

THE OBLIGATION OF A PRISONER HUSBAND TO PROVIDE FOR THE FAMILY: WAHBAH AZ ZUHAILI'S PERSPECTIVE

Ahmad Khotim¹

Email : akhodjala.tbi@gmail.com

Ahmad Insyah' Ansori²

Email : ahmadinsyaansori@gmail.com

Ahmad Bahauddin AM.³

Email : ahmadbahauddinam_uin@radenfatah.ac.id

^{1,2} Institut Agama Islam At-Tahdzib Rejoagung Ngoro Jombang

³ Universitas Islam Negeri Raden Fatah Palembang

Abstract

The purpose of this research is the obligation of maintenance that should be fulfilled by a husband who is currently serving a sentence. Maintenance is a responsibility that a husband must fulfill toward his wife in financial form, as the term maintenance is related to material aspects. Meanwhile, non-material responsibilities, such as meeting the wife's sexual needs, are not included in the definition of maintenance, even if the husband does them for his wife. This research applies a qualitative method with a normative theological approach. The use of the qualitative method aims to provide a deeper insight into the issue being studied. The data analysis process uses an inductive approach, which involves developing general conclusions from specific ones. The research results show that the husband's obligation to provide maintenance while imprisoned remains in effect. If the husband serving the sentence is unable to provide for his wife, then that obligation will be suspended and must be fulfilled after the husband completes his sentence. Additionally, Wahbah Az-Zuhaili also emphasized that a wife has the right to file for divorce (khulu') against her husband after the husband has served a minimum of one year in prison due to his inability to fulfill his financial responsibilities. The urgency of this research is to explain the obligation of spousal support for incarcerated husbands, considering the limitations of the husband's ability and the protection of the wife's rights from the perspective of Wahbah Az-Zuhaili, which is based on justice and the maqāṣid al-syarī'ah.

Keywords : Nafkah; Prisoners; Wahbah Az Zuhaili

Abstrak

Tujuan penelitian ini adalah kewajiban nafkah yang seharusnya dipenuhi oleh suami yang tengah menjalani hukuman. Nafkah merupakan tanggung jawab yang harus dilaksanakan oleh suami kepada istrinya dalam

bentuk finansial, karena istilah nafkah berkaitan dengan aspek material. Sementara itu, tanggung jawab non-material, seperti memenuhi kebutuhan seksual istri, tidak termasuk dalam pengertian nafkah, meskipun suami melakukannya untuk istrinya. Penelitian ini mengaplikasikan metode kualitatif dengan pendekatan normatif teologis, penggunaan metode kualitatif bertujuan untuk memberikan wawasan yang lebih mendalam mengenai isu yang sedang diteliti. Proses analisis data menggunakan pendekatan induktif, yaitu mengembangkan kesimpulan umum dari kesimpulan-kesimpulan khusus. Hasil penelitian menunjukkan bahwa kewajiban nafkah oleh suami yang sedang dipenjara tetap berlaku. Jika suami yang menjalani hukuman tidak dapat memberikan nafkah kepada istrinya, maka kewajiban tersebut akan ditanggihkan dan harus dilunasi setelah suami menyelesaikan hukumannya. Selain itu, Wahbah Az-Zuhaili juga menekankan bahwa istri memiliki hak untuk mengajukan permohonan cerai (khulu') terhadap suami setelah suami menjalani hukuman penjara selama minimal satu tahun, sebagai akibat dari ketidakmampuannya memenuhi tanggung jawab nafkah. Urgensi dari penelitian ini yaitu untuk menjelaskan kewajiban nafkah suami narapidana dengan mempertimbangkan keterbatasan kemampuan suami dan perlindungan hak istri dalam perspektif Wahbah Az-Zuhaili yang berlandaskan keadilan dan maqāṣid al-syarī'ah.

Kata Kunci : Nafkah; Narapidana; Wahbah Az Zuhaili

Introduction

The start of family life begins with entering into a marriage in accordance with religious norms and existing regulations.¹ Islam not only functions as a belief system governing a person's worship of Allah swt., but also regulates aspects of family life and social interactions within society. For this reason, family life is also realised and guided.² Marriage is one example of a form of worship that involves two aspects, the first being the physical aspect and the second the spiritual aspect. In Islam, marriage is considered sacred and highly respected. By entering into marriage, individuals seek to complete part of their faith and follow the Sunnah of the Prophet Muhammad.³

¹ Muammar Muhammad Bakry, "Laws Exegesis Versus (Comparative Studies in Understanding Religious Text and Teh Istinbath Process of Law on Mahar," *JICSA (Journal of Islamic Civilization in Southeast Asia)* 9, no. 1 (2020): 1–21, <https://scholar.archive.org/work/ncyavmct7bbynl5hs5fkpkmi4q/access/wayback/http://journal.al.uin-alauddin.ac.id/index.php/jicsa/article/download/12005/8283>.

² Nur Ilma Asmawi and Muammar Bakry, "Kebebasan Perempuan Dalam Memilih Calon Suami; Studi Perbandingan Antara Mazhab Syafi'i Dan Hanafi," *Mazahibuna*, December 17, 2020, 212–29, <https://doi.org/10.24252/MH.V2I2.17817>.

³ Abdul Syatar and Arif Rahman, "Transformation of Fiqh in the Forms of Pilgrimage and Zakat Legislation," *Mazahibuna* 1, no. 2 (December 21, 2019): 120–33, <https://doi.org/10.24252/MH.V1I2.11646>.

Through the marriage contract process, a man and a woman are officially and legally recognised and bound in marriage, commencing a new life together as a family. The marriage contract is an essential requirement that must be performed by Muslims to fulfil the purpose of marriage. Once the contract is completed, it becomes clear that the wife is now under the responsibility of her husband. In religion, the husband is obliged to provide for his wife. With a lawful marriage, a wife is bound solely to her husband and becomes his rightful partner, to whom he has duties and rights for life. The wife is expected to be obedient to her husband, reside in his home, manage the household, and care for and educate their children. On the other hand, a husband has the obligation to meet his wife's needs and provide maintenance as long as the marriage bond exists, except if the wife behaves disobediently or there is another reason that makes the husband no longer entitled to support his wife. According to the views of scholars from the Hanafi school, the husband is required to provide maintenance to his wife because her freedom of movement is restricted in serving her husband. Meanwhile, according to the majority, the main reason is that she has become a wife.⁴

Managing and organising the lives of a couple so that the objectives of the marriage can be achieved and realised in accordance with Islamic law, which also governs the rights, duties and responsibilities between husband and wife.⁵ The rights referred to here are the things a person obtains from others, while responsibilities are what a person must do towards others. The rights and responsibilities of a husband and wife consist of the wife's rights which are the husband's responsibilities, and the husband's responsibilities which are the wife's rights. There are three categories of rights and responsibilities in marriage: the wife's rights towards the husband, the husband's rights towards the wife, and rights between the two of them.⁶

The need for sustenance, which includes living expenses, is the right of the wife and children in terms of food, clothing, shelter, medical care, and various other basic needs, even if the wife comes from an affluent background. Providing for the family involves expenditure and the use of money for daily living necessities or other needs within the family.⁷ Provision has been established by Allah as the husband's obligation to fulfil for his wife, both during the marriage and after divorce during the `iddah period. Here, provision includes meeting needs such as food, shelter, healthcare, and others. These are the ideal criteria for provision that a husband is required to

4 M.Y. Tahlibi Ubaidi, *Nafkah Istri: Hukum Menafkahi Istri Dalam Prespektif Islam* (Jakarta: Darus Sunnah, 2007).

5 Wardah Nuronyah, Ilham Bustomi, and Ahmad Nurfadilah, "KEWAJIBAN NAFKAH DALAM KELUARGA PERSPEKTIF HUSEIN MUHAMMAD," *Mahkamah: Jurnal Kajian Hukum Islam* 4, no. 1 (June 20, 2019): 107–20, <https://doi.org/10.24235/MAHKAMAH.V4I1.4571>.

⁶ Ahmad Saebani Beni, *Fiqh Munakahat 2* (Bandung: Pustaka Setia, 2016).

⁷ Abdur Rahman, *Perkawinan Dalam Syariat Islam* (Jakarta: Rineka Cipta, 1996).

give to his wife, at least if the husband has the financial capability.⁸ The obligation to provide sustenance is a requirement according to the Qur'an, Sunnah, and ijma'.

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنَمِّمَ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

Meaning :

Mothers should provide their children with breast milk for a full two years if they wish to complete the breastfeeding period. The father's responsibility is to provide adequate food and clothing for the children. A person should not be burdened beyond their ability. Do not let the mother suffer because of her child, and the father should not feel distress because of the child either. The same applies to heirs. If both parents wish to cease breastfeeding before two years, they may do so after discussion and mutual agreement. If you wish to have your child breastfed by another, you are not at fault in providing appropriate compensation. Fear Allah and remember that Allah sees all that you do.⁹

The sustenance described in this verse includes adequate food, clothing to cover the body, and goodness in accordance with religious teachings, without excess or deficiency. A husband with sufficient or greater income should provide maintenance according to his ability. For those facing difficulties, providing according to one's means is sufficient and it is not obligatory to provide more, and the husband is not required to consider the wife's financial condition. This means that if the husband is poor while the wife comes from a wealthy family that usually meets her living needs, it is the wife's responsibility to use her personal wealth to meet her needs. Otherwise, the wife is expected to be patient with the sustenance obtained by her husband.¹⁰ Because it is Allah SWT who regulates sustenance, whether little or much.

⁸ Sohari Sahrani Tihami, *Fikih Munakahat: Kajian Fikih Nikah Lengkap* (Jakarta: Rajawali Pers, 2014).

⁹ "Surat Al-Baqarah Ayat 233: Arab, Latin, Terjemah Dan Tafsir Lengkap | Quran NU Online," accessed December 8, 2025, <https://quran.nu.or.id/al-baqarah/233>.

¹⁰ Sifa Mulya Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam)," *Al-Syakhsyiyah: Journal of Law & Family Studies* 3, no. 1 (July 30, 2021): 98–116, <https://doi.org/10.21154/SYAKHSIYAH.V3I1.2719>.

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

Meaning :

A person who has abundant sustenance should provide support according to their ability. Meanwhile, a person with limited means must give support from the wealth that Allah has granted them. Allah does not place a burden on anyone beyond what He has entrusted to them. In the future, Allah will grant ease after hardship.¹¹

A husband who has financial capability and a wife from the same background must provide maintenance according to the standard of living of wealthy people. The wife is also entitled to proper clothing equivalent to that of women from fortunate backgrounds. This also applies to bedding and other household necessities, which should be comparable to those used by wealthy people. Meanwhile, a woman living in poverty with her equally underprivileged husband is entitled to food, clothing, and housing appropriate to their status.¹²

If a wife fulfils her role well and the husband does the same, a harmonious household will be achieved. However, if the husband fails to meet his responsibilities due to actions that violate the law or religious norms, he must face commensurate punishment and imprisonment. In modern times, married life faces various challenges that the husband must confront as the head of the family while still maintaining his family's happiness. The increasing pressures of family life to meet basic needs sometimes drive husbands to commit illegal acts to obtain money, which of course cannot be justified. In the pursuit of earning a living, husbands sometimes make mistakes, whether intentional or not, resulting in legal troubles and conviction.

From another perspective, when a husband is involved in legal violations and becomes a prisoner, their wife must face new responsibilities to take care of the family while the husband is serving his sentence. This task becomes particularly challenging as they must care for the children and also act as the head of the household, considering the well-being of the family. When a husband serves a prison sentence, as long as the wife remains faithful and does not break her promises to her husband, and the husband does not issue a divorce or annulment, their marriage remains legally valid. The wife remains bound to her husband and the husband is still responsible for his wife and family. Even while serving a prison sentence, although all inmate activities are severely restricted, they still have an obligation to provide support to their wives and children, as their relationship

¹¹ "Surat At-Thalaaq: Arab, Latin Dan Terjemah Lengkap | Quran NU Online," accessed December 8, 2025, <https://quran.nu.or.id/at-thalaaq#6>.

¹² nuroniyah, Bustomi, And Nurfadilah, "Kewajiban Nafkah Dalam Keluarga Perspektif Husein Muhammad."

is still regarded as that of a husband and wife. This presents a challenge for inmates in fulfilling their maintenance obligations.¹³

Although from a fiqh and Islamic law perspective a marriage remains valid as long as no divorce or repudiation occurs, and the husband's obligation to provide maintenance remains, existing studies generally regard maintenance as a normative duty without considering the structural incapacity of the husband due to imprisonment. Previous research has largely focused on classical fiqh views that affirm the obligation of maintenance in a formal sense, while the dimensions of sharia dispensations, *masyaqqah*, and substantive justice for imprisoned husbands have not been studied in depth. Furthermore, research specifically examining the maintenance obligations of incarcerated husbands from a contemporary fiqh perspective is still limited.¹⁴ Therefore, Wahbah Az-Zuhaili's thought emphasises the connection between livelihood and actual capability, the objectives of sharia, and proportional justice, making it important to study in order to fill this gap.¹⁵

Research Methods

This research applies a qualitative method with a normative-theological approach. The primary data for this research comes from the authoritative works of Wahbah Az-Zuhaili, which directly discuss the obligation of maintenance in Islamic family law, particularly *Al-Fiqh al-Islāmī wa Adillatuhu* and *Nizhām al-Usrah fī al-Islām*. In *Al-Fiqh al-Islāmī wa Adillatuhu*, Az-Zuhaili asserts that the obligation of maintenance remains with the husband as long as the marriage contract is valid; however, its implementation greatly depends on the husband's actual ability, as stated by him:

وَيَجِبُ النَّفَقَةُ عَلَى الزَّوْجِ لِزَوْجَتِهِ بِعَقْدِ الزَّوْاجِ الصَّحِيحِ، وَتُقَدَّرُ بِحَسَبِ حَالِ الزَّوْجِ يُسْرًا وَعُسْرًا.

This emphasises the principle of capability and the absence of burdens beyond one's capacity according to the rules: لَا تَكْلِيفَ إِلَّا بِالْإِسْتِطَاعَةِ, which indicates that incapacity due to legal disability, including imprisonment, does not absolve the obligation of maintenance entirely, but affects the form and mechanism of its fulfilment.¹⁶ This thought serves as the primary source of data in the research because it provides a normative and methodological basis for interpreting the obligation of a prisoner husband's alimony fairly and

¹³ Zaqiya Ezza Novitasari, "Tinjauan Hukum Islam Terhadap Pemenuhan Kewajiban Nafkah Suami Berstatus Narapidana Di Bawah Lima Tahun (Studi Kasus Di Lembaga Pemasyarakatan Kelas IIA Purwokerto)" (Universitas Islam Negeri Prof. K.H. Saifuddin Zuhri Purwokerto, 2022).

¹⁴ Abdurrahman Al-Jaziri, *Al-Fiqh 'Ala Madzahib Al-Arba'Ah* (Beirut Libanon: Ihya al-Turat al-'Arabi, 1969).

¹⁵ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu* (Damaskus: Dār al-Fikr, 1989).

¹⁶ Wahbah Az-Zuhaili, *Nizhām Al-Usrah Fī Al-Islām* (Damaskus: Dār al-Fikr, 2000).

proportionally within the framework of *maqāṣid al-sharī'ah*.¹⁷ The use of qualitative methods in this research aims to provide deeper insights into the issue being investigated.¹⁸

The data analysis process for this material used an inductive approach, which involves developing general conclusions from specific conclusions. To collect data, this study utilised a literature review, which included analysis of previous articles, books, accredited scientific journals, and other written sources relevant to the issue of marriage or in accordance with the study conducted by the author.¹⁹

Providing for the Family in Islam

The word "Nafkah" comes from the word *nafaqah*. Furthermore, the word *nafaqat* is the plural form of *nafaqah*, which carries the meaning that everything a person strives for to meet their primary needs or the needs of others, whether in the form of food, drink, or other necessities.²⁰ Nafkah in general is a sum of money or goods provided by someone for the living needs of others, such as a spouse, children, parents and family, and so on.²¹ What is meant here is financial support for the wife, which is the husband's obligation.²² A husband is responsible for earning a living and providing for his family's needs. To meet various requirements such as food, clothing, housing (including furnishings), domestic help, and other necessities, everything must be in accordance with societal norms.²³

Nafkah is the right of a wife from her husband once they begin their marital life. Therefore, Islamic law stipulates it, whether the wife is wealthy or poor. In the word of Allah SWT in Surah At-Talaq verse 7:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ ۚ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا ۗ سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

Meaning:

Those who have the means should provide support according to their abilities. Meanwhile, those with limited resources should contribute from what Allah has bestowed upon them. Allah does not burden anyone beyond what they have been given. After difficult times, Allah will provide ease.

¹⁷ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu*.

¹⁸ Burhan Ashshofa, *Metode Penelitian Hukum, Rineka Cipta* (Jakarta Timur: Rineka Cipta, 2004), <https://simpus.mkri.id/opac/detail-opac?id=9494>.

¹⁹ Ambo Mastang, *Analisis Data Penelitian Kualitatif* (Makasar: Rineka Cipta, 2016).

²⁰ Muhammad bin Islam Al-Amir Ash-Shan'ani, *Subul As-Syarh Bulugh Al-Maram* (Jakarta Timur: Darus Sunnah Press, 2015).

²¹ Muhammad Bagir al Habsyi, *Fiqh Praktis* (Bandung: Mizan, 2004).

²² Sabiq Sayyid, *Fiqh Sunnah* (Jakarta Pusat: Darul Fath, 2004).

²³ T. Ash Al-Shiddiqiey, *Hukum-Hukum Fikih Islam* (Semarang: PT Pustaka Rizki Putra, 1997).

A husband is obliged to provide for his wife, including food, drink, clothing, and shelter. This must be in accordance with the husband's ability, as stated in the verse of Allah SWT which says that He will not burden anyone beyond their capacity. Whether the husband is wealthy or less able, there is no difference in this matter because the verse does not distinguish between them.²⁴

وروي عن جعفر بن محمد، عن أبيه، عن جابر، في خطبة حجة الوداع، عن رسول الله صلى الله عليه وسلم فاتقوا الله في النساء، فإنكم أخذتموهن بأمان الله، واستحللتم فروجهن بكلمة الله، ولكم عليهن أن لا يوطئن فرشكم أحدا تكرهونه، فإن فعلن ذلك، فاضربوهن ضربا غير مبرح، ولهن عليكم رزقهن وكسوتهن بالمعروف.

Meaning:

"Indeed, the Prophet Muhammad said during Hajj wada': Fear Allah in women's affairs. For you have taken them by the word of Allah. You have justified their shame with the word of Allah. It is obligatory for them (wives) not to bring into your house people you do not like. If they violate the one then hit them, but do not injure them. They deserve to earn a living from you and clothes in a ma'ruf way." (HR. Muslim)²⁵

The husband's obligation to provide for his wife in fiqh is based on the principle of separation of assets between husband and wife. The principle follows the idea that the husband is the breadwinner, and the income he earns fully belongs to him, and subsequently, the husband assumes the role of provider. Conversely, the wife is not the breadwinner and, to meet her needs, she assumes the role of recipient of support.²⁶

Rights and Obligations of a Husband Towards the Family

Rights are something possessed by every person from birth, and the way individuals exercise these rights varies according to their choices. In the dictionary, a right is defined as a truth, ownership, authority, or power to do something in accordance with existing laws or regulations. This implies that rights can also be understood as lawful power over something.²⁷

One of the most fundamental human rights according to Islamic teachings is the right to life and to value human life. Allah SWT grants this

²⁴ Ali bin Sa'id Al-Ghamidi, *Fiqh Wanita* (Solo: Aqwam, 2016).

²⁵ Syaikh Mahmud al-Mashri, *Perkawinan Idaman* (Jakarta: Qisti Press, 2010).

²⁶ Muhammad Sudirman Sesse, "Aurat Wanita Dan Hukum Menutupnya Menurut Hukum Islam," *Jurnal Al-Maiyyah* 9, no. 2 (December 1, 2016): 315–31, <https://ejurnal.iainpare.ac.id/index.php/almaiyyah/artide/view/354>.

²⁷ Fadil Fadila Rahmi, "Pendapat Hukum Ulama Banjarmasin Tentang Kewajiban Nafkah Terhadap Keluarga Bagi Suami Berstatus Narapidana" (Universitas Islam Negri Antasari Banjarmasin, n.d.).

right to every person, regardless of their race, gender, ethnicity, or religion. This aligns with the words of the Prophet Muhammad SAW.

Islam also teaches many ways to protect human life from the threat of death. If someone is sick, injured, or experiencing a disaster, it is the duty of others to help them obtain medical care. If they are on the verge of dying from hunger, those around them are responsible for providing food. If someone is in danger of drowning, those nearby must exert every effort to save them. From this explanation, it is evident that the right to property or economic rights is recognised by Islam for every individual without discrimination.

Discussing the economy, Islam teaches that every individual should be able to meet the needs of themselves and their family according to the skills and abilities they possess. However, behind the ownership of wealth, there are the rights of others, especially the less fortunate, which must be fulfilled through zakat, infak, and alms.

Furthermore, Islam guarantees the protection and security of every person's wealth, especially assets acquired through lawful and legal means. This includes the right to enjoy and use property, the right to invest in business ventures, the right to transfer ownership, as well as the right for others to reside freely on owned land.

Islam always respects the property rights of every individual, as seen in the practices of the Prophet Muhammad (peace be upon him) carried on by the Rightly Guided Caliphs. For example, during the Battle of Hunain, the Prophet found a helmet belonging to Sofwan bin Umayyah. When asked whether the helmet would be taken without compensation, the Prophet explained that all items lost during battle would be compensated.²⁸

Meanwhile, responsibility is something that needs to be carried out with full awareness. According to the KBBI, responsibility is something that must be implemented, a job or duty in accordance with regulations, as well as everything that constitutes an individual's burden. These rights and responsibilities play a role in strengthening the community and enhancing stability.²⁹

Islam has clearly regulated rights and obligations, not only within the family environment but also in various aspects and issues that exist. Only Islam is able to regulate laws concerning its followers with a balanced and fair approach. There are no additions or reductions because every individual has equal rights and obligations. The family is the foundation in the formation of society, based on piety towards Allah swt. Within a family, after

²⁸ Ahmad Mukri Aji "Hak Dan Kewajiban Asasi Manusia Dalam Perspektif Islam", vol. II, No. 2, Desember 2015, h. 214-216

²⁹ "Arti Kata Buku - Kamus Besar Bahasa Indonesia (KBBI) Online," accessed December 9, 2025, <https://kbbi.web.id/buku>.

a marriage is officially conducted, the husband and wife must fulfil the rights and obligations they have.³⁰

Provision of Maintenance for the Wife by a Convicted Husband

A wife's obedience to her husband in managing the household includes carrying out all the things her husband desires, as long as they do not conflict with Islamic law. The wife is also responsible for caring for and educating the children and managing all aspects of the household. Therefore, with the wife's obedience, the husband must fulfil his responsibility to provide sustenance according to his ability while meeting the family's needs, especially in terms of clothing, food, and housing. The husband also has the duty to care for, lead, and guide his family, both physically and emotionally, and to ensure their safety and well-being. Specifically, Allah SWT has established the division of roles in fulfilling the family's needs. In this context, God has endowed each party with different natures and provided the appropriate abilities so that each individual can optimally fulfil their responsibilities. In this way, a balance is created between duties and the innate nature or disposition that humans possess. Here, God emphasises that leadership within the family rests with the husband as a male, and not with the wife as a female.³¹

Therefore, when a wife takes care of herself and always strives to be close to God, fulfils all her duties to respect her husband, resides in her husband's home, manages the household, and takes care of their children, the husband must be responsible for meeting all of his wife's needs. He must provide for his wife, as long as the marriage continues, provided the wife does not act disobediently and always accepts her husband under all circumstances. If there is no reason that forces a family to divorce or separate, then the family's status remains valid as husband and wife, and the husband is obliged to provide for his wife. The obligation to provide for the wife is clear for every husband.

Providing sustenance is a clear responsibility for every man, but the amount given is often limited, and the ability to provide is also frequently constrained. This often causes problems and complaints within a marital relationship. Similarly, a prisoner who remains bound in a legitimate marriage also has an obligation to provide for his wife. In the execution of household duties, Islam places the husband as the party responsible for meeting the

³⁰ Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam)."

³¹ Ezza Novitasari, "Tinjauan Hukum Islam Terhadap Pemenuhan Kewajiban Nafkah Suami Berstatus Narapidana Di Bawah Lima Tahun (Studi Kasus Di Lembaga Pemasarakatan Kelas IIA Purwokerto)."

family's needs outside the home, while the wife is responsible for the needs within the home.³²

Therefore, all tasks that need to be done inside the house are the responsibility of the woman, regardless of the type of work involved. Conversely, all tasks that must be completed outside the house are the husband's responsibility, irrespective of his occupation. Regarding the obligation of providing financial support for a husband serving a sentence, their ability to earn an income is often very limited due to the restrictions on their freedom while serving the sentence.

This is related to the situation of a husband who is an inmate; with all his activities restricted by the sentence he is serving, they face difficulties in trying to earn a living. Sometimes, this condition makes them unable to continue providing financial support to their wives. However, not all of them are absent in providing sustenance, as some are still able to offer financial support to their wives through various efforts they undertake externally. This largely depends on the ability and circumstances of each husband serving a sentence. Therefore, the provision of maintenance for an inmate is determined by the conditions and capabilities of the individual inmate.³³

The amount of maintenance that must be provided by a convicted husband is determined by taking into account economic conditions, whether wealthy or poor. Each convicted husband provides maintenance according to his capacity. If the husband has a good financial capability, the maintenance he provides to his wife should be maximised according to his ability to offer the best, but still within his means. Conversely, for a convict in difficult economic circumstances, the minimum amount of maintenance that can be provided to the wife is just sufficient for a person to remain standing if they receive that amount of food.

In this situation, the Qur'an does not provide specific details regarding the amount of maintenance, but rather focuses on the condition of the husband who is serving a sentence. Therefore, the provision of maintenance is adjusted to the circumstances and abilities of the prisoner, who is limited in movement and thought to provide for his wife because he is serving a sentence. In this difficult situation, Islam offers solutions and understanding, as Allah does not burden anyone beyond their capacity. This also applies to a husband serving a sentence, where his obligation to provide maintenance is

³² Fanshuri. Ravi, "Pemenuhan Nafkah Bathin Narapidan Dan Implikasinya Terhadap Keutuhan Rumah Tangga Di Lembaga Pemasayarakatan Kelas I Cipinang" (Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2022).

³³ Ahmad Imadu Adlha, "Analisis Upaya Suami Sebagai Narapidana Dalam Memenuhi Kebutuhan Nafkah Materiil Terhadap Keluarga Menurut Kompilasi Hukum Islam (KHI) (Studi Kasus Lembaga Pemsyarakatan Kelas IIA Yogyakarta)." (Universitas Islam Negeri Raden Mas Said Surakarta, 2022).

largely dependent on his financial capability as well as the wife's attitude, whether she accepts the situation of her husband or not.³⁴

If a husband who is serving a sentence cannot provide for his wife's needs, he will be given time to reflect, after which the wife is given the choice to stay with him or to separate. If the wife decides to remain with him, that decision is her right. However, if the wife feels she is not being provided for and wishes to separate, she will be given time to reconsider, and afterwards, she can choose to part from her husband. Conversely, for a wife who chooses to remain with her husband, that decision is permitted as a form of forgiveness for her husband's inability to provide during his sentence.

Based on the explanation above, it can be concluded that the responsibility of a convicted husband to provide for his wife aligns with Islamic law. This indicates that a husband remains obligated to provide for his wife. However, in Islam, the provision of maintenance is adjusted according to what is reasonable or customary, usually given by the husband to his wife, and is considered based on the condition of both parties, both husband and wife. No burden should exceed an individual's capability. If a wife feels unable to endure the situation with her husband, she is granted the right to separate. Indeed, the most virtuous wife is one who remains loyal to her husband as long as the husband does not lead or encourage her into sin.³⁵

Imam Wahbah Az-Zuhaili's Opinion on the Responsibility of Husbands Convicted to Provide for Their Family

The fulfilment of financial obligations by a husband serving a prison sentence has become a widely discussed topic in society. The issue is that for a prisoner, providing for sustenance becomes very difficult due to restrictions on activities. In general, it is understood that maintenance is the husband's responsibility which must be met. This obligation cannot simply be ignored, but there are certain situations where maintenance can be waived, as explained by Az-Zuhaili.

In the view of Imam Wahbah Az-Zuhaili, the obligation of maintenance is a direct consequence of a valid marriage contract, not merely due to the physical presence of the husband in the household. As long as the marriage is not dissolved by divorce or annulment, the husband-wife relationship remains legally valid, and the obligation of maintenance continues to rest on the husband. This is affirmed by Az-Zuhaili in *Al-Fiqh al-Islāmī wa Adillatuhu*:

³⁴ Permata Syifa Nur Rahmah, "Kewajiban Nafkah Suami Narapidana (Studi Kasus Di Lembaga Pemasyarakatan Terbuka Kelas IIB Jakarta)" (Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2019).

³⁵ J. Samar, S., Nurlin, N., Sukriadi, S., & Jusman, "Pemenuhan Hak Narapidana Anak Dalam Hal Mendapatkan Pendidikan Dan Pelatihan Di Lembaga Pemasyarakatan Kabupaten Polewali Mandar," *Journal Governance and Politics* 1, no. 3 (2023): 116–32.

تَجِبُ نَفَقَةُ الزَّوْجَةِ عَلَى زَوْجِهَا بِمُجَرَّدِ الْعُقْدِ الصَّحِيحِ، إِذَا مَكَثَتْ نَفْسَهَا لَهُ

A wife's maintenance must be provided by her husband solely due to a valid marriage contract, provided that the wife has granted her rights (is not disobedient).³⁶

From this principle, Az-Zuhaili asserts that a prisoner's status does not annul the obligation of maintenance, as imprisonment does not dissolve the marriage contract.

However, what is characteristic (and relatively unconventional) in Az-Zuhaili's thought is his emphasis on the connection between provision and the husband's actual ability, not merely a formal obligation. He states that provision should not be imposed beyond human capacity:

لِيُنْفِقَ دُونَ سَعَةٍ مِّنْ سَعَتِهِ وَتُقَدَّرُ النِّفَقَةُ بِحَسَبِ حَالِ الزَّوْجِ يُسْرًا وَعُسْرًا، لِقَوْلِهِ تَعَالَى

Alimony is determined based on the husband's condition, whether in times of ease or difficulty, in accordance with the word of Allah: 'Let those who are able provide sustenance according to their capacity.'³⁷

In the context of a husband who is imprisoned, Az-Zuhaili can be understood as regarding imprisonment as a structural legal excuse, because the husband loses access to work and income. Therefore, the obligation to provide maintenance does not cease, but its implementation is adjusted to actual capabilities. Az-Zuhaili consistently applies the principles of ushul fiqh to respond to emergency and difficult conditions. In *Uṣūl al-Fiqh al-Islāmī*, he emphasises:

الْأَحْكَامُ الشَّرْعِيَّةُ تَدُورُ مَعَ مَصَالِحِ الْعِبَادِ، وَالْمَشَقَّةُ تَجْلِبُ التَّيْسِيرَ

The laws of sharia revolve around the welfare of the servant, and hardship brings ease.

On this basis, imprisonment is understood as a form of *masyaqqah* that is legitimate according to Sharia, so: The husband remains morally and legally obliged, However, he is not burdened with support that is impossible to fulfil, Support may take the form of residual wealth, family assistance, or deferred obligations (*dayn*). Az-Zuhaili also explains that if the husband is unable to provide support not due to negligence, but because of an excuse, then the support may be considered a deferred debt, not annulled. He states:

إِذَا عَجَزَ الزَّوْجُ عَنِ النِّفَقَةِ لِعُدْرِ، فَإِنَّهَا تَنْبُثُ فِي ذِمَّتِهِ دَيْنًا

"If a husband is unable to provide maintenance due to incapacity, the maintenance still remains his responsibility (debt)."³⁸

³⁶ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu*.

³⁷ Wahbah Az-Zuhaili.

³⁸ Wahbah Az-Zuhaili, *Nizhām Al-Usrah Fī Al-Islām*.

This perspective is highly relevant to the condition of prisoners, as it allows for the understanding that maintenance does not always have to be immediate, but can be provided once the husband regains the ability. Unlike a purely legalistic approach, Az-Zuhaili views maintenance as an instrument for safeguarding maqāṣid, particularly: ḥifz al-naḥs (protection of the life of the wife and children), ḥifz al-naṣl (continuity of lineage), ḥifz al-māl (justice in economic responsibility). Therefore, he does not place the entire burden rigidly on the husband, but opens up the possibility for the role of the state, extended family, or social mechanisms, without eliminating the husband's moral responsibility.

A husband who is a prisoner is considered responsible for the criminal acts he has committed. Therefore, even if her husband is in prison, the wife still has the right to receive maintenance. However, the situation differs if the wife is imprisoned, where scholars agree that the husband is not obliged to provide maintenance. This is due to the fact that the wife prevents the husband from enjoying his rights.

Wahbah Az-Zuhaili explains in his work that the obligation of maintenance for a husband who is imprisoned must still be fulfilled. In other words, a husband facing legal issues remains responsible for supporting his wife and family. Wahbah refers to the opinion of Islamic legal scholars who state that a wife is entitled to receive maintenance even if her husband is serving a sentence for a crime he committed.

تستحق الزوجة النفقة بالاتفاق إذا حبس زوجها بجرمة اقترفها أو بدين لزوجته أو ظلماً أو مرض مرضاً مانعاً من الجماع أو كان به عيب يحول دون الاستماع كما لجلب قطع العضو والعنة العجز الجنسي والخصاء نزع الخصيتين لأن فوات الاحتباس بسبب من جهته لا من جهة الزوجة

Meaning:

"Scholars agree that a wife is entitled to maintenance if her husband is imprisoned for a crime he committed, if the husband owes his wife due to oppression, if the husband is ill and unable to engage in marital relations (intimacy), if the husband has a shameful condition preventing him from performing marital duties such as being castrated, having impotence, or lacking testicles. In these matters, the wife remains entitled to maintenance because the loss of conjugal rights originates from the husband and is not the wife's fault."³⁹

The provision of sustenance by a husband serving a prison sentence must still be accepted by the wife. If the husband fails to provide this sustenance, the obligation becomes a debt and must be settled after his release from prison. Therefore, when the husband becomes an inmate, the wife is permitted to file for annulment in court. In the book *Fiqh Islam Wa*

³⁹ Dkk Abdul Hayyie al-Kattani, *Terjemah Fiqih Islam Wa Adillatuhu* (Jakarta: Gema Insani, 2011), <https://fliphtml5.com/uscgy/nqax/Fiqih-Islam-Wa-Adillatuhu-4%28Dr.-Wahbah-Az-Zuhaili%29/>.

adilatuhu volume 9, Wahbah states that a wife can request a divorce after one year of imprisonment. However, there is a difference of opinion on this issue among scholars of the four schools of thought.⁴⁰

Scholars who do not follow the Maliki school of thought argue that a wife should not request a divorce from her husband who is in prison because there is no sharia evidence to justify such an action. According to the Hanbali school, a husband who is detained or imprisoned cannot be considered incapacitated, as the right remains with the husband, not the wife. In the absence of a marital relationship, this right belongs to the husband. On the other hand, the Maliki school contends that a wife is permitted to file for divorce if her husband has been imprisoned for one year or more, considering that this right belongs to the wife due to the economic difficulties she faces while her husband is in prison.

Essentially, the obligation to provide maintenance arises from a legitimate marriage. Therefore, under all circumstances, a husband is required to provide maintenance to his wife. The issue arises in society when the husband becomes an inmate. The question is how a husband can fulfil this obligation when he is in a situation that hinders and presents challenges in carrying it out.

The fiqh experts agree that a husband who is in custody must still provide maintenance for his wife and children. Wahbah explains that if a husband is detained or imprisoned due to his own actions, this does not relieve him of his responsibilities, and the wife is still entitled to maintenance from her husband even if he is a prisoner. Furthermore, Wahbah adds that if the imprisoned husband is unable to provide maintenance, this may be regarded as a debt or obligation to his wife.⁴¹

Maintenance for a wife during the husband's imprisonment must be paid after the husband has completed his sentence and is released. If the wife accepts and relinquishes the maintenance left by the husband during the period of incarceration, then such maintenance is considered forfeited and the husband is not required to repay it. Most Islamic jurists hold the view that a valid maintenance debt cannot simply be deemed extinguished unless it has been paid or forgiven, either by court decision or by agreement between the husband and wife.⁴²

⁴⁰ Abdul Hayyie al-Kattani.

⁴¹ Wahbah Az-Zuhaili, "Fiqh Islam Wa Adillatuhu," in *10* (Beirut Libanon: Dar al-Fikr, 1984).

⁴² Riki Bramandita, "Urgensi Pemenuhan Hak Biologis Narapidana Ditinjau Dari Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan Dan Hak Asasi Manusia," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (August 29, 2023): 1485–92, <https://doi.org/10.37680/ALMANHAJ.V5I2.3239>.

Conclusion

Wahbah az-Zuhaili's view regarding a husband's obligation to provide maintenance during imprisonment remains valid. If a convicted husband is unable to provide maintenance to his wife, this obligation is postponed and must be fulfilled after he completes his prison sentence. Furthermore, Wahbah also states that the wife has the right to file for divorce if the husband has served a prison sentence of at least one year due to his inability to fulfil his maintenance responsibilities.

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