




Feasibility of the Impact of Alimony for Poverty on Social Justice in Turkish Law

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Received: 2024-10-11

Revised: 2024-11-29

Accepted: 2024-12-05

Published: 2025-01-01

One of the obligations of marriage in Turkish law is the provision of alimony between spouses. The legislator has stipulated that alimony for poverty between spouses, regulated by Article 175 of the Turkish Civil Code, continues after divorce due to ethical and social considerations. It should be noted that alimony for poverty has various effects on the perspectives of individuals in Turkish society, to the extent that some men view themselves as indebted to their wives for life, which exacerbates social justice issues. On the other hand, the dowry in Turkey is not considered a financial obligation or legal right for women, and in the event of divorce, women do not have the right to claim it. In other words, the dowry in Turkey is more symbolic and customary in nature and lacks strong enforcement mechanisms. Therefore, it is important to examine the financial burden alimony can impose on spouses in Turkey to address this issue from the perspective of social justice. This study utilizes an analytical-descriptive method and a library-based approach to investigate the feasibility of the impact of alimony for poverty on social justice in Turkish law. The findings indicate that Turkey's legal system, by adopting a secular approach in legislation, seeks to achieve social justice and gender equality, but due to the society's Muslim background, this has led to conflicts and numerous problems.

Keywords: *alimony for poverty, positive discrimination, social justice, Turkish law.*

How to cite this article:

Salehi, M., Mahjoub, S., & Mirdadashi, S. M. (2025). Feasibility of the Impact of Alimony for Poverty on Social Justice in Turkish Law. *Interdisciplinary Studies in Society, Law, and Politics*, 4(1), 170-179. <https://doi.org/10.61838/kman.isslp.4.1.17>

1. Introduction

The demand for monthly alimony is a form of assistance paid after or during divorce. It is widely known that alimony today is generally granted to women and children. However, considering the evolving global structure and the principle of equality, which is a legal right, women and men are placed in equal positions. The Turkish Civil Code states that alimony claims can be made without specifying the gender of the recipient, and as a result, the Turkish legislator has referred to the possibility of a man receiving alimony from a woman, in

line with the principle of equality, and this is also reflected in the judicial practice in Turkey.

On the other hand, in Turkey, it is accepted that spouses support each other materially and emotionally during their married life, but this support can also continue after marriage. This type of alimony is granted to the spouse who is in a very difficult financial situation. Alimony for poverty is commonly a sum paid by the spouse who does not have custody of the minor children, along with one of the parents who has custody. This alimony is determined by the judge based on duty. Regardless of which spouse is at fault during the divorce, this alimony is typically



used for child care. In practice, through a divorce decree, alimony that has been ordered as precautionary alimony can be converted into shared alimony.

Article 175 of the Turkish Civil Code does not specify a gender (male or female) for the payment of alimony, meaning women can also pay alimony to men. Women may be financially stronger than men. More importantly, a divorced man may be in a situation where he faces financial problems due to the divorce. The judge may order alimony to be paid by the wife during this period of poverty or for an indefinite period (Çolak, 2017; Doğan, 2015).

The core of the Turkish Civil Code is the support of family members for one another and the expenditure of income for the family. Even in the event of divorce, spouses, who by the nature of marriage become a family, continue their responsibilities towards each other, even if partially. Often, married women, due to old social laws and traditions or through processes like pregnancy, childbirth, postpartum care, and child-rearing, fall behind in their commercial and professional lives. Therefore, it is believed that alimony determined by a judge during divorce, and alimony that should be given to the spouse who is left in poverty after divorce, should be solely the right of the woman. Poverty and temporary alimony are essentially financial support for the spouse who becomes impoverished after divorce and bears no significant fault for the divorce (Işık, 2022; Tekin, 2020). Article 175 of the Turkish Civil Code does not distinguish between men and women in terms of alimony payment, which means there is no difference between the sexes in the payment of poverty alimony. However, women may be financially stronger than men. More importantly, a divorced man may be in a situation where he faces financial difficulties due to the divorce. The judge can order alimony during this period of poverty or for an indefinite period. In order for a man to claim alimony, he must bear less responsibility for the divorce than the woman. Alimony is not possible for a man who has played a role in the creation of the divorce crisis.

From this perspective, we aim to answer the question: What is the philosophy behind the provision of alimony for poverty in the Turkish legal system, and what is its role in social justice?

2. Concepts

2.1. *The Nature of Alimony in the Turkish Legal System*

Article 14 of the Hague Convention on Alimony (1973) and Article 18 of the Turkish Civil Code define the status of alimony as a rule with a shared beneficiary and debtor nature. In the Turkish legal system, both the alimony status after divorce and the alimony status in the event of the annulment of marriage following a decision for separation by the court will apply. Article 175 of the Turkish Civil Code and Article 8 of the Hague Convention on Alimony define alimony. In this definition, social and ethical considerations are more emphasized by the legislator. Given that women are more vulnerable, laws have been created to guarantee the livelihood of women. This is in line with the legislator's emphasis on strengthening family unity in Article 41 of the Turkish Constitution, which considers the family the foundation of society and establishes social order and mutual respect as the basis of the family. It seems that the Civil Code gives more attention to this matter, but upon closer examination, it becomes evident that the financial vulnerability of men has been less addressed (Yeliz, 2013).

It may seem unfair that only the financial well-being of women, even after divorce, is given more attention, while men are left in distress, and the consequences of this issue affect the children more, which has been overlooked by the Turkish legislator (Kulaklı, 2018).

The second issue that stands out is the lack of attention to Turkey's indigenous culture and the reliance solely on laws with Western origins. The consequences of this issue primarily affect women, as these laws do not fit well with the mindset and mentality of Turkish society. As a result, women become more likely to be victims of so-called "honor killings" in Turkey, which are referred to as "cleansing of honor and dignity." This highlights both the sociological framework and the legal aspect of the issue (Tutumlu, 2009).

In the Turkish legal system, in some cases and circumstances, spouses are required to assist and cooperate with each other after the end of the marriage bond, whether it is for the upbringing of children or for financial matters. In fact, the legislator has stipulated that the obligation of solidarity in marriage should continue after divorce, and the other spouse should make payments indefinitely and in accordance with their

financial capacity to support the other party. However, this is not the case in practice, and its vulnerability has been highlighted in various articles by Turkish legal scholars.

On the other hand, if a spouse refuses to pay alimony, legal sanctions are first applied to them, and if they continue to refuse or delay payment, criminal sanctions are then imposed, as specified in the law. Interestingly, in Turkey, if either the wife or husband becomes impoverished due to divorce and is not at fault, they can request alimony from the other spouse to the extent of their ability until the poverty is alleviated. However, a man can only request alimony from his wife if she is wealthy. This concept is partly derived from the common law legal system.

It is observed that under Turkish Civil Law, alimony is paid after divorce, not during the shared life, and its payment is not solely the responsibility of the man. A wealthy woman can also support her husband if he is in financial difficulty. This payment continues until the poverty is alleviated, and any increase or decrease in its amount requires a court ruling.

2.2. Social Justice

Social justice is one of the implications of the concept of justice, referring to the "fair" allocation of resources within a society. In this sense, the law must achieve a satisfactory level of both real and formal justice, ensuring the fair distribution of resources and equality of opportunities (Çolak, 2017; Doğan, 2015).

Social justice is the social and political dimension of human and individual justice. It is the tangible and embodied manifestation of complete justice within society and in the voluntary relations between human beings. Its manifestations are found in social actions, group interactions, the enactment and implementation of laws, the creation and management of systems and parties, regulations, transactions, production, services, distribution, consumption, the legitimacy of systems, public participation, oversight, guidance, education, and more. In other perspectives, social justice is viewed merely as distributive justice; however, in the Islamic understanding, it has a broader meaning with various political, economic, cultural, educational, legal, and judicial dimensions, and it does not solely refer to the distribution of power or wealth.

It is widely believed that the relationships and interactions of individuals and groups, the laws and regulations of society, as well as social institutions, must be just. Social regulations and obligations acquire legitimacy when they either conform to justice, are created based on it, and are executed in accordance with it. Justice is a criterion and standard not only for individuals and individual actions but also for groups and collective behaviors. Therefore, the issues of equity and justice have long been fundamental concerns and the most significant aspirations of humanity on Earth, and they are subjects that every thinker has given attention to. Justice is a virtue upon which the transformation of human societies depends. It creates resilience and balance in the individual and fosters equality, balance, and freedom in society. The absence of this justice in society leads to discrimination, oppression, corruption, and lack of public consensus, and such a society distances itself from virtue, unity, and solidarity, heading toward disintegration and collapse.

If we assume that society is a self-organizing collective of individuals who consider a set of behavioral rules binding in their interactions with each other, and that most people in society act according to these rules, this set of rules reflects a system of cooperation designed to enhance the benefit of the participants in that system. Although in this scenario society is a cooperative entity aimed at mutual benefit, there is still a conflict of interests present alongside the shared benefits. On one hand, social cooperation improves the lives of all participants compared to a situation where each person lives solely on their own efforts, and on the other hand, since individuals are concerned with how the benefits from their cooperation are distributed, conflicts of interest arise. Therefore, to choose from different social arrangements (which define the division of benefits and ensure a fair share for each person), a set of principles called social justice principles is needed. These principles provide a way to allocate rights and duties in the fundamental institutions of society and determine the fair distribution of the benefits and burdens of social cooperation.

The two main components of social justice are:

A. Public Responsibility: This means being accountable to each other, committing to one another, and going beyond individual interests to consider the common good (Kahraman, 2022).

B. Social Balance: This refers to establishing equality and balance in all aspects of social life for all individuals and groups within society. This means that power, wealth, resources, and the opportunities for their use, production, distribution, and consumption within society should be structured in a way that ensures all individuals have equal, balanced, and proportionate access to the available advantages and resources according to their circumstances, needs, and conditions (Akıncı & Gökyayla, 2010).

2.3. *Justifiable Discrimination or Positive Discrimination*

The concept of justifiable discrimination or positive discrimination refers to creating inequality in order to achieve equality. In other words, it refers to "a temporary legal difference granted by the legislator in favor of one group and to the detriment of another group, with the aim of rectifying past inequalities." A well-known example is imagining a running race in which one of the participants has his legs chained together. Can you simply remove the chains and move them to the starting line and say, "Start the race now?" Wouldn't this be against justice and fairness? Or should we assist them in reaching the same starting point as the others?

It is clear that positive discrimination is applied when inequality exists, and we seek to remedy it, with the support being provided until the disadvantaged group reaches an equal condition with the others. The preamble of the Constitution of the Islamic Republic of Iran also recognizes positive discrimination in favor of women. The preamble states in the section "Women in the Constitution": "... women, due to the greater oppression they have endured under the oppressive regime, will have greater rights to claim their rights." Additionally, Iran's legal system has implemented positive discrimination in many cases where women, due to their biological, familial, and natural circumstances, are placed at a disadvantage in their employment opportunities. These include prohibitions on heavy labor for women, maternity and breastfeeding leave, part-time work, the possibility of early retirement, and more. However, the application of positive discrimination for women still has room for development, and neglecting these natural differences would be unfair and unjust.

3. **The Application of Social Justice in Determining Alimony for Poverty in Turkey**

Articles 175 and 176 of the Turkish Civil Code grant judges the discretion to apply alimony indefinitely to a divorced woman, unless the woman is entirely at fault for the divorce. While this provision of the Civil Code is enforceable, it is inconsistent with the principles of justice and fairness. According to these principles, since the husband cannot derive material or emotional benefits from the wife after the divorce, the wife should also not benefit from her former husband.

According to Islamic law, with respect to these principles, a woman who has been divorced with a final decree, after the waiting period (iddah) has ended, has no right to claim alimony from her former husband (Çetintaş, 2014; Çolak, 2017; Kahraman, 2022). Therefore, if a woman, after the waiting period has ended from the moment of the final divorce, demands and receives indefinite alimony from her former husband, while this alimony may be lawful under the Civil Code, it is not in accordance with Islamic jurisprudence. In this case, if a divorced woman who is financially disadvantaged and thus in need of alimony, it would be appropriate for her to seek assistance not from her former husband but from her relatives, including her parents, siblings, and extended family.

The Turkish Civil Code allows judges the discretion to require the former husband to pay indefinite alimony if the divorced woman is not at fault or is equally or less at fault than the husband, and if she suffers from poverty due to the divorce. The Civil Code states: "The party who becomes poor due to the divorce may request indefinite alimony from the other party in proportion to their financial ability, provided that they are not the cause of the divorce" (Article 175, Paragraph 1, Turkish Civil Code).

The alimony for poverty stipulated in Turkish law is frequently criticized by various sectors of society because it produces results that are inconsistent with justice, undermines the principle of social justice, and can lead to undesirable consequences. Alimony for poverty does not align with fairness and justice. For instance, a study conducted in November 2019 found that 86.18% of participants stated that indefinite alimony was unjust, and they wished for it to be abolished and replaced with fairer regulations. After a final divorce, the wife cannot return to her husband and

neither party benefits from the other. In this context, obligating the man to pay indefinite alimony until one of the parties dies, the woman remarries, or the marriage relationship is proven to exist, is contrary to the principle of justice and the conflict of interest principle. From a psychological perspective, this practice leads the woman to financially and morally punish the man from whom she has separated, due to severe disagreements and incompatibility. In other words, during the marriage, due to deep differences or other reasons, feelings of hatred may emerge between them. On the other hand, the separated husband is obliged to pay alimony for his former wife for life, which keeps their relationship ongoing. Additionally, when the husband starts a new life with a new wife, he becomes financially and morally burdened, which, by covering the alimony for his former wife and children, as well as the alimony for his new wife, becomes overwhelming for him, and is inconsistent with justice. This leads to irreparable psychological damage to the husband and his new wife. For this reason, people are reluctant to marry and start families.

The law further stipulates: "On the other hand, a person may request indefinite alimony in proportion to their financial ability." This means that if the husband improves psychologically after the divorce and begins to earn more due to his progress and success in his career, the wife may share in these assets, thereby placing an additional burden on the husband. Furthermore, this legal provision provides the woman the opportunity to share in the husband's future wealth. This creates a separate dimension to the material and moral victimization of men. On the other hand, the husband is obliged to pay alimony even if both parties are equally responsible for the divorce. According to the law, if the wife is at fault, no alimony is due. However, this almost never occurs in practice. Even if both parties are equally at fault, the payment of indefinite alimony to the divorced wife does not constitute positive discrimination.

Although Article 175 of the Civil Code refers to "poverty alimony" as a result of divorce, alimony in Turkey is typically paid by the husband under the broader category of "undefined alimony." Naturally, the question arises: what is the philosophy behind this alimony? This is because implementing indefinite alimony results in grievances and serious difficulties, and presents numerous issues that have manifested in Turkish

society. In fact, a report by the Investigation and Inspection Committee of the Grand National Assembly of Turkey, dated May 14, 2016, states: "If both parties are equally responsible for the divorce, the payment of lifelong alimony is not correct." (Tekin, 2020; Uyanik, 2019).

The criticisms of this practice are not limited to these issues but have also been criticized by many contemporary legal scholars, including certain family courts, which have deemed it inconsistent with the principles of justice and fairness. For instance, Emrah Kulaklı, in his article on undefined alimony, emphasizes that, socially, continuing a mandatory relationship with one another despite the end of the undesirable marital bond is problematic. He points out that divorced spouses, due to poverty alimony, are forced to maintain a relationship indefinitely. On the other hand, this situation encourages the recipient of alimony to engage in relationships outside of marriage to prevent the alimony from ending.

In the case of the annulment of the relevant law at the Constitutional Court, Hacibi Durson, one of the members, stated in her dissenting opinion regarding the rejection of annulment that "undefined or unlimited" alimony conflicts with the principles of justice and fairness. Despite the separation of the parties, their lifelong financial obligations are not consistent with the principle of fairness. Moreover, indefinite alimony encourages the recipient to avoid working in a profession that generates income and to live together outside of marriage in an effort to punish the other party. She argued that imposing lifelong alimony on one of the divorced spouses is not a reasonable solution and called for its annulment. Although this alimony obligation between spouses ends with divorce, the legislator has deemed it necessary to depart from this general principle under the influence of ethical and social considerations, and, when necessary, extend the alimony indefinitely if one party is at fault. Before addressing this, it is essential to examine the term "poverty" from a sociological perspective. The issues related to alimony also have economic, psychological, and social dimensions. For this reason, the legal nature of alimony, its objectives, scope of application, and ongoing debates regarding this alimony will be discussed and analyzed.

3.1. *Lack of Connection Between Permanent Alimony and the Principles of Justice*

One of the controversial reasons for alimony is its continuity, and another is the difficulty of accepting payments to the former spouse. Although Turkish law does not specify the gender of the alimony creditor or debtor, it is clear both in the normal course of life and within the social culture of Turkish society that the alimony creditor is the woman, and the payer is the man. Therefore, alimony resulting from divorce cannot be considered independently from the division of income between men and women. It is not incorrect to say that unless the problem of increasing the share of women's welfare is solved, discussions about alimony will not cease (Arbek, 2005).

According to the Turkish Civil Code of 2002, the issue of alimony due to poverty is applied. The reason for this change is that alimony for women who are facing difficulty supporting themselves due to reasons such as age, education, and social factors, is insufficient for up to one year after divorce. When reviewing the discussions prior to this change in 1988, it is observed that the idea of abolishing the one-year limit in the Turkish Civil Code and not setting a deadline for alimony, and the suggestion that courts should assess alimony based on the circumstances of the parties and their needs, had been highlighted (Çetintaş, 2014).

According to Article 175 of the Turkish Civil Code: "A person who becomes in need due to divorce may claim alimony from the other party indefinitely, depending on their financial ability, as long as their fault in the divorce is not greater than the other party's."

During marriage, spouses are obligated to meet the needs of life due to their mutual duties. In fact, this obligation is a normal condition that brings about a shared life within the family and is often not considered a requirement. The care burden, which is taken for granted in the normal course of marriage and is even ignored, takes on a different significance when the couple enters divorce. This is because, as a result of divorce, at least one of the spouses may face poverty, or the quality of marital life may severely decline. In such cases, payments to the other party are made. According to Article 175 of the Turkish Civil Code (TMK), alimony is paid indefinitely. For this reason, permanent alimony is commonly known as periodic alimony. Permanent alimony is an unlimited payment made to the other party

because they are in a financially difficult situation due to divorce, as long as their fault is not greater than the other party's (Uyanık, 2019).

Although alimony is included in the laws of almost every country, there are significant differences in its application. When examining foreign laws, it can be said that the "unlimited alimony" provision in Turkish law is one of the most unusual legal practices. This situation brings about numerous social problems.

3.2. *Unlimited and Permanent Alimony Upon Request of the Parties*

Unlimited alimony is alimony that is requested by the spouse who is facing poverty due to divorce, provided the conditions for granting alimony are met. Specific conditions must be met for this request, and they are as follows:

3.2.1. *Request by One of the Parties*

In order for the court to issue a ruling for unlimited alimony, the spouse who is facing financial hardship must submit a request. As long as no request is made, the court cannot issue a ruling for unlimited alimony. Additionally, the amount of alimony must be clearly and specifically stated in the request. The amounts mentioned refer to those specified in the alimony request, and the court cannot rule beyond the requested amount.

The payment of alimony is conditional upon a request. In other words, the judge cannot automatically issue alimony without a request from the parties. Until the case is finalized, any request made at any stage of the case must be in writing, or a verbal request must be recorded in the hearing minutes (Hamzaçebi, 2002, p. 32). According to the ruling of the General Board of Appeal, No. 2-876/95 dated 22/02/1995, this issue is explained as follows: "... In order for the spouse who becomes impoverished due to divorce to claim alimony from the other spouse indefinitely, based on their financial capability, the spouse must first make such a request, provided that their fault in the divorce is not greater. A decision on alimony in favor of the defendant without considering this aspect is inappropriate" (Tutumlu, 2009).

3.2.2. *Determination of Fault of the Requesting Party*

The spouse who requests unlimited alimony should not be at fault for the divorce. If the requesting spouse is more at fault, alimony cannot be granted in their favor. Before the application of unlimited alimony in Turkish law, alimony was limited to one year. According to Article 144 of the previous Civil Code, if the spouse became entirely impoverished, alimony could be awarded for up to one year. However, with the amendment made to the Turkish Civil Code on 05/04/1988, it was stipulated that the guilty party would be sentenced to permanent alimony (in case of financial hardship), and this became enforceable from that date. After this change, unlimited alimony was applied (Kahraman, 2022).

Since the law does not consider the requesting spouse to be at fault, but only considers their fault to be lesser, alimony due to poverty may be awarded to the spouse who faces financial difficulty, even in cases of equal fault (Aydın, 2013). Moreover, although fault is required in cases of material and non-material damages, the spouse being asked for alimony is not considered to be at fault. Therefore, in a divorce case, a spouse who is psychologically incapacitated and whose fault cannot be proven may still be ordered to pay alimony to the other spouse if conditions are met (Akıntürk, 2014).

The grounds for divorce are set out in Articles 161 and onward of the Civil Code. Although the fault of the defendant is a reason for divorce in some cases, in other cases, it may occur without fault. Accordingly, in cases of adultery, attempted murder, improper or degrading behavior, crime commission, undesirable life, abandonment of the spouse, mental illness, the destabilization of the marriage foundation, and mutual consent, the judge may decide on divorce. In cases of divorce for specific reasons, alimony should be paid to the spouse who faces poverty due to divorce, provided their fault is not greater. In each case, aspects such as whether fault exists and which spouse is more at fault than the other are evaluated separately. For example, in one of its rulings, the Supreme Court of Turkey stated that the defendant in a divorce case due to adultery was completely at fault and, therefore, alimony should be awarded to the plaintiff spouse.

In the case of equal fault, the plaintiff may request alimony. In fact, the Supreme Court, in one of its rulings,

accepted that both parties were equally at fault in a case where the wife committed infidelity and the husband was physically violent toward his wife, leading to the destruction of trust. Another ruling indicated that a defendant who had failed to fulfill their marital duties and a plaintiff who had insulted their spouse were equally at fault, thus alimony should be granted in favor of the plaintiff.

In our view, the regulations regarding unlimited alimony in Turkish law create significant problems. This is because, in the payment of unlimited alimony, only the fault of the spouses is evaluated, and factors such as the duration of the marriage, the personal circumstances of the parties, or the presence of common children are not considered. For the grant of permanent alimony, it is sufficient for the requesting spouse not to be more at fault than the other. Thus, unlimited alimony may be determined even in cases of equal fault between the spouses. In fact, the ruling for indefinite alimony does not require the fault of the responsible spouse. The possibility of granting permanent alimony exists even if neither spouse is at fault. Article 175/2 clearly expresses this situation by stating that "the fault of the obligor for alimony is not required" (Doğan, 2015).

3.2.3. *Analysis of Permanent Alimony and the Principle of Fairness*

Another problematic condition is that divorced spouses are compelled to maintain their relationship due to alimony. Although the parties are separated, they are not entirely detached and face difficulties in starting a new life for themselves. This situation often prevents new marriages. A spouse obligated to pay alimony may hesitate to remarry due to unfavorable economic conditions or an inability to sever all ties with their former spouse. Permanent alimony also results in the recipient ceasing work or abandoning employment to continue their life solely on the amount received. This situation impacts both the economy and social life, which is unfair.

In our view, various criteria should be evaluated when determining alimony payments. These include the duration of the marriage, having children together, the financial and work capabilities of the parties, their educational status, and economic conditions. Additionally, it is appropriate for the alimony duration to be sufficient to allow the financially struggling party to

start a new life. During this period, the alimony recipient should be encouraged to work and given the opportunity to stand on their own feet.

As a result, new legal regulations can make indefinite alimony more just, addressing the criticisms raised. Therefore, we believe that the social problems arising from the indefinite duration should be addressed by the legislator. Furthermore, a more precise legal evaluation regarding indefinite alimony can be established.

4. Request for Alimony by the Husband in the Context of Discrimination

During divorce, alimony should be determined regardless of gender. In other words, if the man has more fault in the divorce than the wife, alimony cannot be awarded to him. Situations such as adultery, violence, desertion, etc., during the divorce process can prevent the request for alimony. Men, like women, can request alimony for the post-divorce period or receive provisional alimony while the divorce process is ongoing. As a result, alimony can be claimed with the divorce decree. If both parties request alimony, the court determines which party is more at fault and decides on the alimony amount based on the circumstances.

An important issue after the alimony determination is the situation of the party entitled to alimony. The improvement in the alimony recipient's financial status may lead to a reduction or complete annulment of alimony.

After divorce, some obligations between spouses continue, one of which is the alimony responsibility. It is widely recognized that women receive alimony, but in Turkey, men can also request alimony. In fact, according to Article 175 of the Turkish Civil Code, a spouse who becomes financially impoverished due to divorce can request indefinite alimony from the other party, in proportion to their financial ability, provided that they are not at fault. As observed, to receive alimony, the individual must be in financial distress, and their fault in the divorce must be minimal. In other words, the Turkish Civil Code determines the alimony creditor and obligor by considering fault. The conclusion drawn from this matter is that the alimony recipient in Turkey can be either a man or a woman. Thus, a man may receive alimony, and a woman may be responsible for alimony. Therefore, if the man proves that he becomes impoverished due to the divorce, and the woman is

financially stronger and less at fault in the divorce, he may receive alimony. The answer to our question is thus clear: a husband may receive alimony from his wife.

4.1. Duration of Alimony for the Husband

Husband's alimony may be paid as a lump sum or as an income. If the judge orders a lump sum alimony payment, the alimony will terminate upon payment. In this case, the party obligated to pay alimony fulfills their obligation in one installment. However, as often observed in practice, the judge may decide on a monthly payment of alimony, which is more than a fixed amount. Typically, this monthly alimony has no specified duration, meaning it is indefinite. However, if certain conditions are met, the judge may decide to cancel the alimony (Çetintas, 2014). If such a situation does not occur, alimony is paid indefinitely. There is no set time limit for paying alimony to the husband. In other words, the husband can receive alimony indefinitely.

As a rule, the person obligated to pay alimony must make the payments even if they have no income or if the alimony obligor is unemployed. In this case, the judge considers the woman's income and may decide to reduce or increase the alimony based on this income. In other words, if the woman is unemployed or has no income, the alimony amount is reduced. Therefore, a woman who does not work continues to owe alimony, which does not come to an end. As a result, a non-working woman pays alimony to the man, and thus the man can receive alimony annually with an increasing rate (Çolak, 2017). On the other hand, certain special conditions may require an increase in alimony for both men and women. The increase in alimony is generally calculated based on the consumer price index (CPI) published by the Turkish Statistical Institute. This is called the PPI rate. The increase in alimony is calculated based on the PPI rate announced each January. The valid alimony amount should be increased according to the PPI rate, determined by the Turkish Statistical Institute, in the same month and every year, based on the alimony date. The Supreme Court has rulings on this matter as well. According to a ruling by the General Assembly of the Court of Appeals (1392/1557 H. – 2015/2021 K.); alimony should be increased considering the average annual PPI rate published by the Turkish Statistical Institute. Therefore, the husband can receive increased alimony annually (Işık, 2022).

4.2. *Maintenance of a Non-Working Husband by the Wife*

As mentioned, according to the Turkish Civil Code, the gender of the maintenance recipient does not matter. In this regard, there must be a proportional relationship between the husband's financial incapacity or the wife's lack of fault in the divorce, and the wife's financial ability in determining the amount of maintenance. If these conditions are met, the husband may receive maintenance even if he is not employed. In fact, the Supreme Court of Turkey has issued a ruling on this matter. According to the ruling of the Second Civil Chamber of the Supreme Court, numbered 1395/6525 H., 1395/16201 K., the court ruled to grant maintenance of 250 liters per month to the husband who applied for it. The evidence collected from the court proceedings indicated that the wife, who was the plaintiff, was employed as a doctor and had a monthly income. The other party had an income of 9,000 Turkish lira per month, owned a house and a car, while the defendant was unemployed and had no income. The Supreme Court, considering the parties' financial situations, the nature of maintenance, and the current economic conditions, in line with the principle of fairness in Article 4 of the Turkish Civil Code, decided to issue a more reasonable amount of maintenance (Kulaklı, 2018).

4.3. *Improvement in the Husband's Financial Situation and Receiving Maintenance*

According to the Turkish Civil Code, an improvement in the financial situation of the maintenance recipient, meaning an increase in their financial capacity, results in the forfeiture of the right to maintenance. However, if the husband's situation improves, the wife may apply to the Family Court to request the termination of the maintenance. The competent court for the termination of maintenance is the court located in the husband's place of residence. The judge may review the factual circumstances and, if reaching such a conclusion, may decide to cancel the maintenance (Tekin, 2020).

5. Conclusion

In Turkey, the dowry is considered a gift from the husband to the wife before the marriage contract. The amount is typically determined by mutual agreement and is paid to the wife after the marriage. Dowry in Turkey is not considered a financial obligation or a legal

right for the wife, and in the case of divorce, the wife does not have the right to claim it. In other words, dowry in Turkey has a more symbolic and customary significance and is not supported by strong legal enforcement mechanisms.

Permanent maintenance is a type of maintenance that, according to Article 175 of the Turkish Civil Code, is paid to the party who becomes impoverished as a result of divorce and is provided indefinitely in proportion to their financial capacity, even if they are not at fault in the divorce. A regulation has been discussed in Turkish legal doctrine allowing maintenance to be paid without a time limit, with arguments suggesting that this situation is unfair and leads to the impoverished recipient being forced not to work for a lifetime. On the other hand, the obligated party is compelled to support the other party indefinitely because of the marriage and divorce. Although there was a claim to oppose the constitutionality and annul the phrase "indefinite or unlimited" in Article 175, the court decided to reject this request. The problem in the regulation regarding indefinite maintenance does not stem from the payment of indefinite maintenance itself, but rather from the regulation that a spouse who becomes impoverished for various reasons cannot be entitled to maintenance and be subject to the law. A regulation similar to the third paragraph of Article 125 should impose the duty on the judge to determine whether the requesting spouse will be able to work after the divorce and whether they will become reliant on the other spouse. This would prevent the forced maintenance obligation and lifetime alimony, ensuring that the intended financial assistance for the maintenance of the spouses is met. The essential condition for claiming permanent maintenance is that the spouse becomes financially vulnerable due to the divorce. If the maintenance claimant is unable to meet basic needs such as food, clothing, shelter, healthcare, transportation, etc., due to lack of income and inability to work, and is at risk of poverty due to the divorce, they may be entitled to maintenance. In both types of maintenance, when determining the amount, the economic situation of the spouses, their income and expenses, assets, and any agreements (if available) are taken into consideration.

Article 364 of the Turkish Civil Code is considered incompatible with the principles of justice, public interest, and fairness in society. By implementing

Articles 175 and 176, if a divorcee becomes impoverished, the responsibility for unlimited maintenance is transferred to the other party forever. The criterion considered here is that the wife should have no fault, or less fault than the husband in the divorce. While the Civil Code states that if the wife is at fault, she is responsible for maintenance, in practice, maintenance is generally transferred indefinitely to the former husband. Therefore, while the wife is protected, the other party is unfairly treated, and the mental, social, and economic growth of the husband, who is responsible for both himself and his ex-wife, is negatively affected. While the former husband has no rights over the woman he has divorced, the wife is also entitled to any property she later acquires. This situation serves as a form of financial torture and punishment imposed on the former husband. Furthermore, while the former husband makes monthly payments from his income to the woman he has divorced, he is unable to sever his material and emotional ties with her. This results in the preservation of a mental unity between the two parties, despite their separation, and they must maintain their financial relationship indefinitely, thereby creating a constant bond. This amounts to the legal sanctioning and legitimizing of the material and emotional suffering inflicted on the former husband through the law. At the same time, it is appropriate to ensure, in accordance with the principle of fairness for both parties, that divorced spouses integrate into their working and social lives and are not compelled to maintain their relationship indefinitely.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

References

- Akinci, Z., & Gökyayla, D. C. (2010). *Milletlerarası Aile HukukuPB - Vedat Kitapçılık*.
- Akıntürk, T. (2014). *Aile Hukuku* (Vol. II). Beta Yayınevi.
- Arbek, Ö. (2005). Boşanmanın Mali Sonuçları. *AÜHFD*, 54(1). https://doi.org/10.1501/Hukfak_0000000414
- Aydın, M. A. (2013). *Türk Hukuk Tarihi*. Beta Yayınevi.
- Çetintaş, R. (2014). İslâm Hukukunda Evlenmeden Doğan Haklar Bağlamında Nafaka. *İslâm Hukuku Araştırmaları Dergisi*, 24, 185-203.
- Çolak, A. (2017). *İslâm Aile Hukuku*. Öncü Basım Yayım.
- Doğan, İ. (2015). Türk Medeni Kanununun Düzenlemelerine Göre Tedbir, Yoksulluk ve İştirak Nafakası. *Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni*, 35(1), 59-95.
- Işık, H. (2022). Yoksulluk Nafakasında Süresizlik Sorunu: Hukuk Sistemleri Arasında Bir MukayeseJO - Düzce Üniversitesi İlahiyat Fakültesi Dergisi. 6(1), 66-82.
- Kahraman, A. (2022). İslâm Hukukuna Göre Boşanma Prosedürü ve Ahlakı. *İslâm Hukuku Araştırmaları Dergisi*, 40SP - 27, 74.
- Kulaklı, E. (2018). Yoksulluk Nafakası ve Yoksulluk Nafakasının Süresi Bağlamında Bir Mukayeseli Hukuk İncelemesi. *İstanbul Medipol Üniversitesi Hukuk Fakültesi Dergisi*, 2.
- Tekin, A. (2020). *İslâm Hukuku ve Modern Hukuka Göre Boşanma Sonrası Kadının Mali Hakları (Nafaka, Mesken ve Miras Hakları)*. İlahiyât Yayınları.
- Tutumlu, M. A. (2009). *Teorik ve Pratik Boşanma Yargılaması Hukuku* (Vol. II). Seçkin yayınevi.
- Uyanık, M. Z. (2019). İslâm Aile Hukukunda Evlilik ve Boşanma Nafakası Bağlamında Süresiz Nafaka Yasası. *Necmettin Erbakan Üniversitesi İlahiyat Fakültesi Dergisi*, 47, 57-87.
- Yeliz, D. (2013). Asgari Ücretle Çalışıyor Olmak Yoksulluk Nafakası bağlanmasına engel midir? Ya da Yoksulluk nafakasının kaldırılmasını gerektirir mi? *Leges Hukuk Dergisi*, 4(42).