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Judicial Governance of *Nafqah*: Maintenance Rights under the Islamic Family Law (Federal Territories) Act 1984 (Act 303)

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Abstract
This article examines the governance of *nafqah* under the Islamic Family Law (Federal Territories) Act 1984 (Act 303), focusing on sections 59–71. Although existing scholarship has examined maintenance entitlement, assessment, and enforcement, comparatively less attention has been paid to the way in which these provisions collectively structure the ongoing protection of maintenance rights. Adopting a normative juridical approach, the article analyses the relevant statutory provisions alongside Malaysian legal materials and contemporary scholarship. The findings show that Act 303 establishes an interconnected framework for determining maintenance, securing payment, supervising settlements, varying obligations, protecting entitlements, recovering arrears, and providing interim relief. Taken together, these provisions position *nafqah* not merely as a financial obligation arising from marriage, but as a continuing legal entitlement subject to judicial oversight. However, statutory enforceability does not necessarily translate into effective payment. The distinction between legally recoverable arrears and their practical recovery underscores the importance of coordination between Syariah Courts and the Family Support Division (*Bahagian Sokongan Keluarga*, BSK), together with more transparent institutional reporting on recovery outcomes and enforcement challenges. As the study does not independently assess compliance rates or the effectiveness of BSK interventions, its findings should be understood within the statutory and institutional scope examined; nor can the analysis of Act 303 be generalised to all Malaysian states. Accordingly, effective governance of *nafqah* requires attention not only to statutory rights but also to the institutional capacity to give effect to those rights in practice. The findings provide a basis for further empirical and comparative research into maintenance enforcement within Islamic family-law systems.

Keywords
nafqah; Islamic family law; maintenance rights; Syariah Court; Act 303.

Introduction

Nafqah constitutes one of the central legal obligations arising from family relationships under Islamic law. Across contemporary Muslim family-law systems, its regulation has extended beyond the realm of personal and religious responsibility, establishing maintenance as a legally enforceable entitlement that may be claimed,

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assessed, and secured through state institutions. Recognition of a maintenance right in substantive law, however, does not in itself guarantee its realisation in practice. Disputes may arise over the amount payable, changes in the parties' financial circumstances, the settlement of maintenance obligations, or accumulated arrears. Addressing these matters requires an institution empowered not only to determine the existence and extent of an entitlement but also to oversee its continuing implementation. Judicial involvement is therefore significant: *nafqah* is not merely a matter for adjudication, but also an object of institutional governance encompassing the period before, during, and after the issuance of a maintenance order.[1]

Malaysia provides an important setting in which to examine this institutional dimension. Islamic family law is not governed by a single federal statute applying uniformly across the country. Under the Federal Constitution, Islamic law and the personal and family law of Muslims fall principally within State legislative jurisdiction, while the Federal Territories operate under a separate statutory framework.[2] Consequently, any examination of *nafqah* in Malaysia must account for the jurisdictional basis governing the application of the relevant legal provisions. In the Federal Territories of Kuala Lumpur, Labuan, and Putrajaya, the principal statutory framework is the Islamic Family Law (Federal Territories) Act 1984 (Act 303), with its application to Putrajaya extended through a specific statutory order.[3] The Act regulates various aspects of Islamic family law, including maintenance for wives and former wives. The present analysis therefore treats Act 303 as a jurisdiction-specific legal regime rather than as a uniform Malaysian law of maintenance.

Part VI of Act 303, particularly sections 59–71, provides a statutory framework that extends beyond the initial recognition of maintenance obligations to encompass their subsequent regulation and enforcement. Section 59 authorises the Court, subject to *Hukum Syarak*, to order maintenance for a wife or former wife, whereas section 60 concerns maintenance for certain persons who are wholly or partially incapacitated from earning a livelihood because of mental or physical injury or ill health. In determining the amount payable, section 61 directs the Court to assess maintenance primarily by reference to the means and needs of the parties.[4] Beyond the determination of entitlement and amount, the Act provides for security for maintenance under section 62, judicial approval of certain settlements of future maintenance claims under section 63, the duration of maintenance orders under sections 64–65, variation of maintenance orders and agreements under sections 66–67, protection against assignment and certain forms of attachment under section 68, and recovery of arrears as a debt under section 69.[5] The remaining provisions address related forms of protection: section 70 permits interim maintenance before an application is finally determined, while section 71 addresses a divorced woman's right to accommodation in specified circumstances.[6]

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1 Malaysia, *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, Part VI, especially ss. 59–71.

2 Malaysia, *Federal Constitution*, Ninth Schedule, List II (State List), item 1. The constitutional allocation places Islamic law and Muslim personal and family law principally within State legislative jurisdiction, subject to the constitutional provisions and exceptions applicable to the Federal Territories.

3 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 1; Malaysia, *Federal Territory of Putrajaya (Extension and Modification of Islamic Family Law (Federal Territory) Act 1984) Order 2002*, P.U. (A) 247/2002.

4 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 59–61. Section 60 concerns maintenance for certain persons incapacitated from earning a livelihood; it should not be described as the principal provision governing child maintenance.

5 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 62–69.

6 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 70–71.

Taken together, these provisions establish a statutory basis for analysing how maintenance rights are determined, secured, adjusted, protected, and recovered within the Federal Territories' Islamic family-law framework.

Beyond its conventional role as a forum for dispute resolution, the Court performs several interconnected functions in the governance of maintenance. By determining maintenance according to the parties' means and needs, it assesses the scope of the entitlement; through orders securing payment, it provides preventive protection; by supervising specified settlements, it exercises oversight over private arrangements; and, where material changes in circumstances arise, it may vary existing orders to regulate the continuing operation of the obligation. Its jurisdiction also encompasses the recovery of arrears when maintenance payments have not been mad.[7] The significance of these powers lies not merely in their number, but in the distinct stages of the same legal relationship that they address. Judicial authority consequently operates across the establishment, implementation, adjustment, and protection of maintenance rights.

The continuing nature of maintenance obligations becomes particularly apparent when circumstances change after an initial judicial determination. A payer's financial circumstances may deteriorate or improve, a recipient's needs may evolve, an existing agreement may require adjustment, or an order may remain unpaid. Sections 66 and 67 provide mechanisms for varying maintenance orders and agreements in specified circumstances, while section 69 establishes a legal basis for recovering arrears as a debt.[8] Rather than treating maintenance arrangements as fixed once established, Act 303 recognises that their legal operation may require subsequent judicial intervention in response to changed circumstances or non-payment. Judicial determination thus represents one stage in the regulation of maintenance obligations, rather than their definitive conclusion.

Preventive protection provides a further indication of the Court's broader institutional role, extending its intervention beyond enforcement following a breach. Under section 62, maintenance may be secured through the vesting of property in trustees, subject to the statutory conditions; section 68 protects maintenance payable under a court order against assignment or transfer and specified forms of attachment; while section 70 allows interim maintenance before a final determination.[9] Each provision addresses a distinct risk arising at a different stage of a maintenance claim: the need for support before final adjudication, the security of payment, the protection of an established entitlement, and the consequences of non-payment. Collectively, these mechanisms reveal a statutory framework in which judicial authority operates as a continuing and interconnected process, rather than being confined to isolated procedural interventions.

Existing scholarship on *nafqah* in Malaysia has examined several aspects of this process. Studies have documented difficulties in implementing and enforcing maintenance orders, including non-compliance and practical barriers involving the Syariah Courts, the *Bahagian Sokongan Keluarga* (BSK), bailiffs, and the police.[10] Other research has considered the role of enforcement mechanisms in addressing maintenance

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7 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 61–69; Bahiyah Ahmad, Raihanah Azahari, and Asmak Ab Rahman, "Kriteria Kifayah dan Ma'ruf Nafkah Isteri dan Anak: Kajian Pelaksanaan Semasa di Malaysia," *Jurnal Syariah* 21, no. 3 (2013): 311–42.

8 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 66–69.

9 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 62, 68, and 70.

10 Zaini Nasohah, "Cabaran Penguatkuasaan Dan Pelaksanaan Perintah Nafkah Di Mahkamah Syariah Negeri Selangor Dari Perspektif Peguam Syar'ie," *Jurnal Undang-Undang Dan Masyarakat* 13 (2009).

arrears and the institutional challenges associated with securing compliance with court orders.[11] More recently, Ruzmi, Ab Halim, and Hashim examined the determination and enforcement of maintenance in Malaysian Syariah Courts, identifying issues involving delays, non-compliance, financial capacity, institutional constraints, and jurisdictional difficulties. They also proposed reforms concerning BSK, maintenance guidelines, and Syariah judicial administration.[12] This body of literature provides an important foundation for understanding the effectiveness of maintenance rights and the institutional mechanisms intended to secure them.

Comparative scholarship further demonstrates that the exercise of judicial authority over maintenance is relevant beyond Malaysia, although the applicable legal structures differ across jurisdictions. Suliman and Elnoor's 2024 study examines judicial discretion in compelling a husband to provide maintenance and compares Islamic jurisprudence with the personal-status laws of Gulf Cooperation Council countries.[13] Singapore provides a different institutional example: maintenance orders made by the Syariah Court may be enforced through the Family Justice Courts under the applicable statutory framework. This arrangement illustrates how the determination of a maintenance entitlement and the mechanisms for enforcing an order may involve distinct institutional responsibilities.[14] These examples are not treated as equivalent to the Federal Territories' legal regime. Rather, they provide a limited comparative context for examining how legal systems allocate judicial powers and institutional responsibilities in protecting maintenance rights.

Despite these contributions, an analytical gap remains between studies of particular maintenance functions and an integrated account of the statutory architecture governing those functions. Research on assessment clarifies how courts determine the amount payable, while research on enforcement examines the obstacles that arise when orders are not obeyed. These approaches are valuable, but they do not necessarily explain how the powers to assess, secure, supervise, vary, protect, and recover maintenance operate together within a single statutory framework. The question is therefore not merely whether Act 303 provides mechanisms for determining or enforcing *nafqah*, but how these provisions collectively structure the Court's authority over a continuing legal entitlement.

This article addresses that gap through the concept of *judicial governance*. For the purposes of this study, judicial governance refers to the statutory organisation and exercise of judicial powers over a maintenance entitlement, encompassing its assessment, security, regulation, variation, protection, and recovery. Its analytical value

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[11] Mohd Hazwan Ismail, "Pelaksanaan Waran Tangkap Oleh Pihak Polis Dalam Kes Tunggakan Nafkah Di Mahkamah Syariah," *Jurnal Undang-Undang Dan Masyarakat* 30 (2022), https://doi.org/10.17576/juum-2022-30-05.

[12] Siti Madihah Ruzmi, Asma Hakimah Ab Halim, and Fatimah Yusro Hashim, "Penentuan Dan Penguatkuasaan Nafkah Di Mahkamah Syariah Malaysia: Isu, Cabaran Dan Reformasi," *Jurnal Undang-Undang Dan Masyarakat* 36, no. 1 (2026): 106–26, https://doi.org/10.17576/juum-2026-3601-07.

[13] Zainab Ahmed Suliman and Mohamed Suliman Elnoor, "The Discretionary Power of the Judge to Compel the Husband's Financial Support for the Wife after His Refusal: A Comparative Jurisprudential Study with the Laws of the Gulf Cooperation Council Countries," *Anbar University Journal of Islamic Sciences* 15, no. 2 (2024): 659–685, https://doi.org/10.34278/aujis.2024.183175.

[14] Syariah Court Singapore, "Enforcement of Syariah Court Order," https://syariahcourt.gov.sg/en/Divorce/Process-Post-Divorce/Enforcement-of-Syariah-Court-Order; Singapore Judiciary, "Syariah Court Orders," https://www.judiciary.gov.sg/family/syariah-court-orders. These institutional sources explain the enforcement arrangement for specified Syariah Court orders; they are cited as official legal-practice materials, not as peer-reviewed scholarship.

lies in treating these powers as interrelated dimensions of a single legal framework rather than as separate functions considered only in isolation. This approach differs from an account of adjudication focused primarily on resolving a particular dispute and from an enforcement-centred approach concerned mainly with compliance after an order has been made. It does not suggest that the Court becomes an administrative body. Rather, it examines how adjudicative authority extends to the continuing regulation of a legally protected entitlement. Judicial governance is used here as an analytical framework developed through the interpretation of Act 303, not as a claim that Malaysian legislation expressly adopts that terminology or establishes a formally named governance model.

The study focuses on Act 303, with sections 59–71 providing the principal statutory scope. Sections 59–61 establish the basis for examining maintenance entitlement and judicial assessment, while sections 62–69 form the core of the analysis of security, settlement oversight, duration, variation, protection, and recovery. Section 70 is considered in relation to interim judicial protection, and section 71 is addressed contextually to examine the adjacent protection of accommodation for a divorced woman under specified conditions.[15] This delimitation enables the article to examine the relationship between the relevant statutory powers without generalising its findings to all Malaysian States or treating Act 303 as a uniform national code.

Against this background, the article asks: How does the Islamic Family Law (Federal Territories) Act 1984 (Act 303) structure judicial governance of *nafqah* through the Court's powers to assess, secure, regulate, vary, protect, and recover maintenance rights? It argues that Act 303 establishes a connected framework of judicial intervention in which maintenance is not merely a substantive obligation arising from family relationships, but a continuing legal entitlement subject to assessment, protection, adjustment, and recovery. The article's principal contribution is to develop judicial governance as an analytical framework for interpreting the relationship between these statutory powers. By examining them together within a single account of the legal life of a maintenance entitlement, the study offers an integrated interpretation of the Court's role that extends beyond the determination of maintenance amounts or the enforcement of orders.

Methodology

A doctrinal legal research approach is employed to examine how the Islamic Family Law (Federal Territories) Act 1984 (Act 303) structures judicial authority over *nafqah*. This approach is particularly appropriate for a study concerned with the meaning, interrelationship, and normative implications of legal provisions, rather than the empirical behaviour of litigants or the measured effectiveness of maintenance orders. Doctrinal legal research involves identifying, interpreting, and synthesising authoritative legal sources to explain the content, coherence, and implications of the applicable law.[16]

At the primary level, the research draws on the Federal Constitution of Malaysia and Act 303, particularly Part VI, sections 59–71. The constitutional framework provides the basis for identifying the allocation of legislative authority over Islamic law and Muslim personal and family law, subject to the applicable constitutional provisions and exceptions. Within this framework, Act 303 serves as the principal statutory source for

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15 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 59–71.

16 Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012), https://doi.org/10.21153/dlr2012vol17no1art70; Sanne Taekema, "Methodologies of Rule of Law Research: Why Legal Philosophy Needs Empirical and Doctrinal Scholarship," *Law and Philosophy* 40, no. 1 (2021), https://doi.org/10.1007/s10982-020-09388-1.

examining maintenance entitlement, judicial assessment, security, settlement, duration, variation, protection, recovery of arrears, interim maintenance, and post-divorce accommodation. Relevant academic literature and institutional publications constitute secondary materials, providing context for the statutory analysis and positioning the research within existing scholarship.[17]

Analytically, the research proceeds through three stages. First, statutory interpretation identifies the powers conferred on the Court and examines the relationships among the relevant provisions. Second, functional analysis considers how these provisions operate in determining, securing, regulating, protecting, and recovering maintenance entitlements. Finally, conceptual synthesis brings the findings together within an analytical framework termed judicial governance of *nafqah*. Developed by the authors, this framework explains the interconnected functions performed by the provisions of Act 303 and does not purport to constitute a formally recognised statutory doctrine.[18] In keeping with its doctrinal scope, the research neither independently measures compliance rates nor establishes maintenance-recovery rates or evaluates the operational effectiveness of the Family Support Division (*Bahagian Sokongan Keluarga*, BSK). Accordingly, its conclusions are confined to the statutory framework and the institutional implications that can reasonably be derived from the legal materials examined.

Findings and Discussion

Constructing Judicial Authority over Nafqah

Act 303 does not treat *nafqah* merely as a private financial obligation arising from marriage. Through ss. 59–61, the statute establishes a legal framework in which the substantive entitlement to maintenance is connected to the Court's authority to determine its enforceable terms. Section 59 empowers the Court, subject to *Hukum Syarak*, to order a man to pay maintenance to his wife or former wife.[19] The provision's institutional significance lies not in creating the underlying obligation from nothing, but in authorising the Court to give that obligation an enforceable form through a judicial order. The order identifies the parties' legally recognised positions and specifies an obligation that can subsequently be regulated under the Act. Scholarship on Malaysian Islamic family law has recognised maintenance as a legally protected right while also identifying persistent questions concerning the protection and implementation of that right.[20] The statutory structure therefore supports a more precise proposition: judicial authority is relevant not only after non-payment, but also when an existing substantive entitlement must be translated into a legally enforceable obligation. Judicial governance begins at this stage of juridical recognition and specification.

Section 59 is particularly significant because the power to order maintenance is expressly made subject to *Hukum Syarak*. This qualification situates judicial

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17 *Federal Constitution*, Ninth Schedule, State List, item 1; *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, Part VI, ss. 59–71.

18 Stefan Theil, "Carefully Tailored: Doctrinal Methods and Empirical Contributions," *Oxford Journal of Legal Studies* 45, no. 4 (2025), https://doi.org/10.1093/ojls/gqaf029.

19 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 59(1).

20 Mansur Isa Yelwa, "Protection of Wife's Right to Maintenance in Islamic Law and Its Implementation in the Malaysian Islamic Family Law," *IIUM Law Journal* 21, no. 2 (2013), https://doi.org/10.31436/iiumlj.v21i2.102; Jazilah Mohd Saad and Adnan Trakic, "Islamic Family Law," in *Islamic Law in Malaysia: The Challenges of Implementation*, ed. Adnan Trakic and Hanifah Haydar Ali Tajuddin (Singapore: Springer, 2021), 43–61, https://doi.org/10.1007/978-981-33-6187-4_5.

determination within a statutory framework that retains an explicit connection to Islamic legal norms. The Court is not simply applying an abstract rule of classical *fiqh*, nor is it exercising an unrestricted discretion detached from the governing law. Rather, it must determine the claim within the framework established by Act 303, including the provision's express reference to *Hukum Syarak*. The statutory treatment of *nusyuz* illustrates this relationship. Under s. 59(2), a wife's entitlement to maintenance may be affected by *nusyuz*, subject to *Hukum Syarak* and confirmation by the Court; subsection (3) provides that she ceases to be *nusyuz* when she repents and resumes compliance with the lawful wishes and commands of her husband.[21] The significance of these provisions is institutional as well as substantive: the statutory consequence is not framed as an unreviewable unilateral determination by the husband, but is expressly subject to judicial confirmation. Accordingly, the Court's role includes determining whether the statutory conditions affecting the claim have been established. Judicial governance at this stage concerns the legally structured recognition of entitlement, rather than enforcement only after a breach.

The scope of that authority becomes clearer when s. 59 is read alongside s. 61. Section 61 directs the Court, when determining the amount of maintenance, to assess the claim primarily by reference to the means and needs of the parties, regardless of the proportion that the maintenance bears to the payer's income.[22] The provision does not prescribe a fixed monetary entitlement applicable to every case. Instead, it supplies evaluative criteria through which the amount payable can be individualised. The Court must consider the financial circumstances relevant to the parties' respective positions and determine an amount within the statutory framework. This assessment involves more than mechanically calculating a percentage of the payer's income: the express reference to means and needs requires attention to the circumstances of the particular claim. The monetary content of the judicial order is therefore determined through an evaluative process governed by statutory criteria, rather than by a uniform tariff specified in the provision.

Malaysian scholarship helps explain the implications of this open-textured standard. Bahiyah Ahmad and her co-authors examine the principles of *maʿrūf* and *kifāyah* in the assessment of maintenance and argue that their application is affected by socioeconomic conditions and prevailing social practices. They also observe that the statutory criteria of means and needs do not themselves provide a detailed formula for determining the appropriate amount.[23] Their study focuses on child maintenance, so its findings should not be treated as direct evidence of how judges assess maintenance for wives or former wives. Nevertheless, the analysis offers a relevant doctrinal insight: where legislation establishes general evaluative criteria without specifying a comprehensive calculation method, judicial reasoning becomes important in translating those criteria into an order. The openness of s. 61 consequently creates both an opportunity and a challenge. It allows the Court to respond to the circumstances of individual cases, but it also makes the quality and transparency of the assessment important to the consistency and predictability of maintenance decisions.

This tension places judicial discretion between two competing risks. Excessive rigidity could produce outcomes that fail to reflect the circumstances the statute requires the Court to consider. Conversely, discretion exercised without a reasoned connection to

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21 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 59(2)–(3).

22 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 61.

23 Bahiyah Ahmad et al., "Assessing the Rate of Child Maintenance (Financial Support) From A Shariah Perspective," *Al-Jami'ah* 58, no. 2 (2020), https://doi.org/10.14421/ajis.2020.582.293-322.

the statutory criteria could weaken predictability and make it difficult for parties to understand how the amount was determined. Section 61 addresses this tension by directing the Court towards means and needs while leaving room for individualised assessment.[24] The provision does not, by itself, establish a detailed evidential checklist or a numerical formula. It is therefore important to distinguish between the discretion expressly permitted by the statutory standard and the way that discretion is exercised in particular cases. The former can be identified through statutory interpretation; the latter requires analysis of judicial decisions, including the facts considered, the reasoning adopted, and the relationship between the evidence and the amount ordered.[25] This distinction is central to the present article's account of *judicial governance*: the concept describes how statutory criteria organise the exercise of judicial authority, while the assessment of actual judicial practice must be grounded in reported decisions.

A further implication follows from reading ss. 59 and 61 together. The two provisions perform related but distinct functions: s. 59 establishes the Court's power to order maintenance for a wife or former wife, subject to *Hukum Syarak*, while s. 61 governs the assessment of the amount payable. The first concerns the legal authority to make the order; the second provides the principal criteria for quantifying the obligation. This distinction matters because recognition of an entitlement and assessment of its monetary value are not identical legal questions. An applicant may establish a basis for maintenance, yet the amount ordered still requires an assessment under the statutory criteria. Judicial authority consequently operates through a sequence of connected determinations rather than a single act of fixing an amount. The resulting order also provides the legal reference point for the subsequent statutory provisions governing such matters as security, duration, variation, protection, and recovery.[26]

The relationship between initial assessment and subsequent regulation forms the first layer of judicial governance under Part VI of Act 303. The Court's role is not confined to responding to non-compliance with an existing order. It is already engaged when the claim is legally recognised and its monetary content is assessed. Subsequent provisions address different aspects of the resulting maintenance obligation, including security and settlement, the duration and variation of orders, and the recovery of maintenance arrears.[27] These powers should not, however, be collapsed into a single undifferentiated judicial function: each responds to a distinct legal question and must be analysed by reference to the relevant provision. The analytical value of *judicial governance* lies in identifying how these separate statutory powers relate to the legal life of a maintenance claim, from recognition and assessment to later regulation and enforcement. It is an analytical framework developed in this article, not a term expressly designated by Act 303.

Accordingly, ss. 59 and 61 establish the juridical starting point for the article's broader analysis. The underlying entitlement to *nafqah* is recognised within the

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[24] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 61; Ahmad et al.

[25] Abdul Karim Ibrhim et al., "Child Maintenance Assessment in Shariah Courts: Integrating Maslahah and Mafsadah for Fairer Outcomes," *International Journal of Research and Innovation in Social Science* 10, no. 4 (2026), https://doi.org/10.47772/ijriss.2026.100400415; N Hashim and T Lindsey, "The Best Interest of the Child: An Analysis of Judicial Approaches in Assessing Child Maintenance Applications in Shariah Courts," *Journal of Contemporary Islamic Studies* 2, no. 1 (2016): 35–57.

[26] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 59, 61–70.

[27] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 62–70; Jazilah Mohd Saad et al., "Mechanism of Enforcement and Execution of Muslim Maintenance Order: Court-Based System," *IIUM Law Journal* 21, no. 2 (2013): 183–208, https://doi.org/10.31436/iiumlj.v21i2.101.

governing legal framework, while the Court determines whether an order should be made and assesses its monetary content according to statutory criteria. This account does not imply that the existence of a substantive right depends entirely on the making of a judicial order. Rather, it identifies the Court's role in converting a claim into a specific, enforceable obligation and in determining the amount required by the circumstances of the case. To demonstrate how that authority operates in practice, the statutory analysis must be read alongside relevant Syariah Court decisions. The following analysis therefore examines judicial assessment in conjunction with the statutory framework, before turning to the further powers through which maintenance orders may be regulated and enforced.

Recalibrating and Protecting Nafqah as a Continuing Legal Entitlement

Under Act 303, the legal architecture of *nafqah* extends beyond the initial determination of a monetary obligation. Sections 62–68 establish a set of distinct yet interconnected mechanisms through which maintenance entitlements may be secured, settled, regulated over time, varied, and protected against competing claims. Their significance lies in the fact that legal recognition of a maintenance right does not, in itself, guarantee continuity of payment. An entitlement may be formally established while remaining vulnerable to changes in the payer's financial circumstances, disputes over settlement terms, or interference from competing claims.[28] Act 303 addresses these different forms of vulnerability through specific statutory powers rather than a single, comprehensive enforcement mechanism. Accordingly, these provisions are better understood as establishing a framework for the continuing legal regulation of maintenance than as guaranteeing compliance with every maintenance order. From the perspective of judicial governance, the central question is how these powers enable the Court to preserve, adjust, and protect the legal value of a maintenance entitlement as circumstances change.[29]

As a mechanism of prospective protection, section 62 authorises the Court, when awarding maintenance, to require the person liable to pay to secure all or part of the obligation by vesting property in trustees. The maintenance, or a part thereof, may then be paid from the income generated by that property.[30] Its significance lies in enabling the Court to address payment security at the point when a maintenance order is made, rather than relying solely on remedies that may become necessary following default. Its practical value, however, depends on the availability and suitability of income-generating property, as well as the terms of the security arrangement. Nothing in this provision suggests that every maintenance obligation is automatically secured against the payer's assets; rather, it confers authority on the Court to establish a specific arrangement

[28] Mohd Hazwan Ismail, "Pindaan Peruntukan Seksyen Mengenai Nafkah Daripada Enakmen Pentadbiran Hukum Syarak (Selangor) 1952 Kepada Akta 303," *Kanun Jurnal Undang-Undang Malaysia* 35, no. 2 (2023), https://doi.org/10.37052/kanun.35(2)no6; Mohd Hazwan Ismail, "Perubahan Perintah Nafkah Anak Mengikut Kepada Keperluan Semasa: Kajian Di Negeri-Negeri Zon Utara," *International Journal for Studies on Children, Women, Elderly and Disabled* 18, no. 1 (2023).

[29] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 62–68; Siti Madihah Ruzmi, Asma Hakimah Ab Halim, and Fatimah Yusro Hashim, "Empowerment of the Family Support Division of the Selangor State Syariah Judiciary Department under Syariah Law in Malaysia," *Malaysian Journal of Syariah and Law* 13, no. 2 (2025), https://doi.org/10.33102/mjsl.vol13no2.724.

[30] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 62.

involving trustees.[31] Accordingly, section 62 illustrates a form of judicial risk management: the Court may establish a source of payment intended to support compliance with its order, although the provision itself provides no evidence of how frequently this mechanism is used or how effective it is in practice.

A distinct concern arises under section 63, which regulates agreements settling future maintenance claims through a capital sum or other property. Such an agreement has no legal effect until approved by the Court, with or without conditions; once approved, it may operate as a defence against a subsequent maintenance claim falling within the scope of the settlement.[32] Judicial approval therefore distinguishes a legally effective settlement from an agreement that has not satisfied the statutory requirement. By retaining judicial oversight over the legal effect of such arrangements, the provision accommodates negotiated resolutions while ensuring that private agreements capable of extinguishing future maintenance claims remain subject to statutory supervision. Nevertheless, the provision does not establish that the Court must find unequal bargaining power or that every settlement is substantively unfair. Its more defensible significance lies in the fact that the parties' agreement alone is insufficient to produce the prescribed statutory consequences: judicial approval remains a condition of its effectiveness. In governance terms, section 63 places the settlement of future maintenance claims within a framework of legally supervised autonomy, although determining how effectively this safeguard operates requires examination of relevant judicial decisions.

Temporal continuity is addressed further by sections 64 and 65, which regulate the duration of maintenance orders and the specific position of a divorced wife. Under section 64, unless the order specifies a shorter period or is rescinded, a maintenance order generally continues until the death of either the person liable to pay or the person entitled to receive maintenance, subject to section 65. For a divorced wife, section 65 establishes a specific rule: maintenance under a court order ceases upon expiry of the *ʿiddah* period or when she becomes *nusyuz*, while the right to pemberian arising from an agreement ceases upon remarriage.[33] Read together, these provisions do not establish an unlimited entitlement that automatically survives divorce. Rather, they define the temporal scope of the relevant legal obligation and identify the circumstances in which particular forms of entitlement cease. Equally important is the distinction between maintenance payable under a court order and pemberian arising from an agreement, since the applicable statutory consequences depend on the legal basis of the payment concerned. Judicial governance in this context involves applying the statutory rules governing duration and cessation, rather than exercising unrestricted discretion to extend or terminate an entitlement beyond the limits prescribed by law.

Sections 66 and 67 expressly provide for the recalibration of maintenance arrangements. Section 66 permits the Court, at any time and from time to time, to vary or rescind an existing maintenance order, whether secured or unsecured, where the order resulted from misrepresentation or a mistake of fact, or where there has been a material

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[31] Fatin Nasihah Jamal Abd. Nasir and Mustafa Mat Jubri Shamsuddin, "The Husband's Obligation in Providing Nafaqah to the Wife during the Pandemic Hardship: An Analysis from an Islamic Perspective," *Jurnal Syariah* 32, no. 2 (2024), https://doi.org/10.22452/syariah.vol32no2.4.

[32] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 63.

[33] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 64–65; see also Nurul Afifah Balqeis Roslee et al., "Pengabaian Nafkah 'Iddah: Perspektif Hukum Syarak Dan Undang-Undang Keluarga Islam Di Malaysia," *International Conference of Postgraduate Students and Academics in Syariah and Law* 6, no. 1 (2025): 236–43.

change in circumstances. Section 67 similarly permits variation of a maintenance agreement between husband and wife where the Court is satisfied that there has been a material change in circumstances, subject to s. 63.[34] These provisions recognise that the circumstances underlying a maintenance order or agreement may change after it has been established. A change in financial capacity or in the needs relevant to maintenance may therefore raise a question about whether the existing arrangement remains appropriate under the statutory standard. The provisions do not mean that every change in income or household circumstances automatically warrants variation; the statutory conditions must be satisfied. Their significance lies in allowing the Court to reconsider an existing arrangement where the legal grounds for doing so are established. Maintenance is consequently capable of judicial adjustment, but that adjustment remains conditional on the requirements set by the Act.

This statutory capacity for adjustment is particularly important where the original assessment no longer reflects the circumstances relevant to the obligation. A maintenance arrangement that cannot respond to a material change may become difficult to sustain or may fail to reflect the needs and means relevant to the parties. Conversely, variation without adequate justification could undermine the stability of an existing order or agreement. Sections 66 and 67 address this tension by authorising judicial intervention on specified grounds, rather than allowing either party to alter the arrangement unilaterally. Recent Malaysian scholarship identifies changing financial circumstances, non-compliance, and delays in enforcement as continuing concerns in the administration of maintenance.[35] These findings provide context for the importance of a legal framework that accommodates change, but they do not establish that the variation powers under ss. 66–67 are themselves inadequate or inconsistently applied. Such conclusions would require evidence from judicial decisions or other sources directly examining the use of these provisions. The analytical point is narrower: the Act recognises that the continuing legal regulation of maintenance may require reassessment, while leaving the Court responsible for determining whether the statutory grounds for intervention have been met.

Section 68 provides a further form of protection by declaring that maintenance payable to a person under a court order is not assignable or transferable and is not liable to be attached, sequestered, or levied upon in respect of another debt or claim.[36] The provision distinguishes court-ordered maintenance from an ordinary receivable that may be available to satisfy competing liabilities. Its effect is to restrict the extent to which the maintenance entitlement may be redirected or reached through processes associated with other debts or claims. This protection can be understood in light of the function of maintenance as support for the recipient, although that purpose should be presented as an interpretation of the provision rather than as an express legislative explanation.[37] Section 68 does not eliminate the need to recover unpaid maintenance from the person liable to pay; instead, it protects maintenance payable under an order from the specified forms of interference by other creditors. Read alongside s. 62, it reveals two different protective mechanisms: s. 62 enables the Court to secure payment through property held

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[34] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 66–67.

[35] Ruzmi, Halim, and Hashim, "Penentuan Dan Penguatkuasaan Nafkah Di Mahkamah Syariah Malaysia: Isu, Cabaran Dan Reformasi"; Mohamad Omar Mansu and Zaini Nasohah, "Potensi Dan Cabaran Perintah Komital Kerana Ingkar Perintah Nafkah Di Mahkamah Syariah Selangor," *Journal of Contemporary Islamic Law* 10, no. 1 (2025), https://doi.org/10.26475/jcil.2025.10.1.01.

[36] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 68.

[37] Abd. Nasir and Shamsuddin, "The Husband's Obligation in Providing Nafaqah to the Wife during the Pandemic Hardship: An Analysis from an Islamic Perspective."

by trustees, while s. 68 restricts the alienation or attachment of maintenance payable under a court order. Their legal functions are complementary but distinct.

Taken together, ss. 62–68 establish a continuum of statutory regulation: security of payment under s. 62, judicial approval of settlements of future claims under s. 63, regulation of duration under ss. 64–65, variation or rescission under ss. 66–67, and protection against assignment, transfer, and attachment under s. 68. The provisions do not guarantee compliance, nor do they eliminate the practical difficulties that may arise when a payer fails to honour an order. Rather, they equip the Court with different powers directed at different stages and risks in the legal life of a maintenance entitlement. This distinction matters when evaluating the effectiveness of the statutory framework. The existence of a power to secure or vary maintenance establishes a legal capacity for intervention; it does not, without evidence of its application, establish how regularly or successfully that power is exercised. The concept of *judicial governance* captures this statutory relationship between the recognition of entitlement and the continuing judicial authority to regulate its terms and protection.

The distinction between protecting an entitlement and recovering unpaid sums also provides a necessary transition to s. 69. Whereas ss. 62–68 address security, settlement, duration, variation, and protection from competing claims, s. 69 specifically provides for the recovery of arrears of unsecured maintenance as a debt, including their treatment in relation to bankruptcy and the estate of a deceased defaulter.[38] The statutory recognition of arrears as a debt is important because it identifies a legal basis for recovery; it does not, by itself, ensure that the recipient will obtain payment promptly or in full. The practical realisation of an outstanding maintenance entitlement may also depend on the available enforcement procedures, the debtor's financial circumstances, and the institutional capacity to pursue compliance. Recent studies of Malaysia's Family Support Division (*Bahagian Sokongan Keluarga, BSK*) identify challenges including limited enforcement powers, repeated non-compliance, procedural delays, and the socioeconomic circumstances of the parties.[39] These findings suggest that the legal status of arrears and the administrative process of recovering them should be analysed as related but separate questions. They do not establish that every case encounters the same obstacles, nor that the statutory framework is uniformly ineffective. The next stage of the analysis must therefore consider how s. 69's recognition of arrears as a debt relates to the practical role of BSK and the institutional mechanisms available to support enforcement.

Governing Nafqah through Recovery and Interim Protection

The legal protection of *nafqah* under the Islamic Family Law (Federal Territories) Act 1984 (Act 303) extends beyond the recognition and assessment of a maintenance claim. Sections 69–71 address three distinct forms of vulnerability: unpaid maintenance that has accumulated as arrears, immediate financial need before a final maintenance order is made, and the need for accommodation following divorce. Their proximity within

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38 *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 69(1)–(2).

39 Hendun Abd. Rahman Shah and N J Nazaruddin, "Kedudukan Nafkah Sebagai Hutang Menurut Hukum Syarak Dan Undang-Undang Keluarga Islam: Analisis Penguatkuasaan Oleh Bahagian Sokongan Keluarga Di Malaysia," *CFORSJ Procedia* 3, no. 1 (2025): 475–90, https://alnadwah.usim.edu.my/cforsjprocedia/paper/view/218; Mohd Hazwan Ismail and Mohd Mirza Abdul Rashid, "Monitoring Post-Divorce Maintenance in Malaysia: An Analysis of the Role of the Family Support Division from the Perspective of Fiqh and Law," *Kanun: Jurnal Undang-Undang Malaysia* 38, no. 1 (2026): 129–50, https://doi.org/10.37052/kanun.38(1)no6.

Part VI does not make these provisions interchangeable. Section 69 addresses the legal recoverability of arrears; s. 70 provides for interim maintenance pending determination of an application; and s. 71 establishes a qualified right to remain in the former matrimonial home. Read together, these provisions demonstrate that statutory protection operates at different stages of a maintenance dispute. They also reveal a central distinction for *judicial governance*: the legal recognition of an entitlement, the provision of relief before final determination, and the practical recovery of unpaid sums raise different questions of judicial authority and implementation.[40]

Section 69 is significant because it preserves the legal recoverability of unpaid maintenance. Section 69(1) provides that arrears of unsecured maintenance are recoverable as a debt from the defaulter. It further provides for qualifying arrears to be provable in bankruptcy where they accrued before the receiving order and to constitute a debt against the defaulter's estate where they accrued before death. Under s. 69(2), arrears of unsecured maintenance that accrued before the death of the person entitled to receive them may be recovered by that person's legal personal representatives.[41] The provision therefore addresses the consequences of default by preserving a legal claim to sums that have fallen due but remain unpaid. Its significance lies in the continuity of the claim: non-payment does not, merely by occurring, extinguish the recoverable arrears. However, the provision should not be understood as guaranteeing that the debt will be recovered in full. Legal recoverability and actual recovery remain distinct, particularly where the defaulter's financial circumstances or available assets constrain enforcement.

The distinction between recoverability and recovery is central to understanding the role of the Family Support Division (*Bahagian Sokongan Keluarga, BSK*). In a statement reported by Bernama on 12 March 2026, the Deputy Minister in the Prime Minister's Department (Religious Affairs) reported that 13,920 maintenance-arrears cases involving former wives had been resolved through enforcement initiatives between 2020 and 2025. The reported measures included consultation and legal assistance, negotiation, judgment debtor summonses, income detention, committal proceedings, seizure and sale, and *hiwalah* proceedings.[42] This figure indicates that institutional intervention has resulted in the resolution of a substantial number of reported cases. It should not, however, be treated as a recovery rate or as evidence that all outstanding arrears were fully paid: the reported figure does not itself specify the total number of eligible cases, the proportion of debt recovered, or the time taken to resolve each case. The more defensible conclusion is that BSK forms an important institutional link between the legal recognition of arrears and the processes through which claimants seek recovery.

Official reporting also exposes the practical limits of enforcement. The same parliamentary statement identified insufficient cooperation from judgment debtors in providing employer information, inadequate bank-account balances, and difficulties involving certain private-sector or non-Muslim employers as challenges in implementing garnishee orders. It further reported that 166 cases had been resolved through garnishee orders between 2022 and 2025.[43] These details are analytically important because they

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[40] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, ss. 69–71.

[41] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 69(1)–(2).

[42] Bernama, "13,920 Cases of Alimony Arrears Settled Since 2020—Marhamah," 12 March 2026, https://www.bernama.com/en/general/news.php?id=2533469.

[43] Parliament of Malaysia, *Digital Hansard, Dewan Negara*, 12 March 2026, statement by Marhamah Rosli, Deputy Minister in the Prime Minister's Department (Religious Affairs), https://hansard.parlimen.gov.my/hansard/dewan-negara/2026-03-12. The statement reports 13,920 cases resolved between 2020 and 2025, 166 cases resolved through garnishee orders between 2022

identify obstacles that cannot be resolved simply by declaring arrears to be a debt. A recovery mechanism may exist in law, yet its operation can depend on whether relevant financial information is available, whether funds exist to satisfy the debt, and whether the procedure can be implemented against the relevant third party. The reported challenges do not establish that garnishee proceedings are generally ineffective; rather, they show that the practical value of a legally recoverable claim depends partly on information, resources, and cooperation beyond the wording of s. 69 itself. The distinction between legal entitlement and enforcement capacity is therefore essential to a critical assessment of maintenance governance.

Research on BSK mediation provides a more detailed, although narrower, account of these implementation difficulties. Mohd Hazwan Ismail's study of mediation in maintenance-arrears cases registered with BSK during 2024 reports that 26 of 69 cases were resolved through mediation, 20 did not reach agreement, and 23 could not proceed because parties were absent.[44] These figures should be interpreted within the study's specific sample and should not be generalised to all BSK cases or all Malaysian Syariah Courts. Nevertheless, they illustrate how enforcement outcomes can be affected by participation and cooperation before formal execution mechanisms are pursued. Mediation may provide a less adversarial route to resolving arrears, but its availability does not remove the need for enforceable judicial remedies where negotiations fail or a party does not participate. The institutional implication is not that mediation should replace enforcement, but that negotiated resolution and coercive legal procedures perform complementary functions within the recovery process. Section 69 supplies the legal basis for recovering arrears as a debt; BSK's role in negotiation and legal assistance helps connect that basis to the procedures available in practice.

Section 70 addresses a different temporal problem: the claimant's immediate financial needs while an application for maintenance remains unresolved. Where the Court is satisfied that there are grounds for payment of maintenance, it may order the husband to pay interim maintenance with immediate effect until the Court makes an order on the substantive application. Section 70(2) also permits interim payments to be adjusted against the amount ultimately ordered, provided that the amount received by the wife after any deduction remains sufficient for her basic needs.[45] The provision thus allows the Court to address immediate need without treating interim relief as a final determination of the claim. It also places a statutory limit on the adjustment of interim payments by requiring the wife's basic needs to remain sufficiently provided for. Interim maintenance consequently performs a protective function during the period of adjudication, when a claimant may otherwise remain without financial support while the substantive dispute is pending.

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and 2025, and implementation challenges relating to employer information, cooperation, and insufficient bank-account balances.

44 Mohd Hazwan Ismail, "Addressing Maintenance Arrears without Litigation: Family Support Division (BSK) Mediation as an Early Resolution Mechanism," *International Journal of Academic Research in Business and Social Sciences* 15, no. 9 (2025), https://doi.org/10.6007/ijarbss/v15-i9/26464. The article reports BSK mediation data for 2024 involving 69 cases: 26 resolved, 20 unsuccessful, and 23 unable to proceed because parties were absent. These figures concern the study's reported cases and should not be treated as national enforcement statistics.

45 Islamic Family Law (Federal Territories) Act 1984 *(Act 303)*, s. 70(1)–(2); Raihanah Abdullah et al., "Financial Support for Women Under Islamic Family Law in Bangladesh and Malaysia," *Asian Journal of Women's Studies* 21, no. 4 (2015), https://doi.org/10.1080/12259276.2015.1106853; Ahmad et al., "Assessing the Rate of Child Maintenance (Financial Support) From A Shariah Perspective."

The procedural framework reinforces this protective function. Section 202(1) of the Syariah Court Civil Procedure (Federal Territories) Act 1998 (Act 585) authorises an interim maintenance order where an eligible applicant establishes that the circumstances require such relief. The order takes immediate effect and continues until the Court decides the underlying cause or matter. Section 202 is expressly subject to Act 303, and should therefore be read alongside, rather than as a substitute for, the substantive maintenance framework.[46] The distinction between the provisions is important: s. 70 of Act 303 expressly addresses interim maintenance against the husband where grounds for maintenance exist, while s. 202 of Act 585 provides a procedural basis for interim relief in a cause or matter. Their combined operation illustrates how substantive entitlement and procedural authority can work together to provide timely protection. It does not, without evidence from cases or court records, establish how frequently interim orders are sought, granted, or complied with.

Section 71 extends the statutory protection beyond direct monetary maintenance by recognising a divorced woman's right to remain in the home where she lived during the marriage for so long as the husband is unable to obtain other suitable accommodation for her. The right ceases in the circumstances specified in s. 71(2), including expiry of the *'iddah* period, expiry of the period of guardianship of the children, remarriage, or *fahisyah*, upon which the husband may apply to the Court for the return of the home.[47] The provision should not be characterised as an unrestricted or permanent property right. Its terms establish a qualified right of accommodation subject to specified conditions and termination events. Its significance for the present analysis is that the Act recognises a form of post-divorce protection that is not reducible to the calculation or recovery of a monetary sum. Accommodation may affect the practical circumstances in which a divorced woman and any children in her care live, although the precise operation and consequences of s. 71 would require further analysis of relevant judicial decisions and factual circumstances.

Sections 69–71 therefore perform distinct but complementary functions within the statutory framework. Section 69 preserves the recoverability of unpaid maintenance; s. 70 enables interim financial relief while the substantive application remains pending; and s. 71 provides a conditional accommodation right after divorce. Their combined significance lies not in establishing a single, seamless guarantee of maintenance, but in recognising that different stages of a family-law dispute can produce different forms of vulnerability requiring different legal responses. At the same time, the distinction between statutory authority and practical implementation must remain explicit. Section 69 provides a basis for debt recovery, but actual recovery may depend on enforceable procedures, available assets, and access to relevant information. Section 70 authorises interim relief, but the provision alone does not establish whether that relief is routinely accessible or complied with. Section 71 recognises a right to accommodation, but its practical application depends on the statutory conditions and the circumstances of the case. In this sense, *judicial governance* describes the coordination of differentiated statutory protections, while an assessment of their effectiveness requires evidence of how those protections operate in practice.

Conclusion

[46] Malaysia, *Syariah Court Civil Procedure (Federal Territories) Act 1998 (Act 585)*, s. 202(1)–(2).

[47] *Islamic Family Law (Federal Territories) Act 1984 (Act 303)*, s. 71(1)–(2).

This study demonstrates that the principal challenge in governing *nafqah* under the Islamic Family Law (Federal Territories) Act 1984 (Act 303) is not merely the legal recognition of maintenance, but the preservation of its value as an enforceable entitlement over time. The Act provides a framework for judicial determination, protection, adjustment, and recovery, yet the existence of these powers does not by itself ensure that maintenance reaches its intended recipient. The central finding is therefore that the legal quality of maintenance protection depends on the relationship between judicial authority and the institutional capacity to give effect to judicial decisions.

This finding has practical and policy implications. First, Syariah Courts and the Family Support Division (*Bahagian Sokongan Keluarga, BSK*) should be understood as complementary parts of the maintenance-governance process. Judicial decisions establish and clarify enforceable obligations, while effective recovery may require timely follow-up, accessible information about debtors' financial circumstances, and coordination between relevant institutions. Second, administrative monitoring should distinguish between orders issued, arrears registered, enforcement proceedings initiated, and payments actually recovered. These are different outcomes and should not be treated as interchangeable indicators of success. More consistent reporting of recovery amounts, case duration, enforcement methods, and reasons for unsuccessful recovery would provide a stronger basis for evaluating institutional performance and identifying procedural bottlenecks. Third, policy development should address the practical obstacles that prevent legally established claims from being realised, while preserving procedural fairness and the parties' rights. These measures would strengthen the connection between judicial remedies and the material protection that maintenance law is intended to provide.

The study also has limitations. Its doctrinal approach examines the statutory framework and its institutional context but does not independently measure compliance with maintenance orders, establish a national recovery rate, or determine the causal effectiveness of BSK interventions. Accordingly, the analysis identifies a gap between legal enforceability and practical realisation as an institutional concern; it does not claim to quantify that gap or attribute it to a single cause. In addition, Act 303 governs the Federal Territories rather than the whole of Malaysia. Its provisions therefore cannot, without further comparison, be treated as representative of every state's Islamic family-law regime.

Future research should test the implications of this analysis through empirical examination of maintenance cases, including the time required to recover arrears, the proportion and value of debts recovered, the use and outcomes of different enforcement mechanisms, and the reasons for non-compliance or unsuccessful recovery. Comparative research across selected Malaysian states could also establish which features of Act 303 are shared with, or differ from, other state enactments. Such research would help distinguish problems arising from statutory design from those associated with procedure, administration, or parties' financial circumstances. Comparative studies of other jurisdictions may further clarify which institutional arrangements are transferable, provided that differences in legal authority and enforcement structures are taken into account.

Ultimately, Act 303 illustrates how an Islamic family-law obligation can be organised as a continuing legal relationship supported by judicial and administrative mechanisms. Its significance lies not simply in the availability of maintenance orders, but in the institutional responsibility to make those orders meaningful in practice. The wider

implication for Islamic family-law governance is that the protection of *nafqah* should be assessed not only by the rights recognised in legislation, but also by the capacity of the legal system to secure their timely and effective realisation**.**

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Author Contributions

Both authors contributed to the development of this study, including its conceptualisation, legal and conceptual analysis of *nafqah*, examination of the relevant Malaysian statutory and institutional framework, and critical engagement with the literature. Both authors participated in drafting, critically reviewing, and revising the manuscript. Both authors read and approved the final version and accept responsibility for the integrity and accuracy of the work.

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Data Availability Statement

The legal materials analysed in this study, including the Islamic Family Law (Federal Territories) Act 1984 (Act 303), relevant Malaysian legislation, and publicly available judicial and institutional documents, are accessible through official Malaysian governmental, judicial, and institutional sources. The secondary literature cited in the manuscript is available through the respective scholarly publications and databases. No confidential or personally identifiable research data were generated or analysed in this study.

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During the preparation of this manuscript, the authors used generative artificial intelligence tools solely to assist with language improvement, grammar, readability, and editorial refinement. Generative AI was not used to determine the substantive legal arguments, interpret primary legal materials, formulate the analytical framework, or draw the study's conclusions. All conceptualisation, legal analysis, interpretation of statutory provisions, theoretical development, and conclusions were independently reviewed and critically assessed by the authors. The authors retain full responsibility for the accuracy, originality, integrity, and scholarly content of the manuscript.

References

Abd. Nasir, Fatin Nasihah Jamal, and Mustafa Mat Jubri Shamsuddin. "The Husband's Obligation in Providing Nafaqah to the Wife during the Pandemic Hardship: An Analysis from an Islamic Perspective." *Jurnal Syariah* 32, no. 2 (2024). https://doi.org/10.22452/syariah.vol32no2.4.

Abdullah, Raihanah, Taslima Monsoor, Fuadah Johari, and Wirdati Mohd Radzi. "Financial Support for Women Under Islamic Family Law in Bangladesh and Malaysia." *Asian Journal of Women's Studies* 21, no. 4 (2015).

https://doi.org/10.1080/12259276.2015.1106853.

Ahmad, Bahiyah, Raihanah Hj Azahari, Asmak Ab Rahman, and Mazni Abdul Wahab. "Assessing the Rate of Child Maintenance (Financial Support) From A Shariah Perspective." *Al-Jami'ah* 58, no. 2 (2020). https://doi.org/10.14421/ajis.2020.582.293-322.

Bahiyah Ahmad, Raihanah Azahari, and Asmak Ab Rahman. "Kriteria Kifayah Dan Ma'Ruf Nafkah Isteri Dan Anak: Kajian Pelaksanaan Semasa Di Malaysia." *Jurnal Syariah* 21, no. 3 (2013): 311–42.

Bernama, "13,920 Cases of Alimony Arrears Settled Since 2020—Marhamah," 12 March 2026, https://www.bernama.com/en/general/news.php?id=2533469.

Hashim, N, and T Lindsey. "The Best Interest of the Child: An Analysis of Judicial Approaches in Assessing Child Maintenance Applications in Shariah Courts." *Journal of Contemporary Islamic Studies* 2, no. 1 (2016): 35–57.

Hutchinson, Terry, and Nigel Duncan. "Defining and Describing What We Do: Doctrinal Legal Research." *Deakin Law Review* 17, no. 1 (2012). https://doi.org/10.21153/dlr2012vol17no1art70.

Ibrhim, Abdul Karim, Hasnizam Hashim, Mohd Sabree Nasri, and Shahrina Romli. "Child Maintenance Assessment in Shariah Courts: Integrating Maslahah and Mafsadah for Fairer Outcomes." *International Journal of Research and Innovation in Social Science* 10, no. 4 (2026). https://doi.org/10.47772/ijriss.2026.100400415.

Ismail, Mohd Hazwan. "Addressing Maintenance Arrears without Litigation: Family Support Division (BSK) Mediation as an Early Resolution Mechanism." *International Journal of Academic Research in Business and Social Sciences* 15, no. 9 (2025). https://doi.org/10.6007/ijarbss/v15-i9/26464.

———. "Pelaksanaan Waran Tangkap Oleh Pihak Polis Dalam Kes Tunggakan Nafkah Di Mahkamah Syariah." *Jurnal Undang-Undang Dan Masyarakat* 30 (2022). https://doi.org/10.17576/juum-2022-30-05.

———. "Pindaan Peruntukan Seksyen Mengenai Nafkah Daripada Enakmen Pentadbiran Hukum Syarak (Selangor) 1952 Kepada Akta 303." *Kanun Jurnal Undang-Undang Malaysia* 35, no. 2 (2023). https://doi.org/10.37052/kanun.35(2)no6.

Ismail, Mohd Hazwan, and Mohd Mirza Abdul Rashid. "Monitoring Post-Divorce Maintenance in Malaysia: An Analysis of the Role of the Family Support Division from the Perspective of Fiqh and Law." *Kanun: Jurnal Undang-Undang Malaysia* 38, no. 1 (2026): 129–50. https://doi.org/10.37052/kanun.38(1)no6.

Malaysia, *Federal Constitution, Ninth Schedule, List II (State List)*.

Malaysia, *Federal Territory of Putrajaya (Extension and Modification of Islamic Family Law (Federal Territory) Act 1984) Order 2002, P.U. (A) 247/2002*.

Malaysia, *Islamic Family Law (Federal Territories) Act 1984 (Act 303).*

Malaysia, *Syariah Court Civil Procedure (Federal Territories) Act 1998 (Act 585).*

Mansu, Mohamad Omar, and Zaini Nasohah. "Potensi Dan Cabaran Perintah Komital Kerana Ingkar Perintah Nafkah Di Mahkamah Syariah Selangor." *Journal of Contemporary Islamic Law* 10, no. 1 (2025). https://doi.org/10.26475/jcil.2025.10.1.01.

Mohd Hazwan Ismail. "Perubahan Perintah Nafkah Anak Mengikut Kepada Keperluan Semasa: Kajian Di Negeri-Negeri Zon Utara." *International Journal for Studies on Children, Women, Elderly and Disabled* 18, no. 1 (2023).

Parliament of Malaysia, Digital Hansard, Dewan Negara, 12 March 2026, https://hansard.parlimen.gov.my/hansard/dewan-negara/2026-03-12.

Roslee, Nurul Afifah Balqeis, Muhammad Aunurrochi Mas'ad, Abdul Manan Ismail, Nurin Insyirah Salleh, Siti Khairiyah Abdul Aziz, Muti'ah Muhammad, and Wan Najibah Wan Mohd Din. "Pengabaian Nafkah 'Iddah: Perspektif Hukum Syarak Dan Undang-Undang Keluarga Islam Di Malaysia." *International Conference of Postgraduate Students and Academics in Syariah and Law* 6, no. 1 (2025): 236–43.

Ruzmi, Siti Madihah, Asma Hakimah Ab Halim, and Fatimah Yusro Hashim. "Empowerment of the Family Support Division of the Selangor State Syariah Judiciary Department under Syariah Law in Malaysia." *Malaysian Journal of Syariah and Law* 13, no. 2 (2025). https://doi.org/10.33102/mjsl.vol13no2.724.

Ruzmi, Siti Madihah, Asma Hakimah Ab Halim, and Fatimah Yusro Hashim. "Penentuan Dan Penguatkuasaan Nafkah Di Mahkamah Syariah Malaysia: Isu, Cabaran Dan Reformasi." *Jurnal Undang-Undang Dan Masyarakat* 36, no. 1 (2026): 106–26. https://doi.org/10.17576/juum-2026-3601-07.

Saad, Jazilah Mohd, Afridah Abas, Noraini Md Hashim, and Saodah Wok. "Mechanism of Enforcement and Execution of Muslim Maintenance Order: Court-Based System." *IIUM Law Journal* 21, no. 2 (2013): 183–208. https://doi.org/10.31436/iiumlj.v21i2.101.

Saad, Jazilah Mohd, and Adnan Trakic. "Islamic Family Law." In *Islamic Law in Malaysia: The Challenges of Implementation*, edited by Adnan Trakic and Hanifah Haydar Ali Tajuddin, 43–61. Singapore: Springer, 2021. https://doi.org/10.1007/978-981-33-6187-4_5.

Shah, Hendun Abd. Rahman, and N J Nazaruddin. "Kedudukan Nafkah Sebagai Hutang Menurut Hukum Syarak Dan Undang-Undang Keluarga Islam: Analisis Penguatkuasaan Oleh Bahagian Sokongan Keluarga Di Malaysia." *CFORSJ Procedia* 3, no. 1 (2025): 475–90. https://alnadwah.usim.edu.my/cforsjprocedia/paper/view/218.

Singapore Judiciary, "Syariah Court Orders," https://www.judiciary.gov.sg/family/syariah-court-orders.

Suliman, Zainab Ahmed, and Mohamed Suliman Elnoor. "The Discretionary Power of the Judge to Compel the Husband's Financial Support for the Wife after His Refusal: A Comparative Jurisprudential Study with the Laws of the Gulf Cooperation Council Countries." *Anbar University Journal of Islamic Sciences* 15, no. 2 (2024): 659–685. https://doi.org/10.34278/aujis.2024.183175.

Syariah Court Singapore, "Enforcement of Syariah Court Order," https://syariahcourt.gov.sg/en/Divorce/Process-Post-Divorce/Enforcement-of-Syariah-Court-Order.

Taekema, Sanne. "Methodologies of Rule of Law Research: Why Legal Philosophy Needs Empirical and Doctrinal Scholarship." *Law and Philosophy* 40, no. 1 (2021). https://doi.org/10.1007/s10982-020-09388-1.

Theil, Stefan. "Carefully Tailored: Doctrinal Methods and Empirical Contributions." *Oxford Journal of Legal Studies* 45, no. 4 (2025). https://doi.org/10.1093/ojls/gqaf029.

Yelwa, Mansur Isa. "Protection of Wife's Right to Maintenance in Islamic Law and Its Implementation in the Malaysian Islamic Family Law." *IIUM Law Journal* 21, no. 2 (2013). https://doi.org/10.31436/iiumlj.v21i2.102.

Zaini Nasohah. "Cabaran Penguatkuasaan Dan Pelaksanaan Perintah Nafkah Di Mahkamah Syariah Negeri Selangor Dari Perspektif Peguam Syar'ie." *Jurnal Undang-Undang Dan Masyarakat* 13 (2009).