

Fulfillment Of Family Maintenance Obligations By The Head Of The Convict Family In Terms Of Islamic Law

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ABSTRAK

Marriage has a very noble goal, namely fostering a happy, eternal, eternal family based on the Godhead. For this reason, it is necessary to regulate the fulfillment of the rights and obligations of husband and wife, so that such fulfillment can be realized. This study aims to find out how the convict's family head fulfills the family's income while his own space for movement is limited due to the rules of the Class II A Palu Penitentiary. The type of research used is Field Research, the location of this research is in Penitentiary Class II A Palu, data collection techniques used are observation, interviews and documentation and data analysis techniques used are data reduction, data presentation and drawing conclusions, the results of the study reveal that the fulfillment of a living carried out by the head of the family is varied. There are those who leave their wealth and business to be managed by their wives to get money and there are also those who give money directly by following the work carried out by the Palu Class II A Correctional Institution itself and the fulfillment of a living for the husband of the convicted person does not conflict with Islamic law, which means that The obligation of living is indeed still obligatory for a husband to his wife but Islam determines the provisions of his living based on what is ma'ruf which is usually given by a husband to his wife and is very adapted to the circumstances of both parties, namely the condition of husband and wife. The conclusion of this study is that the fulfillment of a living that has been carried out by inmates at the Class II A Palu Prison is the fulfillment of economic livelihood and biological relationships.

1. Introduction

Islam has fiqh that regulates matters of marriage, this is called fiqh munakahat. Munakahat is included in the scope of muamalat in a general sense. It regulates the relationship between human beings. The entry of munakahat into the scope of muamalat because it does regulate the relationship between husband and wife and between them and their born children, in family life according to the pleasure of Allah. Thus the study of marriage is so broad because it involves matters concerning these relationships, according to what Islam wants (Amir Syarifuddin, 2003).

Marriage is the sunnatullah of his servants. By marriage God wants them to steer the ark of life. Islamic law is established for the welfare of the people, both individually and in society, to live in this world and in the hereafter. The welfare of the community will be achieved by achieving the welfare of a prosperous family, because the family is the smallest group in

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society so that the welfare of the community is very dependent on the welfare of the family. Islam regulates the family not in outline but in detail. The family is formed through marriage, therefore marriage is highly recommended by Islam for those who have the ability (Departemen Agama RI, 1984).

Livelihood has become God's decree for husbands, that they are obliged to pay it to their wives and children according to their abilities (A. Rahman I. Doi, 2002). At this time the demands for daily life are increasing, as a result of these demands not a few husbands commit crimes just to fulfill their obligations to support their wives and children, so that they feel sufficient in meeting the necessities of life, this also results in the husband act recklessly to commit a crime/violation of the law that results in the husband being imprisoned in accordance with the actions they have committed. As a result of these actions, he became a convict which resulted in the loss of his rights in the correctional institution called a prisoner.

In the estimation of living according to the Hanafi School, there are two opinions. First, it is calculated based on the condition of the husband and wife, and the second is based on the condition of the husband only. With the second opinion based on the condition of the husband. Meanwhile, the regulation of living in the law on marriage can be seen in Chapter 34 Verse 1 of the Marriage Law. In the chapter it is explained that the husband is obliged to protect his wife and provide all the necessities of household life according to his ability (Muhammad Amin Suma, 2008). In the Marriage Law, it does not stipulate the amount of support that must be given, but it only says according to the ability of the husband and what if the husband is in prison to provide for his family? The purpose of this study is the author wants to know how the fulfillment of a husband's living status as a prisoner to his family, because he cannot carry out his obligations as a husband because of the limited behavior that is noticed by correctional officers.

2. Literature Review

2.1 Forms of Livelihood

In general, what we know is wealth in the form of food, clothing, and shelter given to people who are obligated to give it. The forms of livelihood according to who is obliged to spend it and who receive it are divided into five people (Abu Bakar Jabir al-Jaza'iri, 2006), namely:

- a. Wife's sustenance. As for the person who is obliged to provide him with a living, it is his husband, either an essential wife such as a wife who is still under the protection of her husband (not divorced) or a legal wife like a woman who is divorced by raj'i divorce before her iddah period expires;
- b. The income of a woman who has been divorced by ba'in since her iddah period if she is pregnant. The person who is obliged to provide him with a living is the husband who is mentally retarded;
- c. Parent's income. Parent's income is stopped, if he is rich, or the child who supports him becomes poor, so that he does not have money left over from his daily food, because Allah does not burden a person except with what Allah has bestowed on him.
- d. The obligation to provide a living rests with the father, not the mother, whether the mother is married or has been divorced. Thus, it is known that the provision of a living is not like inheritance law, because in fact the mother is an heir, the obligation to provide a living and breastfeeding is borne by the father not to the mother (Imam Syafi'i, 2007);
- e. The person who is obliged to provide a living is the employer. The slaves, both male and female, if detained to do some work, then the owner is obliged to provide for him and provide clothes according to makruf (proper). That is to give a living that is usually given to the slaves in that country and can satisfy ordinary people. A Muslim is obliged to maintain friendship with his relatives, both from his father's path and from his mother's path. If one of them needs food, clothing or shelter, then he is obliged to provide him with food and a house if his wealth is more. In practice, he should start with his closest relatives and so on (Abu Bakr Jabir al-Jaza'iri, 2006).

2.2 Conditions for Receiving a Living

Conditions for a woman who is entitled to receive her husband's support:

- a. The legal marriage bond;
- b. Surrendering herself to her husband.

- c. Her husband can enjoy himself;
- d. Does not refuse when invited to move to a place that her husband wants;
- e. Both can enjoy each other.

If any of these conditions are not met, he is not obliged to be given a living. If the marriage bond is not valid, even invalid, the husband and wife must divorce to prevent unwanted disasters. Likewise, the wife who does not want to surrender herself to her husband or the husband cannot enjoy himself or the wife is reluctant to move to the place her husband wants, in such a situation there is no obligation to support. This is possible because the detention referred to as the basis for the right to receive a living cannot be realized (Sayyid Sabiq, 2007).

2.3 Husband's Obligation to Provide

The husband's responsibility to provide a living is basically because he has the ability to work and do business, while the woman (wife), is responsible for taking care of her children, in addition to taking care of household matters. These things usually prevent them from working, because if they work, it is feared that their obligations as a wife will not be fulfilled (Ali bin Sa'id Al-Ghamidi, 2016). Allah swt says in Q.S. An-Nisa (4); 34 as follows:

..الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ...

Translation:

"The men are the leaders of the women because Allah has made some of them (men) superior to others (women), and because they (men) have spent part of their wealth." (Departemen Agama RI, 2011).

The majority of ulama' are of the opinion that the obligation of living is permanent. If within a certain time the husband does not carry out his obligations, while he is able to pay them, then the wife is allowed to take her husband's property as much as the obligation she bears (Amir Syarifuddin, 2014).

3. Methodology

The type of research used is qualitative research, namely by using field research instruments. While the method used in this research is descriptive method, which is a method that is directed to solve factual problems by describing or describing research results (Sudarmin danim, 2002). The research location is in the Class II A Penitentiary in Palu, data collection techniques are observation, interviews, and documentation (Abdurahman Fhatoni, 2006), data analysis techniques in this study consist of three types, namely: data reduction, data presentation, data verification (Emzir, 2011).

4. Results and Discussions

4.1 The Way of a Husband Who Is a Convict in Fulfilling His Family's Supporting Obligations in a Class II A Penitentiary in Palu

Several interviews have been conducted by researchers to obtain clear and concrete information. The relationship is with a husband who is a prisoner who leaves his wife, children and obligations as a husband to provide for them. Researchers obtained various information from informants, namely prison employees and inmates who have been determined as representatives related to fulfilling the husband's living obligations as inmates.

The ways in which the heads of the convict families fulfill the family's livelihood are varied. There are those who provide a living through wages from work assistance which is the work program of the Class II A Lapas in Palu City, there are those who borrow or ask for help from relatives and family to help their wives and children in economic matters, there are those who leave the grocery store business, rent houses, and some are more unlucky because they have never been visited and communicated with their wives, children, or family since they were in prison, so that their maintenance obligations cannot be fulfilled.

4.2 A Review of Islamic Law on the Fulfillment of the Livelihood Obligations of a Husband Who is a Convict in a Class II A Penitentiary in Palu

In Islam there are provisions of rights and obligations for husbands and wives in a family, one of which is a living. Livelihood itself is an obligation that must be carried out by a husband to his wife, both physically and mentally. If it is interpreted as a

husband's obligation to his wife in the form of material, because the word livelihood itself has a material connotation. The word livelihood comes from Arabic etymologically meaning reduced or lost/gone. Wife's livelihood means that the husband must give to his wife during his marriage (Sofyan Hasan, 2018).

In particular, Allah swt stipulates the division of labor in meeting the needs of the family. At the same time, Allah has provided each party with a certain nature that is different from one another and has given proper nature and capabilities so as to enable each party to be optimal in carrying out their responsibilities. In this way, the balance between duty and human nature or nature is realized. Giving a living to the wife is the most obvious obligation for every husband. As narrated by al-Hakim bin Muawwiyah from his father: "From Hakim bin Mu'awiyah al-Qusyairi, from his father (Mu'awiyah bin Hayyidah), he said: O Messenger of Allah, what is the right of one of us' wives over her husband? He replied: You give him food when you eat and you give him clothes when you dress (As Shan'ani, 1995).

The provision of a living is a clear matter for every man, but because of the small amount of income provided and also the limited ability to provide a living, sometimes this becomes a conflict and complaint in the husband and wife relationship. Likewise with a prisoner who still has a legal marriage bond, they also have an obligation to provide a living for their wives.

Based on the results of the author's research on the convict husband's financial obligations, which are sometimes limited in their ability to earn a living because all their movements are limited during their criminal period, this can be answered by the word of Allah in Surah At-Thalaq (65): 7, as following:

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

Translation:

"Let people who are able to provide a living according to his ability. and the person whose sustenance is narrowed should provide for him from the wealth that Allah has given him. Allah does not carry a burden on a person but only what Allah has given him. Allah will give space after hardship" (Departemen Agama RI, 2011).

But in this case not all of them do not provide a living for their wives, some can still provide a living for their wives with various businesses that are still running outside, and this also depends on the abilities and circumstances of each husband as a prisoner. So in this case, the provision of living for a prisoner depends on the conditions and abilities of the prisoner himself as stated in Surah Al-Baqarah (2): 233 as follows:

...وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۚ لَا تُكَلِّفُ نَفْسٌ إِلَّا وُسْعَهَا ۚ

Translation:

"And the obligation of the father to feed and clothe the mothers in a ma'ruf way. a person is not burdened but according to the level of his ability according to what is appropriate" (Departemen Agama RI, 2011).

In the case above, the Qur'an does not explain the provisions on the level of living, but what is meant is the condition of the husband who is convicted, then the provisions for his living are adjusted to his circumstances and abilities based on the limitations of space and thoughts of his husband in providing for his wife because the husband who is convicted is serving his criminal period. . So in this difficult situation, Islam really provides solutions and forgiveness because Allah will not burden a person but his ability. If a convict husband is unable to provide for his wife, then he is given a grace period to think and then the wife is given the opportunity to choose between staying with her husband or separating. If the wife chooses to stay with her husband, then it is permissible for her. Then if she is unable and demands to separate due to not getting a living, then she is again given another grace period and after that she may separate from her husband, but for those who still want to be together, because of her decision to choose to stay with her husband, this is permissible because is an apology from her for the circumstances and limitations of her husband in providing a living for him and the past expenses during his husband's criminal period.

So based on the description above, it can be concluded that the obligation to provide for the husband who is convicted is not contrary to Islamic law, meaning that the obligation to provide for his wife is still obligatory for a husband to his wife, but Islam determines the provisions of his living based on what is permissible which is usually given by a husband to his wife. and very adapted to the circumstances of both parties, namely the condition of husband and wife. And a person is not burdened but according to the level of his ability. However, if the wife is not able to live with her husband's condition, then the wife is given space to separate from him, indeed the best righteous wife is a wife who is always faithful to her husband's condition as long as her husband does not do anything and even orders his wife to commit disobedience. Islam does not complicate an existing problem, meaning that Islam still considers it obligatory that a convict husband provide a living, but if it is indeed difficult then there is *ruqshoh* (relief) both in terms of outwardly and inwardly according to the husband's ability, and if not at all then the wife must be patient because this is the best way to maintain family relations so that it does not break down.

4. Conclusion

The husband of the convict in fulfilling the obligation to provide for his family cannot be separated from the condition of the Correctional Institution itself, in this case the husband of the convict who is serving a sentence in the Class II A Palu Prison is still given the right to communicate properly through visits to the prison. Various kinds of efforts made by a convict husband in fulfilling his obligation to provide a living, namely by working as much as possible while in prison so as to make money and the results are given to his wife and children, besides that there is also a husband-owned business that can be managed by the wife, then there are also those who allow their wives to manage their husband's business and property to be used as income, and finally there are those who are serving a sentence in the Class II A Palu Prison asking for help from their family or other relatives to provide support for their families left behind and it is made into debt, if after being released it will be replaced in accordance with the amount that has been given to the family of the convict's husband who is left behind and the obligation to support the husband of the convict does not conflict with Islamic law, meaning that the obligation to provide maintenance is still obligatory for a husband to his wife. his wife, but Islam determines the provisions of his living based on what is *ma'ruf* which is usually given by a husband to his wife and is very adapted to the circumstances of both parties, namely the condition of husband and wife. And a person is not burdened but according to the level of his ability.

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