is the Marriage Law, which specifies the rights and obligations of husband and wife. So in this case, the author is interested in researching how to apply the principle of proportionality in Law Number 1 of 1974 in creating a fair balance of rights and obligations towards husband and wife and implementing the principle of proportionality in court decisions.

Van Eikema Hommes explains that principles are not concrete legal norms, but as general foundations or guidelines for applicable law (Van Eikema Hommes, 1984). According to Agus Yudha Hernoko, the principle of proportionality is balance or a balanced state (equal weight, balanced, comparable and equitable). Meanwhile, Herlien Budiono differentiates the meaning of the principle of proportionality into two meanings, first, the principle of balance as a principle of etiquette, which means a state of burden distribution on both sides is in a balanced state. Second, the principle of balance as a juridical principle means that the principle of balance can be understood as a reasonable or fair principle (Shokhib, 2022).

(Alexy, 2021) in his book *Law's Ideal Dimension* with the principle of proportionality, this principle consists of three elements, namely suitability, necessity (needs), and balance. This last

element is also called the principle of proportionality in the narrow sense, “Law of balancing saying the greater the degree of non-satisfaction of, or detriment to, one principle, the greater must be the importance of satisfying the other. This means that if a principle in its application causes harm (is not in line with the values of justice and benefit), then other principles are applied as long as they are in accordance with these values. The nature of reducing losses is the main point in applying the principle of proportionality (Rugian, 2021).

Law Number 1 of 1974 in Chapter VI which regulates the Rights and Obligations of Husbands and Wives in article 31, paragraph [1] The rights and position of the wife are balanced with the rights and position of the husband in domestic life and social life together in society, [2] Each party has the right to take legal action, [3] The husband is the head of the family and the wife is the housewife (Anwar, 2021). In essence, the article explains the balance of the roles of husband and wife in the household.

The provisions of the head of the family and the housewife are often debated by several women activists. The relationships between every family in Indonesian society have various styles according to social and cultural backgrounds. The enactment of Law Number 1 of 1974 has been around for quite some time and is no longer relevant to today's reality, so re-study and evaluation is needed to make it more suitable for implementation in society (Triadi, 2019). Law updates will be more optimal if they are adapted to current socio-cultural developments in society.

Rights and obligations in Arabic are also called rights and obligations, *واجبات وحقوق* are two terms that are well-known in the relevant object and are directly related to the law, including people who have married. He will find these two terms because they are closely related to the relationship between husband and wife in a household. A right is anything that a person receives from another person, while an obligation is what a person must do to another person. Obligations arise because of the rights attached to the legal subject (Muda'i & Wahid, 2023).

Method

This research is a normative juridical research with a qualitative approach, namely with a research focus on written legal norms that apply in society (Zainuddin & Karina, 2023). The data used in this research are primary data and secondary data obtained from various sources, including legal regulations of Law Number 1 of 1974, books and scientific writings that are relevant to the topic to be discussed. Data analysis was carried out using the method of *Literature Review*, the researchers will identify, evaluate the results of previous research as data material, apart from that, the researchers will search sources such as books and scientific writings that are relevant to the research topic.

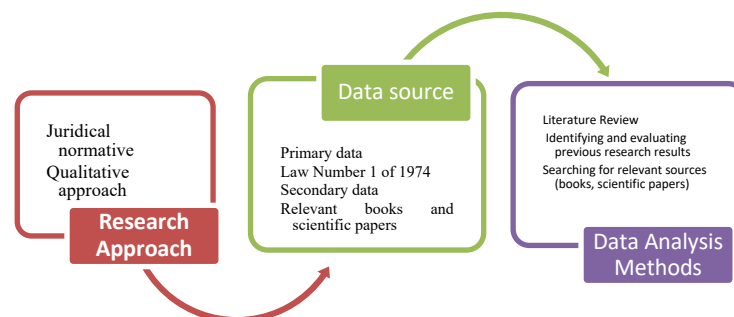


Figure 1. Flow chart of research steps
Source: (Zainuddin & Karina, 2023).

Results And Discussion

The Principle of Proportionality in Religious Court Decisions

The principle of proportionality in law refers to a principle that requires balance and fairness between the objectives of the law and the actions taken to achieve them (Ahmad et al., 2023). In the

context of Religious Court decisions, this principle emphasizes that decisions taken by judges must be proportional, that is, appropriate, fair and balanced, both to the actions carried out by the parties and to the applicable law.

Application of the Principle of Proportionality in several judges' decisions in deciding cases in the Religious Courts. Through several copies of decisions accessed via the website of the Supreme Court of the Republic of Indonesia, the researcher tries to analyze and describe what percentage of the principle of proportionality is reflected in each decision made by Religious Court judges regarding marriage cases, especially in cases of the rights and obligations of husband and wife or after divorce.

Table 1. Reflection on the Principle of Proportionality in the Decisions of Religious Court Judges in Marriage Cases Concerning the Rights and Obligations of Husband and Wife

No	Decision	Proportionality	Judge's decision
1	40/Pdt.G/2025/PA.Bm (Copy of the decision accessed on the Directory of Decisions of the Supreme Court of the Republic of Indonesia page on April 3 2025)	60-70% fair	Prioritizing the principle of agreement between both parties rather than just rigidly applying the rule of law, and distributing child support proportionally according to the child's needs based on age and in accordance with the husband's (father's) economic capabilities
2	418/Pdt.G/2023/PA.Dp (Copy of the decision accessed on the Directory of Decisions of the Supreme Court of the Republic of Indonesia page on April 3 2025)	30-40% lack of proportionality	The judge considers the balance of rights and obligations, the same burden of proof, and a decision that accommodates both parties
3	373/Pdt.G/2023/PA.Mtr (Copy of the decision accessed on the website of the Supreme Court of the Republic of Indonesia (5 April 2025))	40% lacks proportionality.	The judge decided that the case filed by the plaintiff could not be accepted by the court because the lawsuit did not meet the material requirements.

Analysis of three religious court decisions shows that the application of the principle of proportionality varies in divorce cases decided by the Bima Religious Court.

First, decision 40/Pdt.G/2025/PA.Bm, the application of the principle of proportionality shows excellent implementation in fulfilling the balance between the rights and obligations of the parties. In this divorce case, the judge ratified a fair peace agreement regarding the distribution of child support between husband and wife. Here, *suitability* was implemented very well because the division of responsibilities—the husband bears the monthly income and the wife bears the costs of the children's education and health—is in accordance with the actual conditions of both parties. *Balancing* was also achieved effectively, because this decision reflects a balance between the child's right to receive adequate support and the right of both parents to carry out their obligations without burdening either party excessively. This decision avoids the potential for disproportionate harm, as outlined in the concept of *balancing* Alexy, that the greater the loss caused to one party, the greater the obligation to fulfill other principles (Janebová & Rigel, 2025).

Second, decision 418/Pdt.G/2023/PA.Dp shows a more complex effort to uphold substantive justice by carefully applying the principle of proportionality. The judge in this case

imposes a balanced burden of proof on each party and carries out a direct examination of the object of the dispute, which shows implementation *necessity* in an effort to ensure that each party gets its rights fairly (Stoykova, 2023). This decision avoids making decisions that are too one-sided and places more emphasis on protecting the interests of each party. Implementation of this *balancing* is clearly seen when the judge decides to partially grant the lawsuit, which reflects a deep understanding of the importance of balancing the rights proposed by both parties (Dobbie & Yang, 2021). This approach reduces the potential for disproportionate losses and maintains fairness in applying the principle of proportionality.

Third, decision 373/Pdt.G/2023/PA.Mtr reflects the limitations of applying the principle of proportionality, especially in the aspect of *necessity and balancing*. Although in terms of suitability, the decision meets the formal requirements, the judge's decision to reject the lawsuit based solely on the wrong address of the defendant without considering the factual condition of the plaintiff, who is facing neglect of his livelihood, illustrates the inadequate application of the principle of *necessity*. Judges should consider the social and economic conditions of plaintiffs, who are in a very vulnerable position economically (Bookman & Petel, 2023). The rejection of the lawsuit without looking at the factual context shows this *balancing*, which was not achieved, because the decisions taken prioritized compliance with formal procedures rather than considering substantive justice for the weaker party (Stancil, 2016). Apart from that, charging case fees to plaintiffs who are in difficult economic conditions shows a lack of alignment with distributive justice, where this decision actually increases the economic burden on parties who are already socially and financially hampered.

The application of the principle of proportionality in a legal context, especially in court decisions, requires careful attention to the balance between three main elements: suitability, need, and balance. Suitability requires that the decisions taken are in accordance with factual conditions and existing needs, while necessity refers to the implementation of the steps necessary to achieve substantial justice (Alexy, 2021). Finally, balance requires that the rights and obligations of the parties involved be safeguarded so that no one is unduly harmed, taking into account the interests of all parties involved. A court that is able to combine these three elements well will produce decisions that are not only legally valid but also fair and lead to substantive justice that takes into account the social and factual context of the case at hand. Therefore, the principle of proportionality requires judges not only to look at rigid legal aspects but also to consider real conditions, human values, and the balance of rights of the parties involved (Chen, 2022).

However, in reality, as seen in the third decision, the application of the principle of proportionality may not be optimal if the court fails to pay attention to the real conditions of the parties involved, especially in cases involving social and economic factors. In this decision, the judge only assessed formal aspects, without considering the situation and condition of the plaintiff, who was facing neglect of his livelihood, which clearly harmed the weaker party socially and economically. This shows that although a decision may be procedurally valid, failure to pay attention to concrete conditions can lead to deep injustice, ignoring the basic rights of more vulnerable parties (Bublitz, 2024). Thus, the correct application of the principle of proportionality depends greatly on the extent to which the court is able to integrate suitability, necessity and balance in the decisions taken.

This principle of proportionality or balance, although applied in a legal context, is actually very relevant in the context of domestic life, especially in the division of roles between husband and wife. In a household, the relationship between husband and wife is not only based on affection, but also on a balanced distribution of responsibilities, both in terms of rights and obligations (Nawaz et al., 2022). This balance is not only needed to create harmony, but also to maintain healthy and fair relationships. In this context, a disproportionate division of roles—for example, if the wife is burdened with the obligation to earn additional income, while the husband does not contribute equally—can cause greater tension and conflict (Bhojani et al., 2024).

In this modern era, household problems are increasingly complex. The increasingly high

demands of life, with needs that not only include primary but also secondary and tertiary needs, mean that the roles of husband and wife are increasingly divided (Antasari, 2021). Many wives are now faced with demands to earn additional income, while on the other hand, husbands may still not be fully aware of their obligations in supporting the family economically and emotionally. These demands, coupled with a lack of good communication between husband and wife, often lead to conflicts that can lead to divorce. A lack of communication and an imbalance in the distribution of rights and obligations between husband and wife can cause a rift in a household that should be built on the basis of mutual understanding and protection (Ashari, 2024).

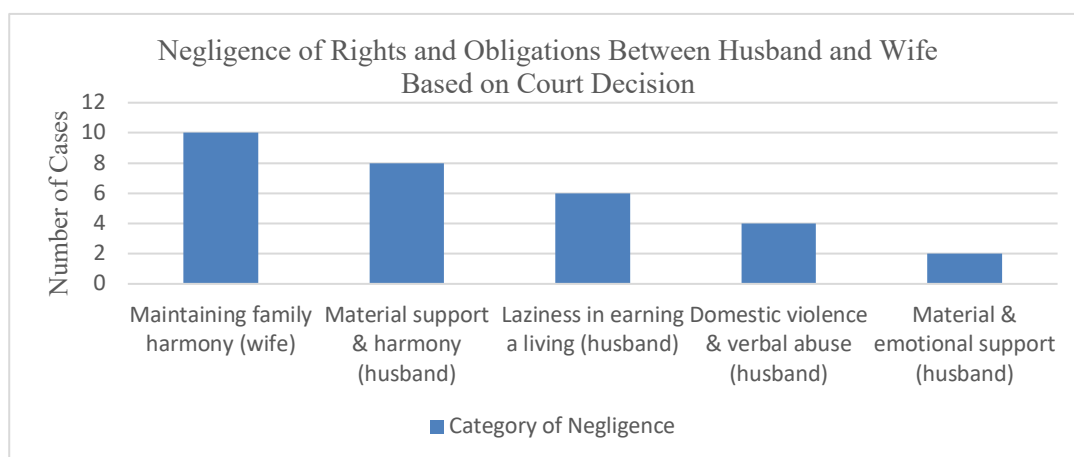
Ultimately, the principle of proportionality in domestic life shows that harmony and balance between the rights and obligations of husband and wife are very important to maintain the stability of the relationship (Wardi et al., 2024). If the distribution of roles in the household is disproportionate, protracted conflicts can arise and lead to greater injustice, which has the potential to damage the family bond itself. Therefore, the principle of proportionality is not only relevant in a legal context but is also important in everyday life, especially in maintaining a balance of roles and responsibilities in the household.

Table 2. Religious Court Divorce Case Decision on Legal Implications of Neglecting Husband and Wife's Rights and Obligations in Family Life

No	Rights/Obligations	The party that Default	Forms of negligence	Evidence in the verdict	Impact	References/Pages
1	Maintain harmony Family	Wife	Arguments and disagreements	Statement of the plaintiff and witnesses	Divorce	P: 341/Pdt.G/2025 /PA.Bm Page: 2, 4-5
2	Livelihood is born and maintains harmony	Husband	Less guaranteed livelihood and arguments/disagreements.	Statement of the plaintiff and witnesses	Divorce	P: 311/Pdt.G/2025 /PA.Bm Page: 2.4-5
3	Lazy to earn a living	Husband	Not providing a living for his wife, drinking, online gambling	Statement of the plaintiff and witnesses	Quarrels and divorce	P: 376/Pdt.G/2025 /PA.Bm Page: 2, 4-5
4	Maintain family harmony	Husband	Harsh language, verbal abuse, domestic violence	Statement of the plaintiff and witnesses	Arguments and divorces	P: 322/Pdt.G/2025 /PA.Bm Page: 2, 4-5
5	Born and inner sustenance	Husband	Does not provide physical and spiritual support, difficult to consult with	Statement of the plaintiff and witnesses	Divorce	P: 68/Pdt.G/2025/ PA.Bm Page:2-3, 6-7

The researcher also presents some data on religious court decisions related to divorce cases to show the legal implications of neglecting to take responsibility for the rights and obligations of husband and wife in family life. Which is accessed via the website of the Supreme Court of the Republic of Indonesia, based on the decision of the Bima Religious Court.

Figure 2. Negligence of Rights and Obligations between Husband and Wife based on Court Decision



Source: Data compiled from Court Decisions of the Religious Court of Bima (PA Bima) in 2025.

Based on the results of the analysis of 5 divorce case decisions at the Bima Religious Court in 2025, there were several negligences in carrying out the rights and obligations of husband and wife. The majority of negligence comes from the husband's side, especially in the aspect of living physically and mentally, as well as the inability to maintain harmony in the household. Only one case showed negligence on the part of the wife. The most dominant form of negligence is not providing support (3 out of 5 cases) and continuous disputes (5 out of 5 cases) and this will always have an impact on divorce.

As in the perspective of (Van Eikema Hommes, 1984), the principle of proportionality is not a concrete legal norm, but rather a general basis or guideline for applicable law, which guides courts to make fair and balanced decisions. In this case, the principle should provide guidance for courts to carefully consider the social, emotional and economic conditions faced by both parties, ensuring that the decisions taken reflect a proportional balance between rights and obligations. However, in this case, the imbalance lies mainly in the husband's failure to fulfill his spiritual and physical support obligations. Three of the five cases analyzed show that the husband is unable to provide a living that is balanced with his role and responsibilities in the household, which results in injustice for the wife, who must compensate for this deficiency.

The principle of proportionality is closely related to the principle of balance, which requires that all forms of distribution of obligations and rights in a marriage relationship be carried out in a balanced, equitable and comparable manner (Junaidi et al., 2023). This principle demands that each party obtain rights and obligations in accordance with their role and contribution. The husband's inability to provide a living proportionally causes a deep imbalance in the relationship. This imbalance is reflected in recurring disputes between husband and wife that are unable to be resolved in a constructive way, which leads to conflict that escalates and ultimately leads to divorce.

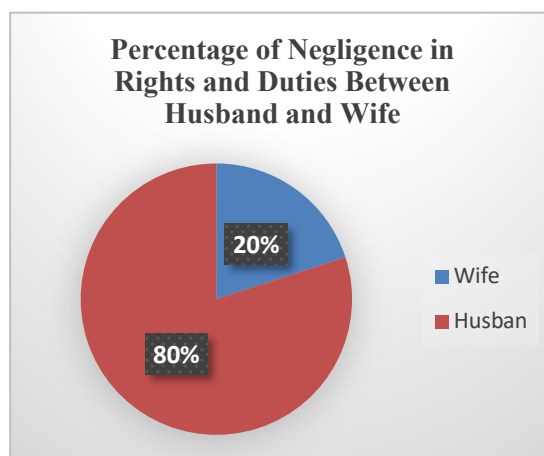
So it should be noted that the application of the principle of proportionality in divorce cases shows the importance of a fair balance between the rights and obligations of each party. Imbalance in the implementation of income obligations and the inability to maintain household harmony are the main factors that encourage divorce. Appropriate application of the principle of proportionality should be able to prevent this imbalance, by ensuring that decisions taken by the court are not only legally valid, but also create proportional substantive justice for both parties (Sweet & Mathews, 2019).

Analysis of the Application of the Principle of Proportionality in Bima Religious Court Decisions

Based on several divorce case decisions at the Bima Religious Court, it shows that there are inequalities in the implementation of the rights and obligations of husband and wife in the domestic

sphere. This is the main cause of breakdowns in household relationships which in the end always lead to divorce.

Figure 3. Percentage of Negligence in Rights and Duties between Husband and Wife



Source: (PA Bima 2025)

The data found shows that around 80% of negligence in implementing household rights and obligations comes from the husband, who does not fully carry out his responsibilities as head of the family. The husband's inability to provide financial support for his family and maintain household harmony reflects a significant imbalance in the marital relationship. This negligence not only has an impact on material aspects, but also on the psychological condition of the wife and children. In several decisions analyzed, the behavior of husbands who were involved in negative activities such as drinking and gambling made things worse. This kind of action not only violates legal obligations as head of the family, but also has a negative impact on the emotional well-being of the family, ultimately worsening marital relations and triggering divorce (Maroney et al., 2023).

On the other hand, 20% of negligence in maintaining family harmony is caused by the wife. Even though the percentage is smaller, the disharmony caused by the wife cannot be ignored. One of the most frequent forms of neglect is constant arguing (100%), which creates protracted tension in the household. Apart from that, negligence in providing a living (60%) and several cases of domestic violence and other inequalities (20%) also contribute to family instability. These ongoing disputes without resolution worsen the domestic atmosphere and make unhappiness increasingly prominent.

In several of the decisions analyzed, although not explicitly stated, it can be seen that the principle of proportionality is applied in the legal considerations taken by the judge. The judge seems to consider that when a husband and wife continually ignore their obligations but continue to demand their rights, an imbalance occurs which is not in accordance with the principles of justice. In this case, the principle of proportionality requires a balance between rights and obligations. When this balance is disturbed, as in the case analyzed, divorce becomes the appropriate legal solution to end this imbalance. Judges realize that in situations like this, divorce is not only a legal decision, but also a way to restore justice by ending the ongoing injustice between the two parties (Kohn, 2025).

The principle of proportionality requires a balance between the rights and obligations of husband and wife (Shokhib, 2022). When a husband and wife continuously neglect their obligations, they lose the moral and legal basis for demanding rights from their partner. Therefore, the decisions issued by the Bima Religious Court show a tendency to apply the principle of proportionality in the form of substantive justice.

The principle of proportionality in Religious Court decisions also requires that every court decision must be consistent between the decision handed down and the level of negligence and the impact of negligence committed by the parties, where the decision taken by the judge must reflect justice for the plaintiff, defendant and the community. Judges in Indonesia are expected to use the

principle of proportionality as a basis for handing down decisions, so that the decisions handed down are not arbitrary or excessive, but are in accordance with the characteristics of the case being tried (Firmansyah et al., 2024).

The principle of proportionality is also closely related to human rights, maintaining and protecting the basic rights of every individual. Therefore, disproportionately excessive sentences or decisions are considered a violation of human rights (Efendi & Rifa'i, 2022). So that the principle of proportionality can be applied consistently, efforts are needed to increase the competence of judges in understanding this principle, as well as the existence of special guidelines for certain cases. Apart from that, socializing this principle to the public is also important, so that the public can understand the considerations underlying every court decision, and thus, trust in the court system can be increased (Fridawati et al., 2024).

Application of the Principle of Proportionality in Creating a Balance of Rights and Obligations of Husband and Wife in Article 31 of Law Number 1 of 1974

Rights and obligations are central points in maintaining the continuity of relationships. Both partners have a moral and legal responsibility to respect, support, and care for each other. These rights and obligations are not only binding at the time of marriage, but also for the duration of the relationship. By carrying out their rights and obligations well, husband and wife can create a healthy and harmonious environment in the household. Sometimes disagreements arise between husband and wife regarding the implementation of their respective rights and obligations. This conflict can arise when one party feels that their rights are being ignored or their obligations are not being fulfilled by their partner (Adib et al., 2024).

The principle of proportionality is one of the principles that serves as a guideline for creating a balance of rights and obligations in the household, where the principle of proportionality requires both parties to fulfill and carry out their respective rights and obligations (Karliuk, 2023). The meaning of proportionality is also the existence of equal standing between rights and obligations, while still paying attention to the conditions of husband and wife, and no one dominates or exerts pressure on the two (Pane, 2022).

In Marriage Law No. 1 of 1974, Article 31, paragraph [1], stating, "The rights and positions of husband and wife are balanced in domestic life," the law has previously regulated it. However, the implementation of this law is somewhat lacking, with many household breakdowns due to a lack of understanding of the division of rights and obligations between husband and wife (Hidayat, 2022).

To achieve balance in carrying out household rights and obligations, there must be an agreement between husband and wife in dividing tasks into their respective portions without burdening each other. So in this case, the author tries to make the principle of proportionality a basic reference in making an agreement between husband and wife, so that it meets the objectives.

In forming a harmonious household, there are three important stages that a husband and wife need to go through, namely the pre-agreement stage, the agreement stage, and the agreement implementation stage, each of which has an important role in ensuring the balance of rights and obligations between husband and wife. Each of these stages requires a deep understanding and application of the principle of proportionality to achieve harmony in the household.

First, in the pre-agreement stage before the marriage takes place, the role of the principle of proportionality is very important in ensuring that an agreement regarding the rights and obligations between husband and wife is reached in a fair and balanced manner. At this stage, both parties—husband and wife—must discuss and agree on their respective responsibilities that will be carried out after the wedding. This agreement must reflect the capabilities, financial, social and emotional conditions of the couple, to ensure that the division of roles and obligations does not burden either party and creates a balance that benefits both parties (Daniele, 2021).

The principle of proportionality at this stage prioritizes the principles of justice and balance, which means that no party should feel disadvantaged or burdened by the assigned roles and responsibilities. This balance does not only concern material or livelihood aspects, but also includes emotional and social elements in the household. An understanding of the clear and proportional

division of roles between husband and wife is fundamental at this pre-agreement stage. Traditionally, in many cultures, husbands are considered to be the main person responsible for living, while wives have the main role in managing the household, such as taking care of the house, caring for children, and supporting the family's emotional needs (Nawaz et al., 2022). This understanding, although classic, needs to be adapted to the current context, which increasingly prioritizes equality in family roles, where both parties can also share responsibilities fairly.

Through proper application of the principle of proportionality at the pre-agreement stage, both parties can reach an agreement that takes into account their respective capabilities and places obligations in the right proportion (Nardell QC & Rees-Evans, 2021). For example, if the husband has a larger income, then a larger birth support obligation may be his responsibility. On the other hand, if the wife has additional income, the role in dividing the living expenses can be adjusted, but still taking into account the proportional distribution so that neither party feels burdened.

The decisions taken at this stage will greatly influence the quality of the husband-wife relationship after marriage. Therefore, an agreement that is mutually beneficial and does not burden either party is very important to build a strong foundation for a harmonious marriage (Syarifah & Karim, 2024). If this agreement is based on the principle of proportionality, both husband and wife will have a clear understanding of their respective roles and responsibilities, which reduces the potential for future conflict. In addition, with a balanced agreement, both can enter marriage with mutual respect and respect, creating an atmosphere that is conducive to creating a prosperous and happy family.

Second, at the agreement stage, which is a continuation of the agreements made at the pre-agreement stage, previously agreed-upon agreements begin to be formed and regulated in more detail. This process is very important to ensure that both parties—husband and wife—have a clear understanding of their respective rights and obligations that will be implemented in married life. The principle of proportionality acts as the main guideline at this stage, ensuring that the distribution of rights and obligations is carried out with balance and fairness, avoiding the domination of one party over another, and taking into account each party's capacities and conditions (Díaz-Rodríguez et al., 2023).

For example, if the husband has a larger income, then a larger income obligation will of course be his main responsibility. On the other hand, if the wife has additional income, then her contribution also needs to be taken into account in dividing the family income, even though the husband remains the main person responsible. The application of the principle of proportionality here requires awareness that the obligations taken by each party must be in accordance with their capabilities, both from a financial, social and emotional perspective. In this case, a fair distribution of roles will greatly determine the smooth running of the marriage relationship, because both parties will feel that they contribute proportionally to mutual prosperity (Bessière et al., 2024).

In addition, in this agreement stage, the agreements reached at the pre-agreement stage need to be evaluated and detailed to ensure that both parties truly understand and agree with the roles and obligations they must carry out (Brinkhof, 2021). For example, in the agreement, it is necessary to clearly stipulate who is responsible for household management, child care, or managing family finances. Clarity in the division of roles is very important to create balance in the household, which ultimately supports the achievement of common goals: harmony and family prosperity.

However, at this stage, failure to carry out agreed-upon responsibilities can create an imbalance that has a direct impact on tension in the relationship. For example, if one party fails to fulfill his or her obligations—be it in terms of living, household management, or emotional contributions—then this can cause feelings of dissatisfaction, frustration, and even feelings of neglect in the other party. This kind of imbalance, if left to continue without resolution, will worsen the quality of the relationship and has the potential to lead to greater conflict. Thus, careful evaluation and detailing at the agreement stage is the key to ensuring that no party feels burdened or disadvantaged, thereby creating a proportional balance between rights and obligations, which is the basis for the continuation of a harmonious household (Bulman-Pozen & Seifter, 2023).

Third, at the implementation stage of the agreement, the principle of proportionality guarantees balance in carrying out the agreed rights and obligations. In this stage, both husband and wife must

carry out their roles in accordance with the proportions agreed upon in the first and second stages. If each party fulfills its obligations with full responsibility, a harmonious and balanced domestic life will be created. This is in accordance with the basic purpose of marriage itself, namely forming a family that supports each other, protects each other and creates mutual prosperity. Applying the principle of proportionality at this stage not only ensures that obligations are fulfilled according to their respective capacities, but also ensures that there is no imbalance that causes one party to feel disadvantaged or burdened (Ondřejek & Horák, 2024).

Furthermore, the application of the principle of proportionality at this implementation stage functions to avoid imbalances that could harm one party. An imbalance in the implementation of rights and obligations is often the root of problems in the household. For example, if one party does not carry out the agreed obligations, such as living, household care, or meeting emotional needs, then the aggrieved party will feel burdened, and this can lead to tension, disappointment, or even protracted conflict. Therefore, the principle of proportionality functions to ensure that the distribution of responsibilities remains balanced, avoids the domination of one party over another, and ensures that each role is carried out fairly and according to capacity (Khaitan, 2021).

With several stages, it shows that the rights and obligations of husband and wife should have equal portions. Therefore, these rights and obligations should also be able to be discussed and adjusted to household conditions, based on the elements contained in the principle of proportionality, namely suitability, necessity, and balance. So, if you look at these three elements, it shows that the rights and obligations of husband and wife are something that is flexible, can change, and can exchange roles (Alimuddin, 2022).

So, if both husband and wife work together to earn a living, then the wife's work or duties, which are the wife's responsibility, such as housework, educating and caring for children, must also be done together or become the husband's responsibility as well. So that in a household, there are no burdens on each other, and this creates household harmony and balance in carrying out obligations. In the context of exchanging roles between husband and wife, it provides an understanding that the duties of husband and wife are not determined solely based on gender, but rather on the responsibilities and contributions they make in maintaining household harmony.

Conclusion

The hierarchical system of dividing rights and obligations between husband and wife, as reflected in this law, is no longer completely relevant to the social conditions of contemporary society. Modern family dynamics demand a more flexible and equal distribution of roles, which should be based on the principles of substantive justice, not solely on formal normative provisions. The principle of proportionality, which includes the principles of balance, necessity and suitability, offers a fair and contextual conceptual framework in understanding husband and wife relations in the household. Although this principle has not been explicitly regulated in the national positive law system, a number of Religious Court decisions show indications of its application as a legal consideration that is adaptive to the factual conditions of the parties. Inequality of roles in the household, especially in terms of providing support, carrying out domestic responsibilities, and leadership in the family, has been proven to be one of the main causes of divorce. Therefore, it is hoped that the integration of the principle of proportionality into family law regulations and judicial practices will be able to address the challenges of inequality that often occur, as well as form a harmonious, just and sustainable family structure.

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