

SHEIKH ATHIYAH SAQR'S IJTIHAD METHOD ON THE OBLIGATION OF HUSBAND TO FULFILL WIFE'S WISHES WHEN CRAVING

Nur 'Aini

Universitas Islam Negeri Imam Bonjol Padang
2320040021@uinib.ac.id

Zainal Azwar

Universitas Islam Negeri Imam Bonjol Padang
zainalazwar@uinib.ac.id

Abstract: Support in a marital relationship is an obligation for a husband towards his wife and children. Fulfilling the wife's wishes when she has cravings is categorized as a husband's maintenance according to Sheikh Athiyah Saqr, which is also legally obligatory. However, seeing the phenomenon of excessive coveting from wives that often occurs nowadays, it is necessary to classify wives' desires, which the husband must fulfill by law. This research aims to analyze Sheikh Athiyah Saqr's method of ijtihad in his fatwa on the obligation for husbands to fulfill their wives' desires when they desire them and to relate the relevance to current phenomena. This research uses the library research method. The data collection technique used is library research. The data analysis technique used in this research is the descriptive method. The result of this research is that Sheikh

Athiyah Saqr in determining this fatwa used the qiyas and maslahah murlah methods. According to Sheikh Athiyah Saqr, the obligation of a husband to fulfill his wife's wishes when she desires is translated into the obligation of the husband to provide his wife with daily living. Apart from that, fulfilling the wife's wishes by the husband is considered to bring benefits to the wife and the fetus. However, it is necessary to limit the wife's wishes which must be fulfilled by the husband, namely wishes that do not violate the Shari'a, do not bring harm, and are still within the limits of the husband's capabilities.

Keyword: Cravings, Athiyah Saqr, Ijtihad, Livelihood

Introduction

In domestic life, husband and wife have their own rights and obligations. What is the husband's right is the wife's obligation and vice versa. The husband as the head of the family has an obligation to fulfill the wife's livelihood in his household. The division of rights and obligations is adjusted to their respective proportions. For parties who are subject to greater obligations, it means that they will get greater rights as well. In Islam, the provisions regarding the rights and obligations of husband and wife in the family are found in several places. The following Quranic verse is found in the Qur'an Surah An-Nisa' verse 19:

"O you who have believed, it is not lawful for you to take women by force, nor should you trouble them in order to take back some of what you have given them, except when they have done manifestly abominable deeds, and deal with them properly; then if you do not like them, then be patient, for you may dislike something, but Allah has made of it much good".¹

Sheikh Nawawi explained that the meaning of this verse is that husbands must treat their wives fairly, both in matters of overnight shifts (for men who are polygamous), maintenance rations, and behavior. This verse explains the balance between the rights and obligations of wives, such as in the relationship between husband and wife and also in terms

¹ Kementerian Agama, "Qur'an Kemenag," *Lajnah Pentashiban Mushaf Al-Qur'an*, 2020.

of maintenance..² Nafkah is a gift that is the husband's obligation to his wife in the form of material or non-material goods..³

One form of the husband's obligation to his wife in the form of material is the fulfillment of his wife's wishes..⁴ There is one time, a wife really wants her husband to fulfill her wishes, namely during pregnancy. The wife's desire at this time is also called *ngidam*. Etymologically, craving comes from the word *idam* which means to want, while terminologically, craving means a condition experienced by a pregnant woman when she really wants something, whether it is reasonable or beyond reasonable limits..⁵

The most common signs of cravings are decreased appetite, nausea, vomiting, emotional instability and so on. Nausea usually occurs due to changes in the sensory nerves. Even so, sometimes we encounter the desire to enjoy certain foods or new places and usually this desire comes impromptu. According to expert opinion, cravings are affected by changes in hormones and enzymes in the body. Hormonal changes during pregnancy can cause emotional instability which can affect the diet of pregnant women..⁶

From the description above, we can understand that the husband has an obligation to fulfill his wife's maintenance at any time as stated in the Qur'an. However, the author has not found a detailed explanation of the husband's obligation to fulfill his wife's wishes when she has cravings. An Egyptian cleric issued a fatwa regarding this matter which said that it is also obligatory for husbands to fulfill the wishes of wives who are craving..⁷

In his fatwa, we can interpret that this scholar said the law is obligatory and applies to all cases. In fact, there are many strange things that wives want when they have cravings that are considered burdensome to the point of distressing their husbands. For this reason,

² Syaiful Anwar, "Hak Dan Kewajiban Suami Istri Menurut Undang Nomor Tahun 1974," *Jurnal Hukum Keluarga Islam* 4, no. 2 (2020).

³ Septi Wulan Sari, "Perbandingan Hukum Keluarga Di Indonesia Dan Aljazair Tentang Nafkah," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023), <https://doi.org/10.37680/almanhaj.v5i1.2276>.

⁴ Misra Netti, "Hak Dan Kewajiban Suami Istri Dalam Bingkai Hukum Keluarga," *Jurnal An-Nabl* 10, no. 1 (2023).

⁵ santi yulia Winata, "Strategi Manajemen Konflik Interpersonal Pasangan Suami Istri (Pasutri) Yang Hamildi Luar Nikah," *Jurnal E-Komunikasi* 1, no. 2 (2021).

⁶ Eniyati and Devi Rahayu F, "SIKAP IBU HAMIL DALAM MENGHADAPI KETIDAKNYAMANAN KEHAMILAN TRIMESTER I DI PIYUNGAN BANTUL YOGYAKARTA," *Jurnal Kesehatan "Samodra Ilmu"* Vol. 08 (2017).

⁷ Dina Nuryani, "Kewajiban Istri Terhadap Suami Dalam Perspektif Hadis," *Jurnal Holistik* 6, no. 2 (2020).

the author is interested in discussing what *ijtihad* method was used by the Egyptian scholar Sheikh Athiyah Saqr in determining his fatwa and whether it is relevant to today's conditions.

In this research, the author uses the *library research* method.⁸ or the literature.⁹ Library research is a study that studies various reference books¹⁰ as well as the results of previous similar studies which are useful for obtaining a theoretical basis for the problem to be studied.¹¹ Library research is a data collection technique by reviewing books, literature, notes, and various reports.¹² related to the problem to be solved.¹³ Analysis technique¹⁴ The data used in this research is descriptive method¹⁵, This is research that seeks to describe existing data.¹⁶

Literatur Review

A study conducted by Hazarul Aswat and Arif Rahman contained in his journal entitled *The husband's obligation to provide maintenance in the Compilation of Islamic Law*. In his research he wanted to provide an explanation of the husband's obligation regarding *nafkah*. This is considered necessary to understand in order to realize harmony in the household. In this study, he explains that the Compilation of Islamic Law (KHI) in Indonesia adopts Islamic norms regarding the obligation of a husband to provide for his wife according to his ability, fulfill household needs, teach his wife about religion and so on because a wife

⁸ Mahanum Mahanum, "Tinjauan Kepustakaan," *ALACRITY: Journal of Education*, 2021, <https://doi.org/10.52121/alacrity.v1i2.20>.

⁹ Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum*, Yogyakarta. *Pencil Komunika*, vol. 1, 2007.

¹⁰ Wahyudin Darmalaksana, "Metode Penelitian Kualitatif Studi Pustaka Dan Studi Lapangan," *Pre-Print Digital Library UIN Sunan Gunung Djati Bandung*, 2020.

¹¹ Yati Nurhayati, "PERDEBATAN ANTARA METODE NORMATIF DENGAN METODE EMPIRIK DALAM PENELITIAN ILMU HUKUM DITINJAU DARI KARAKTER, FUNGSI, DAN TUJUAN ILMU HUKUM," *Al-Adl: Jurnal Hukum* 5, no. 10 (2013), <https://doi.org/10.31602/al-adl.v5i10.191>.

¹² Ardiansyah, Risnita, and M. Syahrhan Jailani, "Teknik Pengumpulan Data Dan Instrumen Penelitian Ilmiah Pendidikan Pada Pendekatan Kualitatif Dan Kuantitatif," *Jurnal IHSAN: Jurnal Pendidikan Islam* 1, no. 2 (2023), <https://doi.org/10.61104/ihsan.v1i2.57>.

¹³ Milya Sari, "Penelitian Kepustakaan (Library Research)," *Natural Science*, 2020.

¹⁴ Ali Geno Berutu, "Metodologi Penelitian Noeng Muhajir," *ResearchGate*, no. December (2017).

¹⁵ Rita Kumala Sari, "PENELITIAN KEPUSTAKAAN DALAM PENELITIAN PENGEMBANGAN PENDIDIKAN BAHASA INDONESIA," *Jurnal Borneo Humaniora* 4, no. 2 (2021), https://doi.org/10.35334/borneo_humaniora.v4i2.2249.

¹⁶ Amir Hamzah, "Metode Penelitian Kepustakaan (Library Research)," *Literasi Nusantara Abadi* 5, no. 1 (2020).

is his responsibility. If a husband is unable to provide for his wife in the form of housing, clothing and daily needs in the household, if the wife is patient with this situation and is willing, then the wife is included in getting a good religious education. Translated with DeepL.com (free version).¹⁷

Other research such as that written by Syauqie Fuady entitled Review of the Concept of Maslahah Asy Syatibi on Cosmetic Nafkah as a Support for Harmony in the Family. Nafkah has an influence in realizing harmony in a household. In addition, nafkah is also often a factor in causing quarrels and chaos in the household which leads to divorce. One of them is not fulfilling cosmetic needs which is one of the causes of a divorce in the household. Given the urgency of cosmetic needs for wives, in this case cosmetic needs can be categorized as maintenance that must be fulfilled by the husband. However, the burden of such maintenance in marriage is given in a ma'ruf manner, namely in good ways, which are in accordance with the traditions and situations of their respective communities. Translated with DeepL.com (free version)

However, it is not contrary to religious norms, common sense, or human nature, namely in accordance with the circumstances and the husband's ability. Cosmetic needs can be a driver and booster for the formation of a harmonious family. This is an implication of as-Syatibi's mashlahah which requires the withdrawal of benefits and rejects harm. Because seeing the needs that are also increasingly dynamic, the fulfillment of primary needs such as clothing, food, and shelter has not been able to realize family harmony, but with the existence of cosmetic maintenance which is categorized as a tertiary need will become a primary need that will support the formation of a harmonious family. Cosmetic materials fulfilled by the husband must be halal and pure, intended for interests that are permissible in shari'i and do not harm and are in accordance with the circumstances and the husband's ability. The need for cosmetics for this wife is mashlahah by bringing all forms of benefits such as supporting the appearance and cleanliness of the body, as well as maintaining and caring for the gifts of Allah Swt.and pleasing the husband so as to create harmony in the family, or rejecting all destructive possibilities by avoiding quarrels that even lead to divorce because the wife's needs such as cosmetics are not met. Translated with DeepL.com (free version)

Based on the literature review above, the author sees that there is no explanation of how the law of fulfilling the wife's cravings by the

¹⁷ Aswat Hazarul and Arif Rahman, "Kewajiban Suami Memberi Nafkah Dalam Kompilasi Hukum Islam," *Jurnal Al-Iqtisod* 5, no. 1 (2021).

husband. It only explains maintenance for the wife. Meanwhile, the second study analyzed how the benefits of cosmetic nafkah and the effect on household harmony. Interestingly here, the author will analyze the ijihad method of a scholar who issued a fatwa that the law is mandatory. Research on this has never been discussed as far as the author's literature.

Discussion

Cravings

Of the several signs of pregnancy, one of them is cravings. Pregnant women often crave certain foods, which is called cravings.¹⁸ Pregnancy is a series of processes that begin with conception or a meeting between an ovum and a healthy sperm and continue with fertilization, nidation and implantation. Pregnancy naturally can only occur when a woman has experienced puberty which is marked by menstruation. The time required in normal pregnancy is 38-40 weeks or approximately 40 weeks from the end of the first day of the last menstruation. The initial phase of pregnancy is called the first trimester which starts from conception until the 12th week of pregnancy. Hormonal influences and changes in production, anatomy and physiology generally occur in this phase, however, many mothers sometimes do not know that they are pregnant until the body actively works to adjust the pregnancy process. This adjustment can cause physical and psychological changes in the mother.

Pregnant women will experience many changes that will require mothers to be mentally and physically prepared so that the pregnancy they experience can grow healthy. The readiness of pregnant women will affect the mother in undergoing pregnancy comfortably. Mothers who are ready for their pregnancy will quickly make the decision to seek first aid by reaching out to health services when experiencing discomfort. The first visit of pregnant women (K1) to health services such as Puskesmas is the right way when the mother experiences discomfort. System changes in the mother's body during pregnancy require adaptation, both physical and psychological. It is not uncommon for mothers to experience discomfort in these changes, so it is necessary to provide prevention and treatment. If the discomfort is not addressed wisely, it can trigger anxiety in pregnant women, so concrete information is

¹⁸ Marcos Moshinsky, *Kajian Tentang Kehamilan Dalam Al-Qur'an Dan Asuhan Kebidanan, Nucl. Phys.*, vol. 13, 2018.

needed on how to overcome discomfort during the pregnancy period.¹⁹ A pregnant woman is a woman who is carrying a fetus in her belly.²⁰

Brief Profile of Sheikh Athiyah Saqr

Athiyah Muhammad Saqr was born in the village of Bahnabai, Markaz Az Zaqaziq, Ash Sharqiyyah Province, Egypt on November 22, 1914. As the tradition goes, Athiyah Saqr was taught to read and write the Quran from childhood in his village. He finished memorizing the Quran at the age of 9 years. While completing the tajweed of the Quran and studying the laws of reading at the age of 10 years.²¹ Athiyah Saqr started primary school in his village, which was then called Al-Madrasah Al-Ilzamiyyah Al-Awwaliyyah, a religious school under Al-Azhar. Later, he completed his secondary level at Ma'had Al-Azhar Az-Zaqaziq in 1347 AH (1928 AH). His learning career continued to college. The young Athiyah Saqr studied at the Faculty of Usuluddin at Al-Azhar University until he earned his shahadah Al-'Alimiyyah in 1360 AH (1941 AD).

After his bachelor's degree, Sheikh Athiyah Saqr took the Al-Wa'zh (Lecture) study program. It was this study program that later changed its name to the Department of Ad-Da'wah wa Ats-Tsaqafah in the same faculty. In 1363 AH (1943 AD), he achieved a special license in da'wah. He was ranked first in the class and pocketed a shahadah from Al-Azhar called Al-'Alimiyyah Ma'a Ijazah Ad-Da'wah wa Al-Irsyad. In Egypt, outstanding graduates have the main opportunity to work directly in several strategic sectors, both in Al-Azhar and the Egyptian Ministry of Waqf. Therefore, Sheikh Athiyah Saqr was immediately appointed as imam, preacher, and teacher at the Abdulkarim Al-Ahmadi Mosque located in Bab Asy-Sya'riyyah, Cairo, on August 16, 1943. Then, about a year later, in February 1944, Sheikh Athiyah Saqr moved to Al-Arba'in Al-Bahri Mosque in Al-Jizah Province, a mosque that is now called 'Ammar bin Yasir Mosque. Sheikh v was also appointed as an official preacher of Al-Azhar in 1365 AH (1945 AD). In this phase, to fulfill his khidmah in preaching, he often traveled to various regions.

¹⁹ Eniyati and Devi Rahayu F, "Sikap Ibu Hamil Dalam Menghadapi Ketidaknyamanan Kehamilan Trimester I," *Jurnal Kesehatan "Samodra Ilmu,"* 2017.

²⁰ Siti Zakiyatur Rofi'ah, "A Perilaku Kesehatan Ibu Hamil Dalam Pemilihan Makanan Di Kecamatan Pucakwangi Kabupaten Pati," *Solidarity: Journal of Education, Society and Culture* 6, no. 2 (2017).

²¹ Miftahus Sa'diyah, Khairul Anwar, and Nur Asyiah Siregar, "Pemikiran Muhammad Athiyah Al-Abrasyi Tentang Pendidikan Islam," *ANSIRU PAI: Pengembangan Profesi Guru Pendidikan Agama Islam* 6, no. 2 (2022).

For the first time, he was stationed in Thahtha City, Suhaj Province, Egypt. Then in As-Suwais Province. After that, he was assigned to Ra's Gharib, Al-Bahr Al-Ahmar Province, Egypt. In the end he served in Cairo. He carried out his career in the world of da'wah Al-Azhar well and rose one level after another until he reached his highest peak, namely as a supervisor (al-mufattisy) and then general supervisor (al-muraqib al-'am). He reached the age of retirement in 1400 AH (November 1979 AD). After a long khidmah in the path of knowledge and da'wah of Islam, Sheikh Athiyah Saqr passed away on 18 Zulkaidah 1427 AH (December 9, 2006 AD). He left the life of this world for an eternal life. His fatwas, works, and advice have become a legacy for the current generation of Al-Azhar. His body was buried in the village of his beloved birth, Bahnbai, Markaz Az-Zaqaziq, Ash-Sharqiyyah Province, Egypt.

Fatwa of Sheikh Athiyah Saqr Regarding the Obligation of Husbands to Fulfill Their Wives' Desires During Cravings

A contemporary Egyptian scholar and one-time Mufti of Darul Ifta al-Misriyah, Sheikh Athiyah Muhammad Saqr (d. 2006) was once asked the question "Is fulfilling the wife's request included in the category of obligatory maintenance?" His explanation is documented in his book entitled *Mausu'ah Ahsanil Kalam fil Fatwa wal Ahkam*, as follows: "It is well known that the husband's maintenance of his wife is obligatory, and there are many texts that explain this. The most important kinds of maintenance are food, clothing and shelter. Some of the fuqaha' have stated, among them the scholars of the Shaafa'i madhhab, that one of the things that Allah has commanded husbands to do is to provide for their wives properly and in accordance with their customs."

In his explanation, Shaykh Athiyah Saqr quoted the statement of Shaykh Awad in his book *Hasyiyah Shaykh Awad ala Syarhi al-Khatib, Iqna' matn Abi Suja'*, juz II page 190.

أنه يجب عليه لها فطرة العيد، وكحك العيد وسمكه، ولحم الأضحية، -الي ان قال-

وما تحتاجه عند الوحم

"It is obligatory for the husband to pay his wife's zakat al-fitr, give her Eid cakes, fish, udhiyah meat and whatever she needs during her cravings." He concluded:

والخلاصة أن ظاهرة الوحم معروفة من قديم الزمان، والعلم يشهد لها . ومن المعاشرة بالمعروف أن يهيئ الزوج لزوجته الحامل ما تميل إليه نفسها أثناء فترة الوحم لأن له تأثيرا على الجنين ، وأن يهيئ لها الجو الذي يدخل على نفسها البهجة وبخاصة أثناء الحمل والرضاعة

"The conclusion is that the phenomenon of cravings has been known from time immemorial and science bears witness to this. It is part of muasyarah bil ma'ruf (good neighborliness) for the husband to provide his pregnant wife with what she wants during her cravings, because this can have an impact on the fetus, and provide an atmosphere that brings joy to her, especially during pregnancy and breastfeeding."

Sheikh Athiyah Saqr's Ijtihad Method in the Fatwa on the Obligation of Husbands to Fulfill Their Wives' Wishes During Cravings

In the Qur'an there are several verses that explain the obligation to provide maintenance by the husband to his wife. It is found in surah AtThalaq verse 7: Let him who is able to provide for his wife according to his ability, and let him who is constrained in his means provide for his wife from the wealth that Allah has given him. Allah does not impose a burden on anyone but only what Allah gives him. Allah will give ease after hardship.²²

It is also found in Q.S Al Baqarah verse 233: and the obligation of the father to feed and clothe the mothers in a ma'ruf manner. a person is not burdened but according to his ability.... From the 2 verses of the Qur'an above, it is quite clear that the law of providing maintenance by the husband to his wife is mandatory. As in the marriage law as a formal guideline for the implementation of marriage in Indonesia, article 1 paragraph (1) explicitly states that the purpose of marriage is to form a happy and eternal family (household) based on God Almighty. With the regulation of marriage in the Marriage Law as a legal instrument, marriage is a legal action that implies legal risk, as a legal consequence that must be borne by the perpetrator of the legal action. The purpose of marriage as stated in Article 1 of the Marriage Law above, as a goal set by the constitution, has also regulated the legal

²² kementrian agama republik indonesia, "Al-Quran Kemenag," layanan kemenag, 2022.

risks that must be met, so that this goal can be achieved by the person taking legal action, namely marriage.²³

The legal risks of the act of marriage, the marriage law also regulates several things that have been outlined in the articles of the law, the fulfillment of which is an obligation for the perpetrators of marriage. And included among these legal risks is the problem of economic capacity, especially those related to the concept of daily living needs, as basic needs that must be met, to maintain the continuity of life as a human being. So, it is clear that *nafkah* is an obligation of the husband arising from marriage.

Maintenance is the primary responsibility of a husband and the primary right of his wife. If it is given to the wife gracefully, without the slightest element of miserliness, it is the main contribution that can bring balance and happiness to the household. *Nafkah* is one of the rights that a wife must get from her husband since they agreed to build a household with reference to the word of Allah which means that every person who is able to provide *nafkah* according to the level of his ability.²⁴

Based on this, Sheikh Athiyah Saqr issued a fatwa that the husband is obliged to fulfill the wife's cravings by using the method of *qiyas* and *maslahah mursalah*. In Arabic, *qiyas* means measurement, knowing the size of something, comparing or equating something with another.²⁵ Etymologically, *qiyas* means estimating or equating. To *qiyas* means to approximate or equate something to something else. Whereas terminologically, according to the scholars of *usul fiqh*, *qiyas* is equating something that has no legal text with something that has a legal text because of the similarity of the legal *illat*.²⁶

Qiyas means bringing together something that has no legal text with another thing that has a legal text because there is a similarity, the legal *illat*. Thus, *qiyas* is the application of analogical law to the law of something similar because the principle of similarity "*illat* will give birth to the same law as well. Therefore, as Abu Zahrah stated, the principle of *qiyas* is to connect two problems analogically based on the similarity

²³ Yuni Harlina, "TINJAUAN USIA PERKAWINAN MENURUT HUKUM ISLAM (STUDI UU NO. 16 TAHUN 2019 PERUBAHAN ATAS UU NO. 1 TAHUN 1974 TENTANG PERKAWINAN)," *Hukum Islam* 20, no. 2 (2020), <https://doi.org/10.24014/jhi.v20i2.9786>.

²⁴ Ibnu Rozali, "Konsep Memberi *Nafkah* Bagi Keluarga Dalam Islam," *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 6, no. 2 (2017), <https://doi.org/10.19109/intelektualita.v6i2.1605>.

²⁵ Moh Bahrudin, *Ilmu Ushul Fiqh, Journal of Chemical Information and Modeling*, vol. 53, 2019.

²⁶ Syekh Abdul Wahab Khalla, *ILMU USHUL FIKIH, News.Ge*, 2005.

of the causes and characteristics that form them. If the analogical approach finds similarities between the causes and characteristics between the two problems, then the consequence must also be the same law that is determined.²⁷ So qiyas can only be done when it is believed that there is really no single text that can be used as a basis for determining the law. Therefore, the first task that must be done by someone who will do qiyas, is to find whether there is a text that can be used as a basis for determining the law of the event or incident. If it is certain that there is no such text, then qiyas can be made.²⁸

Although there are differences in the editorials of classical and contemporary fiqh scholars in expressing the definition of qiyas, they agree to state that the process of determining the law through the qiyas method is not to determine and explain the law (al-kasyf wa al-izhhar li al-hukm) that exists in a case where the law is unclear. This revelation is done through an in-depth and thorough discussion of the 'illat of the case at hand. If the 'illat is the same as the 'illat of the law mentioned in the text, then the law of the case at hand is the law that the text has determined.²⁹ It can be concluded that qiyas is to relate and apply the ruling of a problem that has been determined in the text to a new problem because the two have the same illat. Therefore, if the text has explained the legal provisions of a problem and there is an illat for determining the law, then there is a new problem (event) whose illat is the same as what is explained by the text, then both apply the same legal provisions. In other words, it is possible to apply the same ruling on a matter that has a definite ruling if there is a similarity or link between the two.³⁰

Apart from qiyas, seykh athiyah saqr also uses the maslahah mursalah method. According to the language sense maslahah means benefit and mursalah means loose. These two words are then combined into one term (maslahah mursalah) which according to the scholars of ushul fiqh means a benefit that is not confirmed in the sharia to realize and there is no specific shara' argument either supporting or rejecting it.³¹

Al-maslahah al-mursalah means a benefit that is not mentioned by shara' and there are no arguments that tell you to do or leave it, while if it

²⁷ Satria Efendi, *Ushul Fiqh* (Jakarta: Keencana Prenada Media, 2009).

²⁸ Fatkan Karim Atmaja, "Perkembangan Ushul Fiqh Dari Masa Ke Masa," *Mizan : Jurnal Ilmu Syariah*, 2017.

²⁹ Umam Chaerul, *Ushul Fiqh 1* (Bandung: Pustaka Setia, 2000).

³⁰ Muhamad Haerudin and Romdiah, "PENGANTAR ILMU USHUL FIQH," *Makalah*, 2020.

³¹ Duski, "Metode Penetapan Hukum Islam Menurut Al-Syâthibî (Suatu Kajian Tentang Konsep Al-Istiqra' Al-Ma'nawî)," *Al-Adalah* XI, no. 2 (2013).

is done it will bring great goodness or benefit. Another meaning explains that *maslahah al-mursalah* means *maslahah* which is not mentioned by a specific text, but is in line with the will of the text. In other words, if there is an event for which there is no *shara'* provision and there is no *illat* that comes out of *shara'* which determines the clarity of the law of an event, then something is found that is in accordance with the law of *shara'* which will be based on the maintenance of harm or declare a benefit, then the event is called *al-maslahah al-mursalah*.³²

Maslahat means to bring benefit, to ward off harm and to remove hardship from them. Indeed, the benefit of humanity is not limited to its parts and individuals. The interests of mankind are not limited to its parts and individuals, and they will continue to arise in line with the development of human situations and conditions due to differences in environment. The ruling may bring benefit at one time and harm at another time. At the same time, sometimes a law can bring benefits in a certain environment, but bring harm in another environment.³³ The definition of *al-Maslahah* itself according to Al-Ghazali is basically an expression of attracting benefits and rejecting harm, but that is not what we mean; because attracting benefits and rejecting harm are the goals of creatures (humans), and the good of creatures will be realized by achieving their goals. What we mean by *maslahat* is preserving the objectives of *Shara'*/Islamic law, and the objectives of *Shara'* of the creatures are five: preserving their religion, soul, mind, offspring (some say offspring and honor), and property. Anything that involves preserving these five principles is called *maslahat*, and anything that removes these five principles is called *mafsadat* and rejecting them is called *maslahat*.³⁴

Al-Ghazali³⁵ explained that *Maslahah mursalah* is included in the *mauhumah* argument, it cannot be aligned with the validity of the *Qur'an*, *Hadith*, *ijma* and *qiyas* so that it can be said to be the fifth argument. According to him, every *maslahat* must be returned to maintaining and maintaining the objectives of *sharia*. And the purpose of

³² Zulfahmi Zulfahmi, "Urgensi Penyelenggaraan Kursus Pra Nikah Dan Relevansinya Dengan Esensi Perkawinan (Perspektif Maqasid ASy-Syari'ah)," *Al-Fikra: Jurnal Ilmiah Keislaman* 19, no. 1 (2020), <https://doi.org/10.24014/af.v19i1.10379>.

³³ M.NOOR HARISUDDIN, "Ilmu Ushul Fiqih," *Instrans Publishing*, 2020.

³⁴ Zainal Azwar, "PEMIKIRAN USHUL FIKIH AL-GHAZÂLÎ TENTANG AL-MASLAHAH AL-MURSALAH (Studi Eksplorasi Terhadap Kitab Al-Mustashfâ Min 'Ilmi Al-Ushûl Karya Al-Ghazâlî)," *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 1, no. 1 (2016), <https://doi.org/10.24952/fitrah.v1i1.327>.

³⁵ Ahsanul Anam, "KONSEP ILMU MENURUT AL-GHAZALI," *Progres* 6, no. 2 (2022).

the Sharia is known by al-Kitab, al-Sunnah and Ijma'. And therefore any Maslahah that does not refer to the Qur'an, hadith and ijma' and Maslahah in the form of gharibah which is not in accordance with the rules of sharia is a void Maslahah that cannot be used. So any Maslahah that refers to the Qur'an, alSunnah and Ijma' is not out of these arguments, but it is not called qiyas, but Maslahah mursalah.³⁶

Sheikh Athiyah Saqr issued a fatwa using the qiyas method because he saw the similarity between the two. In giving nafkah, the form is a gift or fulfillment of the wife's needs, both clothing, food and shelter. Similarly, when the wife is in a craving condition, it is the husband who is asked to fulfill the wife's wishes. In addition, it can also be interpreted that the illat of the husband's obligation to fulfill his wife's wishes when craving is considered a form of action or good treatment of the husband to his wife because he has made his wife happy. Treating the wife well has also been mentioned in the verse above that it is something that is commanded. So Sheikh Athiyah Saqr views that it is obligatory for the husband to fulfill the wife's wishes in the condition of cravings. In addition, it can also be interpreted that the method used by Sheikh Athiyah Saqr is maslahah mursalah because according to him the fulfillment of the wife's wishes by the husband can bring benefits to the wife and also the fetus.³⁷

Fulfilling the wife's wishes is also seen as realizing harmony in the household. In realizing a harmonious family, there are several characteristics that must be understood, according to Danuri, a happy family has characteristics, namely the existence of peace of mind based on devotion to God Almighty, harmonious relationships between individuals with other individuals in the family and society, guaranteed physical, spiritual and social health, sufficient clothing, food and shelter, legal guarantees,³⁸ especially human rights, the availability of reasonable education services, there is a guarantee in old age, so there is no need to worry about being neglected in old age, the availability of reasonable recreational facilities. There are several other aspects to improving harmony in the family, namely spiritual well-being and minimizing conflict. Based on these aspects of realizing harmony in the family is by

³⁶ Muhammad Huzaifi Muslim, "Kedudukan Maslahah Mursalah Menurut Imam Al-Ghazali," *Jurnal Al-Nadhair* 2, no. 1 (2023), <https://doi.org/10.61433/alnadhair.v2i1.24>.

³⁷ Fifi Hakimi and Wahidin Musta'in Billah, "QIYAS DALAM TINJAUAN HUKUM ISLAM," *DIRHAM Jurnal Ekonomi Islam* 3, no. 2 (2023), <https://doi.org/10.53990/djei.v3i2.234>.

³⁸ Hamda Sulfinadia, Deri Yanti, and Jurna Petri Roszi, "Keutuhan Rumah Tangga Suami Di Penjara (Studi Kasus Di Lembaga Pemasarakatan Kelas II A Bukittinggi)," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 2 (2021), <https://doi.org/10.29240/jhi.v6i2.3372>.

respecting each other, loving, caring communication, having time in the family, improving spiritual well-being and minimizing conflict.³⁹

In his fatwa, Sheikh Athiyah Saqr argues that husbands who fulfill their wives' wishes when they have cravings are considered to bring happiness and comfort to their wives. However, it does not explain the forms of the wife's wishes that the husband is obliged to fulfill.

Analysis of the Relevance of Fatwa Athiyah Saqr to the Phenomenon of Wife's Desire for Cravings in the Present Time

There are several cases or phenomena today, the author argues that the fatwa stated by Sheikh Athiyah Saqr is less relevant because it is still general. Maybe if in ancient times the wife who was coveting did not want something strange or beyond the ability of her husband, but today it is the opposite. The author wants to reveal one of the facts that occurred in Singapore, a husband who told me that his wife who was 24 weeks pregnant craved crabs. Initially the husband followed and fulfilled his wife's wishes. However, day by day his wife's cravings became stronger so that she did not want to eat except to eat crabs every day so that her husband spent money to fulfill his wife's wishes around 50 Singapore dollars or Rp. 530,000.00 to buy crabs. In one month she can spend as much as 600 Singapore dollars or Rp.6400,000.00. The husband has tried to find ways to persuade and even try to trick his wife by buying crabs at a low price, but his wife refused. This has made it difficult for the husband to fulfill his wife's wishes.

Moving on from one fact above, the author also often hears from daily conversations with a number of wives that their cravings do not want to see their husband's face. In fact, there are many more cases of wife cravings that can be categorized as strange and also troublesome for husbands. For this reason, when looking at the current reality, the author considers that there is a need for further explanation regarding the cravings of wives which should be fulfilled by their husbands. In addition, the author feels that this is important to be limited or classified because the strange desires of wives can lead to discord or disharmony in the household. Although in the expression of a young scholar from Kaliwungu, Kendal, Gus Rifqil Muslim Suyuthi said that craving is fine and husbands should fulfill their wives' wishes with restrictions that do not violate the Sharia, it has not been clearly explained what violates the

³⁹ Noffi Yanti, "Mewujudkan Keharmonisan Rumah Tangga Dengan Menggunakan Konseling Keluarga," *Al-Ittizaan: Jurnal Bimbingan Konseling Islam* 3, no. 1 (2020), <https://doi.org/10.24014/0.8710152>.

Sharia and the like. Because in reality, nowadays there are many cases of wives craving for strange things to ask their husbands.

If indeed Sheikh Athiyah Saqr raises the obligation of husbands to fulfill the wishes of wives who are craving with nafkah, of course there needs to be restrictions. Nafkah for women includes providing food, drink, clothing, and something that is a natural demand for a decent life for husband and wife without excess and deprivation. Islam encourages moderation and does not encourage dependence on wealth or a strong desire for pleasures. Rather, Islam encourages earnestness and accepts the expectation of perfection in various favors and imposes various kinds of adornments.⁴⁰

It is obligatory for the wife to be reasonable and not to go to extremes with regard to maintenance, housing, food, drink, and dress, both for them and for their children, because going to extremes in these matters and following fashions can lead to the wife changing household furnishings on different occasions. Isn't that destructive, and indeed it is jealousy-inducing, because some neighbors and relatives do it. All this is excessive and futile. Allah has expressly forbidden it. When man's lust submits to all this, he will face many difficulties because of his greed that knows no sufficiency and no limit. As with the flow of fashions in the current era, they change and alter the fashions in order to be followed and their merchandise sells well regardless of one's suffering. Indirectly, they are trying to divert one's wealth to something more useful. Thus, they have unwittingly subjugated human beings to material and external values.⁴¹

CLOSING

Sheikh Athiyah Saqr was one of the leading scholars in Egypt in his day. Sheikh Athiyah Saqr issued a fatwa stating that it is obligatory for husbands to fulfill the desires of wives who are craving by the method of Qiyas and Maslahah Mursalah. With this qiyas method, Sheikh Athiyah Saqr equated the mandatory law with the obligation to pay maintenance for husbands to wives. In addition, it is also linked to the command to treat wives well as stated in the Qur'an. As for the maslahah mursalah method, Sheikh Athiyah Saqr considers that the husband's treatment can bring benefits to his wife and children. However, it needs to be limited to the wishes of the wife that must be fulfilled by the husband are wishes

⁴⁰ Rizem Aizid, *Fiqh Keluarga Terlengkap, Laksana*, 2018.

⁴¹ Linda Hanafiyah, "Marriage Registration Obligation Policy (From Fiqh Munakahat to Marriage Law)," *International Conference on Islamic Studies (ICIS)* 2, no. 2 (2022).

that do not violate the Sharia, do not cause harm and are also still within the limits of the husband's ability.

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