

## Missing Persons (*Al-Mafqud*) and its Relationship With Nafaqah According to Sharia Perspective

Nor Amira Binti Abd Shakor

Research Centre for Sharia, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia,  
43600 Bangi, Selangor, Malaysia.

Email: p109297@siswa.ukm.edu.my (Corresponding Author)

Mohd Zamro Bin Muda

Research Centre for Sharia, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia,  
43600 Bangi, Selangor, Malaysia.

Email: zamro@ukm.edu.my

To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v13-i3/16399>

DOI:10.6007/IJARBSS/v13-i3/16399

**Published Date:** 08 March 2023

### Abstract

Nafaqah is a support that is obligatory on men to provide for people under their care such as wives, children and parents. It includes protection, care and financing from aspects of food, clothing, shelter and so on. However, there is a situation that is suspected to cause the people under responsibility to lose their place of dependence such as the husband disappearing for a long time and his life or death status being unknown (*al-mafqud*). Since the sharia stipulates that the missing person's property cannot be used until the status of *al-mafqud* is confirmed, it raises the question of the obligation of nafaqah during the time of missing. Therefore, this article aims to:

- Find out the views of scholars related to nafaqah and its types
- Study the law on *al-mafqud* nafaqah according to the shariah perspective
- Examine the parties responsible for *al-mafqud* maintenance throughout its loss

The analysis involves two conditions of *al-mafqud*, which are *al-mafqud* as a family breadwinner and *al-mafqud* as dependants in the family. This author will also analyze using qualitative methods and analysis of primary and secondary sources such as books and scientific articles. The results of the study found that nafaqah must be given even if the person has disappeared, but it is subject to only two groups, namely the wife and children. Maintenance for both parents depends on the implementation of *al-mafqud* before he disappears. On the other hand, the missing dependent person is not obligated to be given their nafaqah until *al-mafqud* returns alive, except for the wife if they claim the right of nafaqah during her missing. This article is expected to provide guidance to wives, children and parents regarding their nafaqah rights in the event of *al-mafqud* situation as well as explain

the party responsible for carrying out nafaqah obligations throughout the period of the missing.

**Keywords:** Wife's Rights, Type of Maintenance, Child Maintenance, Parents Maintenance, Missing Persons, Marriage.

### Introduction

Islam prescribes nafaqah as one of the responsibilities that every man must fulfil. This provision is under the capabilities and abilities that Allah S.W.T has bestowed upon them. It aims to protect and preserve the rights and fate of family members. However, not all family members need to be supported to the point of burdening oneself. As the head of the family, the obligation to provide nafaqah is restricted to the three groups closest to them only, namely the wife, children and both parents. Each group has its reasons and Islamic factors prioritize them in the aspect of providing maintenance. For a wife, nafaqah acts as an appreciation for the service given to her husband. Meanwhile, for children, nafaqah is proof of a father's love to take good care of them. Nafaqah for both parents is a compliment placed on their services of loving and raising children since childhood.

The failure of husbands or fathers in implementing maintenance claims can have a great impact on their dependents. Sometimes it can happen in unexpected circumstances such as a missing person for a long time and their life or death status is unknown (*al-mafqud*). For example, the case of missing flight MH370 that happened in 2014 involved 227 passengers and 12 crew members. Until now, the cause of the incident and the whereabouts of the wreckage, including the victims involved, are still unknown even though they have been confirmed dead by the government based on *ijtihad*. Indirectly, the question of the law involving *al-mafqud* maintenance becomes a question and a question mark.

### Missing Person (*Al-Mafqud*) According To Sharia

In Islam, the imposition of an obligation on a person is obligatory until something happens that causes him to not be obligated or given relief (*rukhsah*) in carrying out the claim. Likewise from the aspect of nafaqah, it is obligatory on the husband until something happens that raises the obligation such as the wife *nusyuz* and so on. The occurrence of a missing person (*al-mafqud*) is also one of the matters discussed by scholars regarding the obligation of nafaqah since the missing mostly occurs suddenly and the period of the missing is unknown.

*Al-mafqud* comes from the Arabic verb "*faqada*" which means lost (Ibn Manzur, 1414; Al-'Arabiyyah, 2004) and absent (Al-Musili, 2009). The word *al-mafqud* uses the noun *maf'ul* which indicates someone who is lost. While from the point of view of the term, scholars have different views because it is interpreted according to the cause or reason of missing and the state of a person's missing. This article will specialize on the views of four mazhabs such as Syafie, Hanafi, Maliki and Hanbali.

According to mazhab Syafie, *al-mafqud* is a person who has disappeared from his place for a long period without any news and his whereabouts are unknown whether he is still alive or has died (Al-Khin et al., 2015). On the other hand, mazhab Hanafi defines *al-mafqud* as a person who has disappeared from his family and country because he was captured by the enemy and it is unknown whether he is still alive or has died including his whereabouts are also unknown for a long period (Al-Musili, 2009). While mazhab Maliki states that *al-mafqud* is defined as a person who has been lost according to four conditions, i.e. a person missing in a Muslim country, a person missing in a non-muslim country, a person missing during a war between Muslims or a war between Muslims and infidels (Al-Dusuqi, n.d.). While mazhab

Hanbali views *al-mafqud* as someone unknown whether he is alive or dead and lost his news through two situations (Al-Buhuti, 2008). First, someone who is lost disappears for a safe purpose such as travelling and seeking knowledge. Second, a person who goes missing for a dangerous purpose and usually will not return is like missing in a country at war.

Based on the definitions stated, it can be concluded that *al-mafqud* is a person who has disappeared from his place of origin for a long period and whose whereabouts are unknown whether alive or deceased. Scholars also divide *al-mafqud* into several types, as explained in the definition. This type of division is intended to specialize the waiting period of *al-mafqud* since the missing sometimes takes a very long time and causes the heirs to be unable to benefit during the missing period. At the very least, a fixed period can reduce the risk of abandoned property and the fate of neglected family members.

According to mazhab Syafie and Hanafi, *al-mafqud* will remain considered a living person until there is evidence of death that shows that he has died (Al-Ansari, 1998; Al-Khin et al., 2015; Al-Nawawi, 2005). The evidence is explained as the discovery of *al-mafqud*'s body or pieces of clothing in the sea belonging to him if he was lost in the middle of the sea due to a shipwreck. It must be based on search effort and it may take a long time. Therefore, the judge can set the waiting period according to the times. Some scholars set a period of four years and others according to the usual age at which a person dies. While mazhab Maliki and Hanafi differentiate the determination of the period according to the specified type. Some put the age limit at 120 years, others put it at 100 years and there is also a view that considers *al-mafqud* to have died if his missing occurred during the war. Most scholars agree that *al-mafqud* will remain a person who is still alive until the end of the set period.

From the property aspect, scholars agree that *al-mafqud*'s property cannot be used, sold or distributed to other heirs as long as it is not confirmed that he has died (Al-Khin et al., 2015; Al-Marghinani, 2008). The property is considered to be the property of a person who is still alive since the person is alive (Al-Khin et al., 2015). He explained that the law to use the property of a living person is not allowed unless permission has been obtained from the owner of the property. But for the situation of *al-mafqud*, his disappearance happened suddenly and usually the duration and status of his life or death are unknown. The question is, does the nafaqah obligation remain continuous even if it is lost or considered a debt during the period of its absence? It can be in two situations either *al-mafqud* is a family breadwinner or *al-mafqud* dependants in the family such as wife, children or parents. Thus, the writer will discuss these two situations into three parts of nafaqah, namely marriage maintenance, child maintenance and parents maintenance only.

### Meaning of Nafaqah And Concept

Nafaqah originates from the Arabic word "*infaq*" which means issuing or spending property for good purposes (Al-Hisni, 2009; Ibn Manzur, 1414; Al-'Arabiyyah, 2004). On the other hand, nafaqah or maintenance is understood as something issued by a person to his family members whether in the form of property, food, clothing and shelter (Al-Zuhayli, 1989, 2017; Ibn Abidin, 1992). It is a form of the obligation prescribed in Islam for all men as Allah S.W.T says in surah al-Nisa', verse 34 (4:34):

*"Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them;*

*[then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand.]”*

This verse explains that Allah S.W.T places the responsibility on men to fulfil all aspects required by women. But it is reserved for men who are intelligent and have the ability to earn a living only. Whereas for those who are incapable because of suffering from problems accepted by Sharia, there is no obligation to fulfil them such as insanity, coma and so on. The stated responsibilities are specific from the aspect of providing maintenance as a father has done to his children. So the responsibility is transferred to the shoulders of men starting after the marriage contract. This is because it includes the giving of property by a person to people under his care. Also, the priority of the responsibility is to protect, preserve and love because it is included in nature that is needed by all human beings. This obligation is in line with the position of men as stated by Allah S.W.T as a leader for women. It aims to ensure that a person's needs are guaranteed and well-maintained. The Word of Allah S.W.T in surah al-Talaq, verse 7 (65:7):

*“Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease.”*

Based on this verse, it is clear that providing nafaqah as prescribed by Allah S.W.T. will not burden a person even if he is an indigent person. It is common knowledge that every human being is blessed with different maintenance. Some of them are only able to support their daily life, while others can finance more than the needs of their families. Therefore, the scholars put some guidelines in giving nafaqah so that it is in line with the obligations set by Allah S.W.T.

According to mazhab Syafie, the obligation of maintenance is due to three things, namely marriage, kinship or family members specified by sharia and ownership under their responsibility (Al-Hisni, 2009; Al-Syarbini, 1994, 2000; Ibn 'Arafah, 2014). Besides, mazhab Hanafi specializes the obligation of maintenance into seven groups, which are the maintenance of the wife, property, children, parents, relatives who are forbidden to marry (*mahram*), relatives who are lawful to marry (*ghair mahram*) and the maintenance of outsiders (Al-Bukhari, 2004; Al-Saghdi, 1984). In general, maintenance is given to five groups, namely ourselves, wife, children, relatives (parents) and ownership. The five are arranged according to the priorities mentioned in the hadith narrated by Abu Hurairah, namely:

*“Give charity. Then a man asked: O Messenger of Allah, I have a dinar. So he replied: charity for yourselves. The man replied: I have another dinar. He said: Give charity to your wife. The man replied: I have another dinar. He said: Give charity to your son. The man replied again: I have another dinar. He replied: Give charity to your servant. The man replied: I still have something else. He said: You know better.” (Narrated by Abu Hurairah).*

Based on this hadith, it is clear that the obligation of providing maintenance is reserved for men and they are responsible for all the responsibilities under it. However, in this article, the writer only focuses on three groups, namely wives, children and parents because their priority

is higher than the other groups. Therefore, the discussion related to these three types of maintenance will be commented on in detail.

### Marriage Maintenance

Marriage maintenance is a nafaqah that must be provided by the husband to the wife due to the marriage contract (nikah). A marriage contract is an agreement that transfers the responsibility of a father for his daughter to someone who has the title of husband. The responsibility must include the entire care, maintenance, protection and all the things that the wife needs. This maintenance is divided into two types, namely outer and inner maintenance. However, the discussion is only focused on outward maintenance.

The husband's maintenance obligation towards his wife is due to the compensation for the services provided by the wife. Islam raises the status of wives and glorifies their position considering that the task is very great for a man even if she is just a housewife. The wife's obligation is not only to conceive, give birth, breastfeed, and educate children but also to preserve her husband's wealth and trust until she is promised heaven if she can fulfil all these responsibilities well. Therefore, the wife has the right to earn nafaqah for herself and her obligation is mentioned in the hadith of the Prophet S.A.W from the narration of Mu'awiyah al-Qushayiri:

*"I came to Rasulullah S.A.W and said: What do you want to say about our wife? He replied: Give them food from what you have eaten, and give them clothes from what you wear, and do not hit them and do not insult them."* (Narrated by Mu'awiyah al-Qushayiri. Sunan Abi Daud 2009. Hadith 2144)

This hadith explains the wife's needs such as food, clothing and the right to receive good treatment from her husband. While al-Syarbini (2000) explained that the wife's needs are seven, namely food, *al-idam* (something eaten with bread), clothes, hygiene tools such as soap and shampoo, household furniture, a place to live and a maid if the wife needs them. It's just as much as a need for yourself. As it is desired for oneself, then that is also the right that should be given to the wife. Some scholars detail the obligation to give maintenance to the wife every month considering that the calculation period is not too long and not too fleeting (Al-Marghinani, 2008; Al-Musili, 2009). But for a clothing allowance, mazhab Hanafi puts a period every six months based on different needs according to the weather during winter and summer. From al-Sarthawi's (2017) view, the husband's obligation to provide maintenance to his wife is every day because the need for maintenance occurs every day.

However, most scholars do not precisely set the mandatory rate of nafaqah because the needs of each woman are different (Al-Syarbini, 2015; Ibn 'Arafah, 2014). This depends on the way they are brought up according to the culture that is brought into their family and the husband's ability to provide nafaqah. For a wife who grew up in a luxurious life, the needs are different from those who grew up in a simple or poor life. Besides, Allah S.W.T orders that the husband fulfils all his obligations in a good and correct way (*ma'ruf*) based on the argument in surah al-Baqarah, verse 233 (2:233):

*"The mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period]. Upon the father are the mothers' provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child and*

*no father through his child. And upon the [father's] heir is [an obligation] like that [of the father]. And if they both desire to wean through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do."*

Imam Syafie in his book *al-Umm* explained the meaning of *ma'ruf* in the verse which is to give to those who have the right according to their needs, fulfil it willingly not forced and not show an attitude of restlessness while doing it (al-Syafie, 1990). When one of these attributes is left out, then a person is considered to have committed injustice for delaying in fulfilling the rights of others. Therefore, the husband must be fair and try his best to meet the rights and needs of his wife according to the extent he can because the hadith of the Messenger of Allah S.A.W in the narration of Ibn 'Abbas states:

*"The best of you is the best (of his relationship) with his family members, and I am the best of you with my family members."* (Narrated by Ibn 'Abbas. Al-Quzwaini n.d.)

### **Al-Mafqud Marriage Maintenance**

Regarding this nafaqah, the author divides the discussion into two aspects, namely *al-mafqud* as the person who bears the nafaqah (husband) and *al-mafqud* as the person who is supported by the nafaqah (wife). The discussion for these two aspects is detailed below:

#### 1) The husband as the breadwinner has disappeared (*al-mafqud*)

The missing husband as a breadwinner has a great impact on his dependents, especially his wife. This is because the wife's dependence on her husband is usually full and absolute. The majority of scholars also think that nafaqah is considered a debt if the husband does not pay it because of the obligatory law stipulated in Islam on the husband. Therefore, the wife has the right to claim maintenance from her husband's property during the period of absence. This matter was also narrated by Saidina Umar al-Khattab and Saidina Uthman regarding the story of a woman who had lost her husband in a period without any news, then Saidina Umar al-Khattab decided as follows

*"For al-mafqud's wife: must wait for four years. Ibn Umar has said: to support her from her husband's wealth, because she has restrained herself from her mafqud husband. Ibn 'Abbas has said: So it will be unfair because the property is part of the inheritance. However, the wife is allowed to go into debt. So if her husband returns, the debt is considered her husband's property. But if he is confirmed dead, the debt is considered part of his inheritance. So the two said, the maintenance was given to the wife after four years four months and ten days from the husband's entire property."* (Narrated by Ibn 'Abbas and Ibn Umar)

Based on this hadith, maintenance taken from the property of the husband *al-mafqud* is also a debt for the wife due to the uncertainty of the status of the owner of the property. It may be that the owner of the property returns alive or dies. However, according to mazhab Hanafi, the wife will only be counted as a debtor if ordered by the Judge (Al-Marghinani,

2008). However, if the husband returns while still alive, the nafaqah taken remains the wife's because it is considered her husband's property. On the other hand, if the husband dies, the nafaqah is considered part of the wife's inheritance. As for if the nafaqah that has been taken exceeds the portion of the inheritance that should be received, the wife has to return it because it is the portion of the inheritance of another heir (Al-Zuhayli, 2017).

From the aspect of nafaqah that can be taken by the wife, al-Zuhayli (1989) stated that the wife can take enough just to support herself. This matter is explained in a hadith of the Prophet S.A.W Narrated by Aisyah R.A:

*“From 'Aisyah RadhiyAllahu 'anha said: Hindun bint 'Utbah came to the Messenger of Allah and said: O Messenger of Allah ﷺ, indeed Abu Sufyan is a stingy man. He did not provide sufficient maintenance for me and my son except for what I took without his knowledge. So the Prophet said: take from his property enough for you and your son in a good way”.* (Narrated by Aisyah. Al-Bukhari 1422. Hadith 5364).

This hadith explains that the Prophet S.A.W. reminded wives to take their husband's property in a good way even without his knowledge. The way that is mentioned is to take only his livelihood and not excessively. On the other hand, Malik bin Anas (1994) specifies that the period of nafaqah can only be given during the waiting period set by the Judge. After the end of that period, which is the beginning of the 'iddah period for the wife for four months and ten days, maintenance for her is not required because *al-mafqud* is considered to have passed away and her property is considered to be an inheritance.

In addition, scholars agree that the obligation to pay maintenance will not be lifted even if it disappears. The obligation will be transferred to another party as a representative of *al-mafqud* during his absence. For al-Marghinani (2008); Malik bin Anas (1994), the ruler or Judge is the representative of *al-mafqud* if no appointment is made by the property owner before his missing as a trustee or property administrator. This coincides with the law of using *al-mafqud* property which basically cannot be used by anyone except with the permission of the Judge. Similarly, the view of Al-Khin et al (2015), if something happens that causes the withholding of nafaqah, then the Judge needs to intervene to resolve it. Thus, the wife can complain to the government or the judge and demand maintenance from the *al-mafqud* property. The wife has to swear that her husband has disappeared and that he is not a nusyuz person, in addition, to making sure that the claim is made based on her benefit (Al-Sarthawi, 2017; Al-Zuhayli, 2017). This action is intended to prevent fraud on claims made. For example, the wife's nafaqah has been paid or the husband has divorced her due to nusyuz before disappearing but not informing the government.

2) The wife as the person who is supported has disappeared (*al-mafqud*)

The incident of a missing partner does not only happen to the wife, even the husband can also face the situation. In this situation, the question arises about the obligation of the husband to provide maintenance to the missing wife while the status of the disappearance of the wife is unknown, the period and whereabouts. Therefore, the husband is not obliged to provide maintenance during the period of the missing due to the exception (*'illah*) of the wife's condition and the husband cannot receive benefits from her. However, if the wife returns alive and she is satisfied with the nafaqah that was not given during his absence, then the matter is over. On the other hand, if the wife also demands the nafaqah, the husband has to repay it since the wife is not a nusyuz person and the missing is not by her will.

### Child Maintenance

From the aspect of a person's nafaqah to *furu'* (children), this matter is mentioned in the evidence of surah al-Baqarah, verse 233 (2:233) which is:

*“The mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period]. Upon the father are the mother's provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child and no father through his child. And upon the [father's] heir is [an obligation] like that [of the father]. And if they both desire to wean through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do.”*

In this verse, Allah S.W.T explains that a father must provide for the mother who is breastfeeding the children. This means that the obligation to provide for the child is more important to be carried out by the father. The main conditions for providing nafaqah to children are as follows (Al-Khin et al., 2015)

- a) The father must have surplus property beyond the needs of himself and his wife.
- b) The children must be among the poor, i.e. have no property, are still young and unable to work. For those who have reached the age of puberty but have one of the deficiencies such as prolonged illness, lack of common sense or insanity, the father is also responsible for fulfilling the maintenance claim on him.

At the same time, the mother also plays a role because all the child's needs must be borne by his parents until he can support his own life. Even if the parents are divorced, then the mother is responsible on behalf of her child who is still young to claim maintenance from the father or ex-husband.

### ***Al-Mafqud* Child Maintenance**

For the *al-mafqud* child maintenance, the scholars' discussions touch on two aspects, namely the missing person who provides nafaqah (the father), and the missing person who is supported (the child). The discussion is as follows

- 1) The father as the breadwinner has disappeared (*al-mafqud*)

If the father is confirmed by the government as a missing person (*al-mafqud*), some jurists state that the child's maintenance can be transferred to other heirs such as the wife (Al-Zuhayli, 1989). According to al-Khin et al. 2015 & al-Syarbini (2015), grandfathers among *al-usul* are also obliged to provide maintenance to children or grandchildren and below (*al-furu'*). Similarly, al-Buhuti (2008) thinks that the maintenance is transferred to a relative on the father's side or a relative on the mother's side if the father is not present.

The opinion of al-Kasani (1986) is different, stating that child maintenance should be borne by relatives who are forbidden to marry (*mahram*) only, such as the mother or grandfather. He explained the condition that the mother must be someone who can work and earn a living to finance the needs of her children, while the grandfather is someone who has surplus property and can support the lives of his grandchildren. Even though the children have a lot of property, they are eligible to be given maintenance from the *al-mafqud* property, but it is limited during the waiting period only as long as it meets the conditions set by Islamic law



(Al-Zuhayli, 2017). After the end of that period, they do not need to be given maintenance from their missing father's property because they are no longer under the responsibility of *al-mafqud*.

2) The child as the person who is supported has disappeared (*al-mafqud*)

As for the category of missing children, there is not much discussion among scholars regarding their maintenance obligation to them. However, in general, parents are not obliged to provide maintenance to children who have disappeared due to the exception (*'illah*) of the child's condition. As for a father, if he wishes to continue to provide maintenance to the children who have disappeared, it is considered a gift of courtesy and savings for his son. If the child returns alive, the nafaqah given remains the child's property. As if it is decided that he has passed away, the nafaqah that has been given is considered an inheritance and must be divided among the heirs who are qualified to receive it.

### Parents Maintenance

Based on the original law, scholars make it obligatory to provide child support (*al-furu'*) to parents and above (*al-usul*). Among the arguments in surah Luqman, verse 15 (31:15) that mention this obligation is:

*"But if they endeavour to make you associate with Me that of which you do not know, do not obey them but accompany them in [this] world with appropriate kindness and follow the way of those who turn back to Me [in repentance]. Then to Me will be your return, and I will inform you about what you used to do."*

This verse explains that Allah S.W.T commands children to do good to both parents. According to al-Khin et al (2015), the encouragement to do good includes the aspect of taking responsibility for providing for parents when needed. However, the maintenance obligation on the parents is obligatory in two situations (Al-Hisni, 2009) which are:

a) The child must be capable, have a surplus property and be able to work.

The condition of surplus property is the main basis for providing nafaqah to parents. If a person's property can only be given to his wife and children, then the maintenance obligation to the parents falls away. This is because people who do not have the means are categorized as poor and the poor are not obliged to provide maintenance to the poor. If a person has surplus property after giving maintenance to his wife and children, but the surplus is only enough for one person, then the mother should be given priority over the father (Al-Khin et al., 2015). This is based on the method of fiqh (Azzam, 2005):

*"Something that cannot be fulfilled (taken) in its entirety, cannot be left in its entirety."*

b) The parents belong to the poor, are unable to work and cannot meet their own needs.

Even if they are not in this situation, the demand for nafaqah is also encouraged by Sharia. This is based on the words of Allah S.W.T in surah al-Ankabut, verse 8 (29:8):

*"And We have enjoined upon man goodness to parents. But if they endeavour to make you associate with Me that of which you do not know, do not obey them. To Me is your return, and I will inform you about what you used to do."*

### Al-Mafqud Parents Maintenance

From the point of view of maintenance for *al-mafqud* parents, the discussion is only debated for one category, which is the person who supports the maintenance (the adult child) is *al-mafqud*. This is because parents are not obliged to provide maintenance to their grown

children. Even if the parents are gone, it does not affect the children. So, the details are as follows.

According to al-Zuhayli (2017), the maintenance obligation on parents is only obligatory if the matter is done before *al-mafqud* disappears. As for if *al-mafqud* did not provide for the parents' maintenance before he disappeared because they still had property, it is also not obligated to provide for them even if *al-mafqud*'s parents became poor after the missing occurred. This is because a person who has disappeared cannot be held responsible for something that happened during his absence. This obligation is also based on the hadith narrated by Abu Hurairah regarding the order of priority for maintenance starting from the wife, children and then the parents. Since *al-mafqud* has disappeared, the priority of maintenance should be given to the wife and children because they have the closest relationship with *al-mafqud*. But if he returns alive, then the obligation to provide for the poor and needy parents is permanent on the child to help them as best as possible.

### Conclusion

The missing of a family breadwinner must have a great impact on the people under his care, especially his wife, children and parents. It is an obligation in Islam to ensure that the fate of those left behind is best defended. Thus, the scholars give a clear description of the obligation of maintenance to the wife, children and parents of *al-mafqud*. It is complete along with the conditions and guidelines for granting nafaqah including those who take over the responsibility of *al-mafqud* during the period of his missing. Two positions of *al-mafqud* are highlighted by the writer, namely *al-mafqud* as the person who provides for nafaqah or *al-mafqud* as the person who is supported by nafaqah. Both have different laws. The author found that even if the person who pays for maintenance has disappeared and the period of his disappearance is unknown, the maintenance obligation is still mandatory but subject to only two groups, namely the wife and children. While the maintenance for both parents depends on the implementation of *al-mafqud* before it disappears. The law is different for *al-mafqud* as a person who is supported because it is not obligatory until *al-mafqud* returns while still alive. Therefore, it is hoped that this writing will give some enlightenment to wives, children and parents regarding their maintenance rights in the event of a missing person (*al-mafqud*) among family members as well as explain the party responsible for carrying out maintenance obligations throughout the period of the missing.

### Acknowledgements

This article is part of the research funded by Dana Insentif Penerbitan FPI, Universiti Kebangsaan Malaysia.

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