

RIGHTS AND OBLIGATIONS OF HUSBAND AND WIFE ACCORDING TO ISLAMIC LAW IN CONSTRUCTING SAKINA FAMILY

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ABSTRACT

This research aims to know the rights and obligations of husband and wife in building a sakinah family. The method used in this study is the library research method with a normative approach. The research results show that Husband and wife understand that the position of wife and husband in the household is the same, but have different rights and obligations, although on the other hand the community understands that the position of the wife in the family is under the husband, they understand this from the understanding of salaf fiqh which states that the wife must uphold high her husband with honor and glory. The concept of Islamic marriage teaches that the rights possessed by husband and wife are in balance with the obligations imposed on them, a husband or wife has balanced obligations. To realize a harmonious, sakinah and peaceful family, this can be done by fostering the appreciation of Islamic religious teachings, fostering mutual respect, fostering an attitude of efficient living, and fostering an introspective attitude of each husband and wife.

Keywords: Rights and Obligations, Household, Husband and Wife, Islamic Family Law.

A. PRELIMINARY

Islam comes as a solution to all existing problems to complement the teachings that were passed down in the past. Islam recognizes changes in law based on civilization that continues to develop with the times. Various new phenomena continue to emerge, thus spurring the jurists to continue to seek knowledge so that people are always calm and confident that they are in accordance with the Shari'ah in living their lives.

Islam itself recognizes the existence of equality and justice (egalite) between men and women. Even in its early days, Islam was believed to be the

spearhead of women's liberation from oppression and arbitrary treatment of men. Starting with the equal rights of women in seeking knowledge, changes in the status of women from being objects of inheritance to beneficiaries, women can choose their own spouse, and so on.

The many opportunities and facilities that support women's careers in the world of work, make many women who can also be successful and even beat men's positions in careers. Today, it is not about working women who are at issue, but rather the phenomenon of the wife who is the main backbone of the family. This means that the wife works and is tasked

with providing for the family while the husband does not earn or does not have a fixed income.

Husband is obliged to protect his wife and provide everything necessary for household life according to his ability. In accordance with his income, the husband bears the maintenance, garments, and residence for wife. Husband is also obliged to provide household expenses, maintenance costs, medical expenses for his wife and children, as well as children's education costs.

Whereas the maintenance arrangements in Law No. 16 of 2019 concerning marriage in Article 34 paragraph (1) say that the husband is obliged to protect his wife and provide everything necessary for household life according to his ability. This article does not explain the amount of maintenance that must be given, it's just that the amount is adjusted to the ability of the husband.

As the amount of dowry does not have specific provisions but is based on the results of an agreement between the man and the woman, the amount of maintenance can also be agreed upon. As long as the husband and wife agree, the amount of maintenance can be discussed and adjusted, provided that the husband has really made an effort to earn a living

according to his maximum ability so that it is hoped that he will be able to meet his daily needs. If the husband cannot fully meet household needs, but on the other hand the wife can help make efforts to meet household needs, then this can also be agreed upon by both parties.

If the marriage contract has taken place and legally fulfills the pillar requirements, it will have legal consequences. Thus, it will also raise rights and obligations as husband and wife in the family. As for what is meant by rights here is what is received by someone from other people, while what is meant by obligations is what a person must do for other people. In the relationship between husband and wife in the household, the husband has the same rights as the wife has rights. Behind that the husband has several obligations and so does the wife have several obligations.

A wife who is the backbone of the family is a wife who does not only do domestic tasks such as taking care of the household and educating children at home, but also doubles as a person who is responsible for earning the main income for the family due to compelling conditions. that matter. There are several conditions that occur a lot, namely the inability of the husband to provide a decent and sufficient living and the

condition of the husband who does not allow him to work because of chronic illness.

In such conditions, for the sake of the continuity of the household to survive, to have a decent place to live, to meet nutritional intake for each family member, and to pay for education, it is necessary to think of a solution which of course does not harm both parties, both wife and husband. If you stick with the decision that the husband should be the backbone of the family even though his condition is very unlikely, because the husband is paralyzed for example, then the pleasure of a wife is absolutely necessary. The wife can replace the husband's role as a support for family life as long as there is mutual agreement.

When household conditions are not as ideal as stipulated in various laws, this is where various questions arise regarding the rights and obligations of husband and wife. When a wife is forced to be the backbone of the family because her husband suffers from a chronic illness, or the husband suddenly gets laid off due to a pandemic, and so on. However, what is often regretted is the double burden experienced by working women are still not understood by most of our society. After being tired of working to support household expenses, they still have to be burdened with work in the domestic area,

even though both working men and women need time to rest. The "patriarchal" culture that is still attached to the majority of Indonesian society still requires the wife to focus on the domestic area. Even though the wife later decides to work, the domestic duties are still the wife's responsibility. Even if the wife wants help with her domestic work, it is the wife who is obliged to find and hire a household assistant for her. Even though the obligation to take care of the household is of course not the obligation of one party but it is a joint obligation that must be realized and carried out consciously by both husband and wife.

B. LITERATURE REVIEW

Previous research entitled explained that one way to build and maintain marital harmony is the exercise of rights and obligations between each member of the household. It is impossible to achieve household harmony without awareness and concern in carrying out the obligation to realize the rights of the partner. If there is inequality where rights are more emphasized or broader than obligations, or vice versa, injustice will undoubtedly occur. The wife's right to her husband is the right to receive good treatment, to receive instruction from her husband, to receive protection from her husband, and to receive proper food and

clothing. Meanwhile, the wife's obligation to her husband is to comply with his orders as long as they do not violate God's rules, guard the husband's property, respect the husband's family, and dress up to look beautiful according to the husband (Fahimah & Aditya, 2019).

This type of research is Library Research literature which requires qualitative data and is processed in a descriptive-analytical manner with the content analysis method. Husband's obligations as well as the wife's rights according to the Qur'an are first, to provide a living, a living must indeed be adjusted to the standards that apply in a society, not minimal and not excessive according to the husband's ability and a living should be given according to needs. The house to live is appropriate for the rights of the wife, which is the responsibility of the husband. Husband is obliged to treat and associate with his wife in a good way. Husband is obliged to voluntarily give dowry to his wife accompanied by love and affection without expecting anything in return.

Based on the habits that occur in Indonesia, especially in urban areas, it is common for a wife to work in a household even though her husband does not experience problems in earning a living. Based on these habits, of course it is not a

problem when a wife works to be the backbone of the family, especially in an emergency when the husband cannot work properly. In a review of the Syafi'i School and Compilation of Islamic Law, there are several differences in rights and obligations for wives to work, especially as the backbone of the family, provided that there is already an agreement between the husband and wife concerned, it is also felt that this can be a solution for the survival of the household.

C. RESEARCH METHODS

The method used in this study is the library research method with a normative approach. Because the object focuses on library materials, this research is also called library law research or theoretical legal research.

This research is an analytical legal research because there is more than one variable and these variables intersect. The research approach is a method or method of conducting research. In this study, a statutory approach (Statute Approach) and a conceptual approach.

D. RESULTS AND ANALYSIS

Using the methodology of taking Imam Syafi'i's law, today's scientists are beginning to describe various problems that did not arise in the past but have become a separate problem in today's

conditions. Likewise in solving household problems that often arise due to differences in needs resulting from the demands of the times and so on. We cannot just take textual references from classic books, but we need further meaning to be able to decide on a matter. Because it turns out that Imam Syafi'i in his fiqh journey also experienced a change of thought due to differences in situations and conditions when deciding a case.

As far as the development of his school of reform, Imam Shafi'i can be considered as a pioneer of reform in Islamic legal thought. On this basis, it is not reasonable if Imam Syafi'i is considered as a figure whose role is to influence the stagnation of Muslim thinking, moreover to hinder it. On the other hand, he is a scholar who strongly supports the process towards dynamic reform of Islamic law. This can be seen that the transition from *qaul qadim* to *qaul jadid* in this school does not only occur in legal fatwas as a result of *ijtihad*, but also occurs in some of the principles of *ijtihad* itself.

Islam comes as a savior and a reminder of equal human rights and obligations, both men and women, equality between the two, where no one has a higher position than anything else. Even though the concept of equality exists and is

starting to be recognized by many groups, nevertheless, in an organization, an elderly leader is needed, who will determine the outcome of the deliberations. In the household, this position is considered appropriate to be assigned to men considering that their steps can be further and wider because they are not bound by the nature of menstruation, pregnancy, breastfeeding and childbirth. Male figures are also considered to have more physical strength to do heavy and exhausting things. Therefore, the concept of equality referred to here is the fulfillment of the needs of both the husband and wife as well as the children who are their dependents without any elements of coercion, violence and injustice in the distribution of household tasks.

When the husband is the main breadwinner, all income comes from the husband, so it is only natural for the wife to obey her husband and be able to take care of her household's domestic life well. It's a different matter if the wife also works, especially if the wife works because she wants to help ease the burden on her husband to support the household, achieve greater benefits, of course a husband must understand the condition of his wife by sharing household chores. If the wife's work is due to the condition of the husband who is sick so he cannot carry

out his obligations to provide a living, of course this is a good thing for the wife because she wants to help and replace the obligation to provide a living so that household life can continue without divorce.

Describe the research results and discuss them. The research results contain tabulations of research data carried out according to the methods and variables used. Discussion of the results of the analysis can apply the method of comparison, the use of equations, graphs, figures, and tables. Each table and graph must be given a number and name and interpretation of the results of the analysis to obtain answers, added value, and benefits that are relevant to the problems and research objectives.

The Compilation of Islamic Law exists as an effort to unite general opinion that can be accepted by Indonesian society as well as a reference for legal instruments in deciding a case related to marriage, divorce, inheritance, and endowments. In this case the researcher focuses on Book I in the Compilation of Islamic Law which specifically contains matters related to marriage and about problems that usually arise.

Regarding working wives, in fact it is a polemic for the majority of Indonesian

people because there are still many assumptions that a wife should stay at home and only take care of domestic matters. The main obligation for a wife is to be physically and mentally devoted to her husband in what is justified by Islamic law. The wife organizes and manages daily household needs as well as possible.

The opinion that obliges women to be in their homes originates from the customs and traditions of Arab society in the past. In the past, life in ignorant Arab society was a hard life full of wars and killings (to fight for power), because their livelihood was hunting, and these conditions did not allow women to participate in what the women did. Men. Therefore, the degree of women becomes low in their opinion. As for now, we are in a relatively safe situation, everything has laws that regulate it. War is not a trend and in search of a living.

Leaving the house is prohibited except in an emergency, this specifically intended for the wives of the Prophet SAW, and even then this prohibition was "violated" by Sayyidah Aisyah who participated in the Jamal war in relation to fulfilling her religious obligation to carry out qishash punishment against those who killed Usman bin Affan. In later developments, women are actually used to leaving the house either to study or to

work without anyone around them deny it, so it seems as if it has become a kind of *ijma'* that women are allowed to leave the house with certain conditions.

Therefore, it can be concluded that working women were actually used to doing it even before the revelation of Al-Ahzab verse 33 which was specifically intended for the wives of the Prophet SAW, especially if a wife left her house it was done in the context of the benefit of the household which if this is not done, the sustainability of the household will be threatened.

In the Compilation of Islamic Law this is explicitly stated in Article 77 paragraph (3), namely that the husband and wife bear the obligation to care for and care for their children, both regarding their physical, spiritual and intellectual growth and religious education. If under certain conditions a husband cannot carry out the obligation to meet the needs of the family including his children in terms of meeting needs in terms of education, for example, this cannot be borne solely by the husband but is a joint obligation between husband and wife. From this article we can see that a wife has the same obligation as her husband to look after her children and meet their physical and spiritual needs, especially if her husband is unable to carry

out these obligations, then a wife is obliged to be responsible for this matter.

In the Encyclopedia of Islamic Law, *syari'at* principally refers to human benefit. As stated by *ushul fiqh* scholars, every law (*shari'at*) contains benefits for the servants of Allah (humans), both worldly and spiritual benefits. Therefore, every *mujtahid* in *istinbat*- (concludes) the law of a case at hand, must be guided by the goals of *syara'* in *shari'ah* law, so that the law will be determined in accordance with the benefit of humanity. This is in line with Article 79 (2) that the rights and position of the wife are in balance with the rights and position of the husband in domestic life and social life together in society.

Even though in Article 80 (2) it is stated that the husband is obliged to protect his wife and provide everything necessary for household life according to his ability, in Article 80 (6) it is stated that the wife can release her husband from the obligations towards himself as referred to in paragraph (4) letter a and b.

In the event that a husband cannot carry out his obligations as stated in Article 80 paragraph 4, a wife has the right to file for divorce because she has fulfilled one of the requirements as stated in Article 116. However, divorce is not a solution to

a household problem. Especially if the marriage has produced children which are a shared responsibility for their physical and psychological development. It will not be easy for a child to face the divorce of his parents, especially if it is accompanied by many conflicts afterwards.

Asghar Ali Engineer, divorce must be understood as an event that is really forced, when there is no other way to go. Remembering that marriage is not something that is trivial, so that its termination is also in extraordinary circumstances. The Qur'an itself encourages that divorce is not carried out. To reach the stage of divorce, a husband and wife must go through the stages of reconciliation and arbitration. So that the divorce decision really goes through a fairly strict objective selection (Jufri & Jupri, 2019).

If the family bears the debt burden, the wife will also be involved in paying the debt if the husband is unable to pay it, as stated in Article 93, namely Responsibility for debts committed for the benefit of the family is borne by the joint property. If the joint assets are not sufficient, it shall be charged to the husband's property. If the husband's assets do not exist or are sufficient, the burden will be on the wife's assets.

Looking at the various articles in the Compilation of Islamic Law, the researcher concludes that a wife has the right to work in order to meet her and her family's needs, especially if the husband's condition does not allow him to work and earn a living as he should.

In the view of the researcher, although basically there is no mixing of wealth between husband and wife, the husband as the head of the family is bound by the obligation to provide a living and meet the needs of his wife and children. There is no wife's obligation to meet household needs, but in practice the husband and wife help each other both in managing the household and in meeting household needs together.

If it is a fact that the husband cannot fulfill the household needs as he should, then the wife has wider opportunities to earn income that can meet and suffice all the household needs, then the husband should also not give the burden of managing the household to his wife. If the wife gets the income from working outside the home, then even though it is stated that the wife's main obligation is to take care of household needs, just as a wife frees her husband's obligations towards herself, a husband is also required to be wise so that he does not give domestic burdens only to his wife.

Several provisions regarding the rights and obligations of husband and wife in the Marriage Law are gender reflection. Among them, the husband is the head of the household and the wife is the housewife (Article 31 paragraph 3), the husband is obliged to provide for his wife and protect the family according to his ability (34 paragraph 1), while the wife is as many households as you (article 34 paragraph 2). Article 31 paragraph 3 is deleted because it is a gender bias, and there are other articles which are translations of this article that need to be updated (Fuad, 2015).

Husband's obligation to wife; giving a dowry, providing physical and spiritual maintenance, having good intercourse with the wife, keeping the wife from things that bring sin, while the wife's obligation to her husband; complete the husband's shortcomings, obey the husband, follow the husband's residence, maintain self-respect and property of the husband when he is not around, devote himself to the husband in taking care of his children, and cover up the husband's disgrace (Suhartawan, 2022).

The application of the principle of balance between the rights and obligations of husband and wife regarding the distribution of joint assets in the event of a divorce, namely the distribution of joint

assets in accordance with the reading of the decision by the panel of judges which must be divided in half and must be carried out by the parties to the case. Obstacles that occur during the distribution of joint assets after a divorce occurs, namely when the parties to the case do not want to carry out the order for the distribution of joint assets that has been determined or has been read out by the panel of judges so that execution must be carried out, as well as the obstacles that occur in the distribution of joint assets that can be in the form of legal and non-juridical obstacles. Juridical obstacles, namely the implementation must be in accordance with the stages that require a relatively long time, whereas if the obstacles are non-jurisdictional, namely distribution which if it cannot be divided in kind then an auction must be carried out. Efforts to overcome these obstacles are through efforts to restore peace to the litigants (MERTOSONO, 2017).

Shaykh Nawawi's thoughts as contained in the book *Uqudullijain* are said to be very concerned about the importance of knowing and exercising the rights of husband and wife in the family sphere. Thus each individual, both wife and husband, will be aware of what should be done in the family. This can reduce the level of problems in the family so as not to

divorce. The social context when Shaykh Nawawi wrote the book *Uqudullujain* in the field of Islamic scholarship was very developed. This can be seen from the various Islamic scholarships at that time, such as monotheism, fiqh, hadith, and interpretation. Speaking of relevance, any scientific work must have relevance.

The *Uqudullujain* book is important to teach today because it contains important family rules, such as introducing the rights between husband and wife. This will affect what should be done by each party. These rules are not trivial, because these rules are directly referred to from the basis of the Koran, hadith, and the opinions of scholars. The author believes that the basis is clear enough between right and wrong. Thus Muslims can return to the teachings of the Prophet Muhammad SAW (Mufti, 2021).

Broadly speaking, there are two kinds of husband's obligations to his wife, namely: material obligations and immaterial obligations. Obligations that are material, namely dowry and maintenance, while immaterial obligations, namely good association and good mu'amalah and justice. The wife's obligations which later become the husband's rights are only rights that are not material, such as obeying her husband in good matters, etc. If this regulation is

carried out, at the end it will produce a family that is *sakinah*, *mawaddah*, *warahmah* (Ikrom, 2015).

The obligations of the husband as well as the rights of the wife according to the Qur'an are first, to provide a living, a living must indeed be adjusted to the standards that apply in a society, not minimal and not excessive according to the husband's ability and a living should be given according to needs. Second, a proper residence or home for the wife's rights, which is the responsibility of the husband. Third, a husband is obliged to treat and associate with his wife in a good way. Fourth, the husband is obliged to voluntarily give dowry to his wife accompanied by love and affection without expecting anything in return (Hidayatulloh, 2019).

The rights and obligations of husband and wife according to the book *'Uqudullujain* are no different from fiqh books for women. It's just that the book *'Uqudullujain* describes more of the obligations of the wife, with the reason that the wife is like a prisoner for her husband. Whereas the rights and obligations of a wife who has a career according to the book *'Uqudullujain* and the book of fiqh for women are the same as the rights and obligations of a normal wife.

However, according to the book 'Uqudullujain, the wife's rights can be hampered if the wife works without the husband's permission. Meanwhile, according to the Jurisprudence book, women are not hindered because the husband's permission is not needed, only work must be in accordance with the feminine nature of women and permitted by the Shari'a (Jufri & Jupri, 2019).

Husband and wife understand that the position of wife and husband in the household is the same, but have different rights and obligations, although on the other hand the community understands that the position of the wife in the family is under the husband, they understand this from the understanding of salaf fiqh which states that the wife must uphold high her husband with honor and glory.

The concept of Islamic marriage teaches that the rights possessed by husband and wife are in balance with the obligations imposed on them, a husband or wife has balanced obligations. To realize a harmonious, sakinah and peaceful family, this can be done by fostering the appreciation of Islamic religious teachings, fostering mutual respect, fostering an attitude of efficient living, and fostering an introspective attitude of each husband and wife (Bastiar, 2018).

E. CLOSING

Based on the search results of researchers from various reference sources, the following points can be concluded: In the Syafi'i Madzhab there is no necessity of differences in rights and obligations for a wife who acts as the backbone of the family. The obligation to provide maintenance remains on the husband as long as the husband is able to work for it according to his ability. There was also no information regarding the amount required to provide maintenance for the wife, but it can be concluded that the amount is meet the basic needs that can support the wife's life such as sufficient food, clothing, and shelter. Although in classical literature it is stated that a wife must be submissive to her husband, in reality of course this obedience and submission must be for the benefit of all and the realization of a harmonious and prosperous household life. From the results of tracing the thoughts of Imam Syafi'i, it is evident that he even experienced a shift in thought due to environmental and socio-cultural differences in his residence. The legal istinbath method of Imam Syafi'i is of course inseparable from the Al-Qur'an, sunnah, ijma', and qiyas. However, many factors later influenced his decision-making during ijtihaad. Therefore, the researcher concludes that in the Shafi'i

school, the ability of a wife to work as the backbone of the family is considered a virtue in order to achieve the goal of marriage, namely a lasting marriage and expecting the pleasure of Allah SWT alone. As long as a wife is not immoral in her work, especially when her husband is not earning, then of course this is much better than a wife who is silent, owes money, or asks for a divorce. Helping each other and lightening the burden is a reference in household life.

In principle, no fundamental differences were found in terms of the rights and obligations of the wife as the backbone of the family in a review of the Shafi'i school of thought and the Compilation of Islamic Law. However, in "abnormal" conditions, of course, there will always be exceptions and rukhsoh for the mulatto. Madzhab Imam Syafi'i does not want difficulties for the preachers, therefore anything that brings benefit can always be pursued. Likewise in the Compilation of Islamic Law, where the law is present in the midst of a modern, multicultural society, there is always a gap in agreement for rights and obligations between human beings, especially husbands and wives who have very strong bonds, promise to live together, bear each other's rights, burden, and everything is intended to gain the pleasure of Allah.

Husband and wife understand that the position of wife and husband in the household is the same, but have different rights and obligations, although on the other hand the community understands that the position of the wife in the family is under the husband, they understand this from the understanding of salaf fiqh which states that the wife must uphold high her husband with honor and glory. The concept of Islamic marriage teaches that the rights possessed by husband and wife are in balance with the obligations imposed on them, a husband or wife has balanced obligations. To realize a harmonious, sakinah and peaceful family, this can be done by fostering the appreciation of Islamic religious teachings, fostering mutual respect, fostering an attitude of efficient living, and fostering an introspective attitude of each husband and wife

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