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## Spousal Maintenance under Imprisonment: The Impact of Unfulfilled Nafkah on Prisoners' Families in Islamic Law

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### Abstract

This article examines the fulfillment of a husband's obligation to provide maintenance (nafkah) to his wife while the husband is serving a prison sentence, from the perspective of Islamic law. The study addresses juridical and social problems faced by prisoners' families, particularly the husband's limited capacity to fulfill financial obligations as traditionally constructed in Islamic jurisprudence. This research aims to analyze how Islamic law conceptualizes the obligation of maintenance for an imprisoned husband, identify the impacts of unfulfilled maintenance on prisoners' families, and examine the role of correctional institutions in maintaining family integrity during imprisonment. This study employs qualitative field research with a descriptive-analytical approach, integrating empirical legal analysis and normative Islamic legal perspectives. Data were collected through interviews with prisoners, prisoners' wives, and detention center officers, supported by documentation and library research on the Qur'an, Hadith, and Islamic legal literature. The findings show that, normatively, the obligation of maintenance remains attached to the husband under Islamic law, although its implementation is constrained during imprisonment. This condition leads to a shift in family economic roles, with wives assuming primary responsibility for daily financial needs. The impacts extend to economic, social, and psychological dimensions of family life. Nevertheless, husbands may still fulfill non-material maintenance through emotional support, communication, and moral responsibility. From the perspective of mubādalāh, marital relations are understood as reciprocal and contextual, without negating the fundamental principle of the husband's obligation of maintenance.

### Keywords:

Spousal maintenance (nafkah), imprisoned husbands, Islamic law

## Introduction

The Marriage as a legally recognized institution gives rise to reciprocal rights and obligations between husband and wife. In Islamic law, marital relations are constructed upon a balance between rights (ḥuqūq) and duties (wājibāt), reflecting ethical responsibility, justice, and mutual cooperation within the household (Alimuddin, 2022). The Qur'an 2:228 affirms this balance by stating that women have rights comparable to their obligations in accordance with what is customary (al-ma'rūf), while men are entrusted with a degree of responsibility as family leaders (Kemenag, 2019). This leadership (qiwāmah) does not imply superiority, but rather accountability, particularly in ensuring the welfare and protection of the family.

One of the most fundamental obligations attached to the husband's role as head of the family is the provision of maintenance (nafkah). Classical Islamic jurisprudence consistently emphasizes that nafkah—covering food, clothing, housing, and basic living needs—is a mandatory responsibility of the husband toward his wife and children, regardless of the wife's economic status. This obligation is explicitly stated in the Qur'an (2:233), which assigns fathers the duty to provide sustenance and clothing in a fair manner (Kemenag, 2019). In contrast, the wife's primary obligations are non-material in nature, including companionship, emotional support, and the preservation of family harmony, as reflected in the Qur'anic vision of marriage as a source of tranquility, affection, and mercy (Qur'an 30:21).

Within this normative framework, Islamic family law assumes a relatively stable condition in which the husband is economically capable of fulfilling his financial responsibilities (Alimuddin, 2021). However, this assumption becomes problematic when husbands are subjected to criminal punishment and incarceration. Imprisonment fundamentally alters the socio-economic position of the husband, depriving him of freedom, employment opportunities, and regular income. As a result, the fulfillment of nafkah becomes severely constrained, creating legal and social tensions within prisoners' families.

Empirical observations at the Class II B Soasio Detention Center in Tidore Islands City reveal that a significant proportion of inmates are married men serving long-term sentences. During incarceration, these husbands experience a drastic decline in their ability to provide financial support, while their wives are forced to assume new economic roles to sustain household survival. This shift often occurs without adequate institutional support and places considerable pressure on marital relations. Limited visitation opportunities, restricted communication, and financial hardship further weaken emotional bonds between spouses.

Field evidence indicates that prolonged imprisonment combined with the inability to fulfill nafkah frequently contributes to marital instability, including separation and divorce. In several cases, wives entered new marriages without formal communication with their incarcerated husbands, reflecting the severity of economic and emotional strain experienced by prisoners' families. Although detention centers provide vocational training programs aimed at rehabilitation and self-reliance, the income generated from such activities is often insufficient even to meet inmates' personal needs, let alone family obligations.

The absence of the husband's financial contribution does not merely result in economic hardship but also triggers broader social and psychological consequences. Wives face increased social burdens and stigma, children experience diminished parental presence and emotional security, and incarcerated husbands struggle with feelings of guilt, loss of authority, and diminished masculine identity as family providers (Asdin, 2023). These multidimensional impacts highlight that the issue of unfulfilled nafkah during imprisonment extends beyond legal doctrine into the realm of family resilience and social justice.

From an Islamic legal perspective, this situation raises critical questions regarding the continuity of nafkah obligations under conditions of incapacity, the redistribution of roles within marriage, and the ethical interpretation of responsibility through a contextual and reciprocal lens. The concept of *mubādalah*, which emphasizes mutuality and cooperation between spouses, offers an important

framework for understanding how marital obligations may be negotiated without negating foundational principles of Islamic law.

Therefore, this study seeks to examine the constraints faced by imprisoned husbands in fulfilling their obligation of nafkah, analyze the socio-economic and psychological impacts on prisoners' families, and explore how Islamic law responds to these challenges in practice. By focusing on married inmates at the Class II B Soasio Detention Center in Tidore Islands City, this research contributes to a more contextualized understanding of Islamic family law in situations of incarceration, highlighting the need for legal interpretation that is both normatively grounded and socially responsive.

## **Methods**

This research applies an empirical juridical method to address the problems related to the fulfillment of spousal maintenance (nafkah) by husbands serving prison sentences. The method is implemented to analyze the gap between normative Islamic legal provisions concerning marital obligations and their practical implementation within prisoners' families. Through this approach, the study seeks to explain how legal norms operate in real social conditions and how they respond to situations of incapacity caused by imprisonment.

The problem-solving strategy of this research is based on qualitative analysis. Primary data were obtained through field research conducted at the Class II B Soasio Detention Center in Tidore Islands City. Data were collected by means of non-participant observation, structured interviews with imprisoned husbands, their wives, and detention center officers, as well as documentation of institutional records related to inmates' marital status and family conditions. These data provide empirical evidence regarding the constraints faced by imprisoned husbands in fulfilling their maintenance obligations and the resulting impacts on family life.

Secondary data were gathered through library research, including the Qur'an, Hadith, classical and contemporary Islamic legal literature, scholarly books, journal

articles, and relevant legal documents. These sources were used to establish the normative framework for analyzing spousal maintenance and marital responsibilities in Islamic law.

The analytical method employed in this study is descriptive-qualitative analysis. Data analysis was carried out through data reduction, data presentation, and conclusion drawing. Empirical findings were systematically interpreted in light of Islamic legal principles to formulate a contextual understanding of spousal maintenance obligations during imprisonment and to propose analytical insights relevant to family law discourse.

## **Result and Discussion**

### **The Meaning of Rights and Obligations**

In Islamic marriage, a valid marital contract (*akad nikah*) that fulfills the required pillars and conditions gives rise to legal consequences in the relationship between husband and wife, namely the emergence of reciprocal rights and obligations. Once the marriage contract is concluded, both spouses are legally and morally bound by a mutual agreement that requires each party to perform their respective duties and roles. The husband is obligated to fulfill his responsibilities toward his wife, and correspondingly, the wife is obligated to fulfill her responsibilities toward her husband.

Etymologically, the term right derives from the Arabic word *al-ḥaqq*, which is the opposite of *al-bāṭil* (falsehood). The word originates from the verb *ḥaqqā*, which conveys the meaning of something that has become established or obligatory (Manzūr, 2003). In the Qur'an, the term *ḥaqq* is used in various contexts to signify something that is fixed, certain, or normatively binding. According to the Indonesian Dictionary (*Kamus Besar Bahasa Indonesia*), a right refers to something that is true, owned, possessed, or legally entitled, including authority or power to act or to claim something based on laws or regulations (Widodo, 2002).

Conversely, an obligation is defined as something that must be carried out or fulfilled, representing a duty or necessity imposed upon an individual. Legal scholar Notonagoro defines an obligation as a burden or responsibility of a contractual nature that must be performed and may be legally enforced by the entitled party. Thus, rights and obligations are inherently interconnected: a right held by one party simultaneously generates a corresponding obligation for another.

Within the institution of marriage, both husband and wife possess rights and obligations that must be fulfilled proportionally according to their respective roles and responsibilities. Individuals who bear greater responsibilities are correspondingly entitled to greater rights. This proportional distribution forms the foundation of balance and justice within marital relations.

### **Rights and Obligations of Husband and Wife in Islamic Law**

Islamic law explicitly regulates the reciprocal rights and obligations of spouses within family life. This principle is affirmed in Qur'an Surah al-Baqarah (2: 228), which states that women have rights equivalent to their obligations in accordance with what is customary (*ma'rūf*), while men possess a degree of responsibility over them. This verse establishes the principle of balance rather than absolute equality, recognizing differentiated roles accompanied by corresponding responsibilities (Anwar, 2021).

The husband's obligations toward his wife, which simultaneously constitute the wife's rights, can generally be divided into two categories: material and non-material obligations. Material obligations include the provision of *mahr* (dowry) and *nafkah* (maintenance), covering basic necessities such as food, clothing, and housing. Non-material obligations include treating the wife with kindness, protecting her dignity and honor, providing moral and religious guidance, respecting and honoring her, and fulfilling biological needs (Rohim, 2017).

Accordingly, the husband's responsibility extends beyond merely providing financial support. As the head of the household, he bears the duty to lead, protect, educate, and guide his wife and children, particularly in religious matters. This

responsibility is not solely material but also moral and spiritual, as the success of family life in Islam is measured not only by economic sufficiency but also by the cultivation of moral character and piety within the family (Sanjaya, Umar Haris, Faqih, 2017).

The Qur'an emphasizes ethical treatment within marriage in Surah al-Nisā' (4): 19, commanding husbands to live with their wives in kindness (*mu'āsharah bil ma'rūf*). These principles are reinforced in Indonesian Islamic law through the Compilation of Islamic Law (KHI), Article 80, which stipulates that the husband serves as the guide of the family, is obliged to protect his wife, provide household necessities according to his ability, ensure religious education, and bear financial responsibility for maintenance, healthcare, and children's education (Indonesia, 2015).

Meanwhile, the wife's obligations toward her husband include obedience within the bounds of Islamic law and prioritizing marital harmony. A prophetic tradition narrated by Ṭalq ibn 'Alī emphasizes the importance of responsiveness in marital relations, particularly in fulfilling conjugal rights. This hadith highlights the importance of mutual understanding, communication, and responsibility in sustaining marital intimacy.

In addition, the husband holds the right and obligation to guide his family toward righteousness, as stated in Surah al-Taḥrīm (66): 6, which commands believers to protect themselves and their families from moral and spiritual harm. Indonesian positive law further regulates the wife's obligations through Law No. 16 of 2019, which stipulates that the wife is responsible for managing household affairs to the best of her ability.

Ultimately, Islamic marriage aims to realize a family characterized by tranquility (*sakinah*), love (*mawaddah*), and mercy (*rahmah*), as articulated in Surah al-Rūm (30): 21. To achieve this ideal, both spouses must perform their respective roles with responsibility, cooperation, and mutual respect, maintaining a dynamic balance between rights and obligations.

While traditional role distribution often places financial responsibility on the husband and domestic management on the wife, Islamic law recognizes that such arrangements are flexible rather than absolute. In certain circumstances—such as illness or other legitimate impediments—the wife may temporarily assume economic roles as an act of cooperation (*ta'āwun*), not as a permanent transfer of obligation. Nevertheless, under all conditions, the primary obligation to provide maintenance remains with the husband.

The term *nafkah* derives from the Arabic root *anfaqa*, which etymologically means “to decrease,” “to diminish,” or “to expend,” reflecting the reduction of one’s wealth for the benefit of others. In the context of marriage, *nafkah* refers to the husband’s obligation to allocate part of his wealth to fulfill the needs of his wife during the marital bond (Rajafi, 2018).

In Islamic jurisprudence, *nafkah* encompasses basic necessities such as food, clothing, and housing (Al-Ghazzi, 2023). It constitutes a material obligation of the husband toward his wife and of the father toward his children. Classical jurists define *nafkah* as the expenditure required to meet the essential needs of those whom one is legally obliged to support. Sayyid Sabiq defines *nafkah* as the obligation to provide food, housing, services, and medical care for the wife, even if she is financially independent.

This definition underscores that the obligation of maintenance in Islam is not contingent upon the wife’s economic status. Even when a wife is wealthy, the husband remains responsible for ensuring her welfare and comfort. This principle reflects the moral and social responsibility of the husband in preserving family harmony, extending beyond mere financial transactions.

The obligation to provide maintenance for the wife and children is firmly established in Islamic law. Qur’an Surah al-Baqarah (2: 233) states that fathers are responsible for providing sustenance and clothing in a manner that is appropriate. Similarly, Surah al-Ṭalāq (65: 6) obliges husbands to provide housing according to their ability.

The amount of maintenance is not fixed in nominal terms but is determined based on sufficiency, prevailing customs ('urf), and the husband's economic capacity. This principle is reinforced by a well-known hadith concerning Hindun bint 'Utbah, in which the Prophet permitted her to take from her husband's wealth what was reasonably sufficient for herself and her children. This hadith illustrates that maintenance must be adequate, fair, and proportionate to need.

Islamic law also recognizes that inability to provide maintenance does not nullify the obligation. According to the majority of jurists, unpaid maintenance becomes a debt (dayn) that must be fulfilled when the husband regains the ability to do so. This principle is further affirmed in Qur'an Surah al-Ṭalāq (65): 7, which emphasizes proportionality and divine justice in imposing obligations. Indonesian Islamic law reinforces these norms through the Compilation of Islamic Law (Article 80) and Law No. 16 of 2019, which obligate the husband to provide maintenance according to his capacity (Elimartati & Elfia, 2020).

### **Balance of Rights and Obligations in Islamic Law**

The theory of balance between rights and obligations is rooted in the principle that marital relations are inherently reciprocal. Every right possessed by one spouse corresponds to an obligation borne by the other. This principle serves as a benchmark for assessing justice within marital relationships, particularly regarding the obligation of maintenance (Alimuddin, 2022).

In classical fiqh, marital rights and obligations encompass three primary dimensions: ethical treatment (mu'āsharah bil ma'rūf), financial maintenance, and biological relations. These dimensions are grounded in partnership (zawāj), cooperation (mu'āwanah), and reciprocity (mubādalah), indicating that marriage is not a relationship of domination but of mutual responsibility (Kodir, 2019).

The principle of mubādalah conceptualizes marriage as an equal partnership based on five foundational pillars: mitsāqan ghalīzan (a solemn covenant), partnership, mutual consent, ethical treatment, and deliberation (musyawarah).

Within this framework, actions that undermine reciprocity – such as conduct leading to criminal conviction – can be viewed as violations of marital responsibility.

However, *mubādalah* does not negate the humanity or rights of the husband. Even when a husband fails to fulfill obligations, he remains a subject of rights, including humane treatment, family communication, and moral support. Thus, this approach enables a balanced analysis that recognizes both accountability and compassion (Kodir, 2019).

### **Research Site and Research Subjects**

This research was conducted at the Class II B Soasio Detention Center located in Tidore Islands City, North Maluku, Indonesia. At the time of the study, the detention center accommodated a total of 142 inmates, consisting of 12 detainees awaiting trial and 130 convicted prisoners. As part of Indonesia's correctional system, the Soasio Detention Center functions primarily as a temporary holding facility for individuals undergoing judicial processes, while also housing convicted prisoners due to overcapacity in correctional institutions (Lembaga Pemasyarakatan) in the region.

Institutionally, the detention center performs several key functions, including temporary detention, inmate care, security maintenance, and administrative management of prisoners' legal status. These functions are carried out to ensure that detainees' basic rights are fulfilled during the judicial process and that convicted prisoners remain under supervision in accordance with applicable regulations. The facility is divided into three residential blocks – Nuku, Papua, and Gamrange – with a separation system between detainees and convicted prisoners to maintain security and support inmate management.

Based on interviews with detention service officers, the Soasio Detention Center applies a structured working system to manage administrative needs, inmate rehabilitation, and communication between prisoners and their families. Every newly admitted prisoner undergoes an assessment process covering identity data, marital

status, type of offense, sentence length, behavioral patterns, and compliance with institutional regulations. This assessment is conducted through documentation review, observation, and interviews, and is used to determine potential risks as well as appropriate rehabilitation measures, including eligibility for sentence reductions or conditional release.

To maintain inmates' relationships with their families, the detention center provides limited communication facilities, including free public telephone services with restricted call durations. Family visitation is regulated through standard operating procedures, allowing visits on specific weekdays and Saturdays, while visits are suspended on Fridays and Sundays. These facilities are intended to preserve family ties and emotional connections during incarceration, although access remains limited by distance, time, and financial constraints.

In addition to custodial functions, the Soasio Detention Center implements limited self-reliance programs for inmates. Although vocational rehabilitation is formally the responsibility of correctional institutions, regional overcapacity has required detention centers to facilitate skill-based activities within their constraints. Inmates with prior skills are supported through small-scale productive activities such as bamboo furniture production, plastic weaving crafts, and virgin coconut oil processing. The detention center assists by providing materials, supervision, and limited marketing support, although income generated from these activities remains minimal.

The research subjects in this study were selected purposively based on their direct relevance to the research focus. They consisted of married male prisoners serving sentences at the Soasio Detention Center, their wives as primary respondents affected by the disruption of spousal maintenance, and detention center officers as supporting informants. The selection criteria emphasized the existence of ongoing marital relationships and communication between inmates and their families.

Overall, the findings from the research site demonstrate that the Soasio Detention Center not only functions as a custodial institution but also plays a crucial

role in mediating family relationships, limited economic activities, and rehabilitation efforts. However, structural limitations in facilities, authority, and budget significantly constrain its capacity to support inmates' families, particularly in relation to the fulfillment of spousal maintenance obligations. This contextual setting provides an essential empirical foundation for analyzing the impacts of unfulfilled nafkah on prisoners' families within an Islamic legal framework.

The findings of this study reveal that the fulfillment of spousal maintenance (nafkah) by husbands serving criminal sentences at the Class II B Soasio Detention Center faces substantial constraints, particularly with regard to material support. Based on in-depth interviews with detention officers, incarcerated husbands, and their wives, it was found that economic limitations during incarceration are primarily influenced by two interrelated factors: the disruption of inmates' sources of income and the limited availability of self-reliance programs within the detention center.

Empirical data indicate that incarceration generally results in an immediate and almost total interruption of inmates' regular income. Most incarcerated husbands had been the primary breadwinners prior to detention, working in sectors such as fishing, private employment, state-owned enterprises, or self-employment. Once detained, these income-generating activities ceased, either due to job termination or the suspension of salaries.

Several respondents explained that before incarceration, they were able to meet their families' daily needs adequately. However, detention severed their access to employment and income, leaving them without any reliable financial means to support their wives and children. Even in cases where employment relationships formally continued, such as employment in state-owned enterprises, salaries were withheld during incarceration, effectively eliminating economic contributions to the household.

Only one respondent was able to maintain limited income through productive activities inside the detention center by utilizing pre-existing skills, such as bamboo craftsmanship. Nevertheless, the income generated was significantly lower than

earnings prior to incarceration and was insufficient to meet family needs comprehensively. These findings demonstrate that incarceration functions as a structural break in household economic stability, transferring the burden of material maintenance almost entirely to wives and extended family networks.

### **Limited Self-Reliance Programs in the Detention Center**

The second major constraint relates to the institutional limitations of the detention center itself. Interviews with detention officers confirmed that detention centers (*rutan*) are not structurally designed to implement comprehensive self-reliance or vocational training programs, which are formally the responsibility of correctional institutions (*lapas*). Due to prison overcapacity in North Maluku, convicted prisoners are housed in detention centers without corresponding adjustments in budget, facilities, or training infrastructure.

As a result, self-reliance activities in the Soasio Detention Center are limited to a small number of skill-based programs, including bamboo furniture production, plastic weaving, and virgin coconut oil processing. Participation in these activities is selective and depends largely on inmates' prior skills rather than systematic skill development. Inmates without relevant backgrounds are generally excluded from productive activities, leaving them without opportunities to generate income during incarceration.

This institutional constraint directly affects inmates' economic capacity. Most respondents reported having no productive activities and no income throughout their detention period. Even inmates who participated in productive programs faced limitations related to restricted working hours, competing institutional obligations, and dependence on detention center authorities for marketing their products. Consequently, income generation within the detention center remains minimal and uncertain.

### **Implications for Families and Wives**

The economic consequences of these constraints are most acutely felt by prisoners' wives. Interviews with wives revealed that the sudden loss of spousal income forced them to assume primary responsibility for household maintenance. Many relied on unstable informal work, small-scale trading, personal savings, or assistance from extended family members. In households where the husband had left behind a functioning business or possessed skills that could be continued during incarceration, families were relatively better positioned to cope, although income levels still declined.

Conversely, families of inmates without prior savings, businesses, or transferable skills experienced significant economic hardship. In such cases, wives became the sole providers despite limited resources, underscoring the vulnerability of families whose economic stability had depended entirely on the husband's income (Jamarudin et al., 2023).

These findings highlight that the inability of incarcerated husbands to fulfill material nafkah is not merely an individual failure but is shaped by structural and institutional factors. The disruption of income caused by incarceration, combined with the limited scope of self-reliance programs in detention centers, creates systemic barriers that prevent husbands from performing their economic obligations. This condition raises important questions within Islamic legal discourse regarding responsibility, capability, and the redistribution of maintenance obligations under conditions of legal incapacity.

### **Economic Consequences of Unfulfilled Spousal Maintenance**

The findings indicate that the inability of incarcerated husbands to fulfill spousal maintenance (nafkah) results in a significant decline in household income, particularly in families that previously depended entirely on the husband as the primary breadwinner. During imprisonment, wives were compelled to assume full responsibility for meeting daily needs through informal and unstable income sources,

such as small-scale trading, freelance work, or reliance on personal savings. Families without savings or transferable assets experienced the most severe economic hardship, demonstrating that weak pre-incarceration economic conditions intensified vulnerability during incarceration. Conversely, households in which husbands had left behind ongoing businesses or where wives held stable employment were relatively more resilient, although a decline in overall economic welfare remained evident.

### **Psychological Impact on Wives and Children**

Economic hardship was closely intertwined with psychological distress among prisoners' wives. Interview data reveal recurring experiences of stress, sadness, anxiety, and emotional exhaustion caused by the dual burden of providing financial support and caring for children independently. While some wives gradually developed adaptive coping strategies over time, others continued to experience persistent emotional pressure, particularly in families facing prolonged financial instability. These findings suggest that psychological impacts are dynamic and shaped by the duration of imprisonment, economic resources, and individual resilience.

Children of incarcerated fathers also experienced substantial psychological and developmental challenges. Reduced household income limited their access to educational and social needs, including school allowances and extracurricular activities. The absence of the father figure generated emotional distress, such as sadness, insecurity, and decreased motivation. Several children experienced social stigma and feelings of inferiority in school environments, negatively affecting their self-confidence and well-being. Nevertheless, some children demonstrated adaptive behavior, gradually accepting the family's condition and, in certain cases, providing emotional encouragement to their fathers.

### **Social Stigma and Community Relations**

Social consequences emerged as a significant dimension of the impact of unfulfilled nafkah. Many wives reported experiencing stigma, gossip, and negative labeling from their surrounding communities, which led to social withdrawal and reduced interaction with neighbors. This social isolation limited access to informal support networks that could otherwise help alleviate economic and emotional stress. The findings highlight that incarceration not only affects individual inmates but also extends social marginalization to their families.

From an institutional perspective, detention center authorities confirmed that the fulfillment of family maintenance does not fall within the formal mandate of detention facilities. Although limited humanitarian assistance was occasionally provided through voluntary initiatives by staff, such support was non-systematic and unsustainable. Consequently, prisoners' families largely faced the economic, psychological, and social consequences of incarceration without institutional guarantees or structured support mechanisms.

### **Islamic Law Analysis of Constraints on the Fulfillment of Spousal Maintenance**

In Islamic law, a valid marriage contract (*akad nikāḥ*) establishes a reciprocal legal relationship between husband and wife, giving rise to mutual rights and obligations. One of the husband's primary obligations – and the wife's corresponding right – is the provision of spousal maintenance (*nafaqah*). This obligation is explicitly grounded in the Qur'an, particularly in Surah al-Baqarah (2:233), which assigns to the father the responsibility to provide sustenance and clothing in a proper and reasonable manner (*bi al-ma'rūf*). In addition, the obligation to provide housing is affirmed in Surah al-Ṭalāq (65:6), which emphasizes that accommodation must be provided in accordance with the husband's capacity.

These normative principles are further reinforced in Indonesian Islamic family law. Article 80 paragraph (4) of the Compilation of Islamic Law (*Kompilasi Hukum Islam*) places the economic responsibility of family life upon the husband, while Article 34 paragraph (1) of the Marriage Law (Law No. 1 of 1974, as amended by Law

No. 16 of 2019) affirms that the husband is obligated to meet household needs according to his ability (Indonesia, 2015).

However, Islamic law does not conceptualize the obligation of nafaqah in absolute or rigid terms. Rather, its implementation is guided by the principle of *ma'rūf*, meaning that maintenance must be adjusted to the husband's actual capacity and socio-economic conditions. This principle is clearly illustrated in the well-known hadith of Hindun bint 'Utbah, in which the Prophet Muhammad (peace be upon him) permitted her to take sufficient maintenance from her husband's wealth in a fair and reasonable manner when he failed to fulfill his obligation. This hadith underscores that the duty of maintenance is binding, yet its realization is closely tied to the husband's ability.

Within this framework, the condition of husbands who are incarcerated in detention facilities (*rutan*) constitutes an objective limitation that obstructs the normal fulfillment of material maintenance. The disruption of income sources due to imprisonment emerges as the principal factor preventing incarcerated husbands from providing nafaqah, regardless of whether they previously held stable employment or operated independent businesses. From an Islamic legal perspective, such incapacity does not automatically annul the obligation of maintenance; rather, it gives rise to a form of legal concession (*rukhsah*), whereby the obligation is carried out in proportion to the husband's remaining capacity.

According to the majority of Islamic jurists a husband's inability to provide maintenance due to poverty or external constraints does not eliminate his responsibility. Instead, the unfulfilled maintenance is considered a debt that must be repaid when the husband regains financial ability (Wahbah al-Zuhaili, 2006). Applied to the context of incarceration, this doctrine implies that the failure to provide nafaqah during imprisonment remains a deferred obligation, preserving the wife's normative right while acknowledging the husband's temporary incapacity.

This situation is further aggravated by the institutional limitations of detention centers, which are not structurally designed to provide comprehensive vocational

training or income-generating programs comparable to those available in correctional institutions (lapas). As a result, only inmates who possessed prior skills or economic capital are able to generate limited income during incarceration, while those without such resources are effectively excluded from any meaningful economic participation. Consequently, the capacity of incarcerated husbands to fulfill maintenance obligations is heavily contingent upon pre-existing socio-economic status.

From the standpoint of Islamic legal reasoning, the condition of incarcerated husbands may therefore be classified as a state of factual incapacity. In such circumstances, the obligation of maintenance does not lapse, but its execution becomes conditional and proportional. When the husband is entirely incapable of providing material support, the temporary transfer of the maintenance role to the wife or other family members may be tolerated as a practical necessity, without negating the husband's moral and legal responsibility as head of the family .

This imbalance directly affects the equilibrium of rights and obligations within marriage. Islamic legal theory emphasizes proportionality and reciprocity between spousal rights and duties. When the husband is unable to fulfill his primary economic obligation due to imprisonment, the balance of marital responsibilities is disrupted, placing a disproportionate burden upon the wife. From the perspective of *mubādalah* (reciprocal justice), the husband's actions leading to incarceration—and the consequent loss of economic capacity—may be interpreted as a failure to uphold the principles of partnership (*zawāj*) and good companionship (*mu'āsharah bi al-ma'rūf*).

Nevertheless, the *mubādalah* framework also insists on maintaining a humane and deliberative approach within marital relations. Wives who temporarily assume the role of breadwinner must be recognized as autonomous subjects with the right to determine the limits of their contribution, as well as the right to legal protection and social support. This framework does not legitimize the neglect of the husband's obligations, nor does it justify the erosion of the wife's rights (Kodir, 2019).

Similarly, the imprisonment of a husband should not be construed as the total elimination of his marital role. While incarceration restricts the husband's capacity to

fulfill material obligations, it does not nullify his emotional, relational, and moral responsibilities toward his wife and children. He retains the right to maintain emotional bonds, to participate—within limits—in family decision-making, and to receive moral support during his sentence.

In conclusion, the Islamic legal analysis of unfulfilled maintenance in the context of incarceration demands a balanced approach. It acknowledges the husband's factual incapacity and the structural constraints of detention institutions, while simultaneously affirming the enduring nature of maintenance obligations and the significant burden borne by wives. This proportional and justice-oriented framework avoids both undue blame and normative neglect, offering a more equitable understanding of spousal maintenance under conditions of imprisonment.

### **Islamic Law Analysis of the Impact of Unfulfilled Maintenance on the Family**

In Islamic law, maintenance (nafkah) constitutes a normative and binding obligation of the husband that arises immediately from a valid marriage contract. This obligation is not contingent upon the wife's economic capacity, but rather represents a legal consequence of the marital bond. Accordingly, maintenance is a legally enforceable right of the wife and children. When this obligation is not fulfilled, a normative violation of family rights—particularly those of the wife and children—occurs.

The failure to provide maintenance during the husband's imprisonment generates serious consequences for the balance of rights and obligations within the household. In practice, the wife is compelled to assume the primary economic responsibility for the family, a role that is not normatively assigned to her under Islamic law. From a legal perspective, this condition places the wife in a disadvantaged position, as she bears economic burdens resulting from circumstances beyond her own actions.

The impact of unfulfilled maintenance extends beyond the wife to the children. In Islamic law, child maintenance is an absolute obligation of the father. When this

duty is neglected, children may experience deficiencies in meeting essential needs such as food, education, and healthcare. Such conditions contradict the objectives of Islamic law (*maqāṣid al-syarī'ah*), particularly the protection of life (*ḥifẓ al-nafs*) and lineage (*ḥifẓ al-nasl*) (Husamuddin & Alimuddin, 2022).

Viewed through the theory of balance between rights and obligations and the principle of *mubādalah*, marriage is understood as a reciprocal partnership founded on mutual responsibility. A husband's actions that lead to imprisonment can be interpreted as a violation of *mu'āsharah bil ma'rūf* and a neglect of the marital covenant, resulting in the marginalization of the wife's and children's rights to maintenance. From the *mubādalah* perspective, the failure to fulfill maintenance is not merely a structural consequence of incarceration, but also a moral outcome of conduct inconsistent with marital reciprocity.

Nevertheless, Islamic law upholds principles of justice and humanity (Melia et al., 2019). The husband does not lose his fundamental rights as a human being and family member during imprisonment. He retains the right to humane treatment, emotional connection, and communication with his family. The wife's economic contribution during this period should therefore be understood as a form of temporary cooperative partnership, rather than a permanent transfer of the husband's obligation.

In conclusion, the non-fulfillment of maintenance due to the husband's imprisonment produces significant legal and social implications for the family. Islamic law affirms that maintenance remains the primary obligation of the husband and serves as a crucial indicator for assessing justice and balance in marital relations, even under conditions of penal confinement.

## Conclusion

his study concludes that, under Islamic law, the obligation of maintenance (*nafkah*) remains legally attached to the husband despite his imprisonment. Incarceration constitutes a legitimate legal impediment (*'udhr shar'i*) that limits the

implementation of maintenance but does not abolish the wife's and children's rights to it. The inability to fulfill this obligation disrupts family welfare and creates an imbalance in marital rights and responsibilities, particularly by shifting economic burdens to the wife. These findings confirm the research objective that imprisonment generates significant legal and socio-economic consequences for prisoners' families, while existing correctional support mechanisms remain insufficient to address these impacts.

This study advises the establishment of sustainable empowerment programs within correctional institutions and stronger institutional collaboration to safeguard family welfare. Further research is recommended to develop contextual and comparative models for fulfilling maintenance obligations in cases of imprisonment, in order to strengthen justice (*al-'adl*) and family welfare (*maṣlahah*) within Islamic family law.

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