

## **PROSPECTIVE LEGAL CONCEPT ON THE FULFILLMENT OF SUPPORT OBLIGATIONS FOR CONVICTED PERSONS**

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### **Abstract**

In many cases, prisoners serve as the primary breadwinners of their families, working to fulfill the needs of their wives and children before incarceration. When they begin serving their sentences, the families they leave behind often face severe economic hardship, which can lead to further social issues such as poverty, school dropouts, and even divorce. Although correctional institutions currently offer work training programs for inmates, these programs are generally not designed as productive work systems that guarantee fair wages or enable inmates to financially support their families. In cases where wages are provided, they are often symbolic or extremely minimal, with no systematic regulation within the national legal framework. Therefore, a legal breakthrough is needed in the form of regulation that affirms the rights of prisoners to work, receive fair compensation, and allocate their earnings to fulfill their family obligations. This study aims to analyze the concept of legal regulation concerning the obligation of prisoners to provide financial support, as well as to identify legal obstacles to the implementation of this obligation. The research method used is normative legal research. The findings indicate that the legal concept regarding the obligation of inmates to provide financial support remains largely unregulated under Indonesian law. Although prisoners retain responsibilities as heads of households, there is no binding legal mechanism requiring them to support their families during incarceration. While some correctional facilities offer work training and handicraft production programs, there is no structured system linking the income generated to the legal obligation of supporting their families. This highlights the urgent need for more operational, progressive, and socially just legal regulations. The legal perspective on the obligation of inmates to provide support holds that incarceration does not nullify this duty. Both marriage law and the Compilation of Islamic Law continue to require husbands or parents to provide financial support. However, there are currently no specific norms or provisions in Indonesian positive law that directly regulate or enforce this obligation in the context of incarceration. As a result, the families of inmates often lose their primary source of income without adequate legal protection. An ideal legal framework should align inmates' rights as correctional residents with their social obligations as family heads, materialized through fair and responsive legal arrangements that reflect social realities.

**Keywords :** Prisoners, Financial Support, Correctional Institutions

## INTRODUCTION

Humans are created by Allah SWT in this world in pairs, complementing each other. A man's life is incomplete without a woman always accompanying him. Conversely, a woman's life is incomplete without the presence of a man always accompanying her. Therefore, in this life, men and women become mutually dependent. Islam has regulated human life in this regard through a procedure that is in accordance with Sharia law, through a bond or gathering of two individuals who were originally living alone into a unity called marriage.

The beginning of family life is by performing marriage in accordance with religious provisions and statutory regulations (Depag, 2005). Marriage according to Islam is a strong and firm sacred covenant for a legitimate life together between a man and a woman, forming an eternal, mutually respectful, loving, peaceful, happy, and lasting family (Ramulio, 2002). In line with that, Article 1 of Law Number 1 Year 1974 concerning Marriage states that: "Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on belief in the One God (Abidin, 1993)."

Based on the above formulation, it can be seen that the content of the article contains two main meanings: the meaning of marriage and the purpose of marriage. Regarding the meaning of marriage, it is found in the phrase, "a physical and spiritual bond between a man and a woman as husband and wife," and relating to the purpose of marriage, it is found in the phrase, "forming a happy and eternal family (household) based on belief in the One God."

Marriage is the embodiment of the bond between a man and a woman who make a marriage covenant with the aim of creating a *sakinah, mawaddah, warahmah* household. Marriage is a sacred bond made in front of both families to establish kinship between the two families with good hopes for the future. Marriage is also performed with the blessings of both parties for the marriage that will be carried out. With the blessings of both parties, the marriage will be carried out according to the agreement of both partners. In marriage, both partners must also know the rights and obligations of both husband and wife in realizing a harmonious family. Because in this case, marriage is expected to bring happiness to both parties so as to create an eternal household. Thus, the large number of people getting married can add immeasurable happiness later so that people can live better.

Marriage is not enough with just a physical or spiritual bond; it must be both. This is what makes marriage a legal act in addition to a religious act. As a legal act, because it gives rise to legal consequences in the form of rights or obligations for both; while as a result of a religious act, because its implementation is always associated with the teachings of each religion and belief that have long provided rules on how marriage should be carried out.

The provisions regarding the rights and obligations of husband and wife in a household aim to ensure that the married couple can mutually understand each other's authority. Between them, they can know what constitutes the husband's rights or the wife's rights, and what constitutes the husband's obligations or the wife's obligations. Because what is the wife's right is the husband's obligation to fulfill, and the husband's right is the wife's obligation to fulfill.

These rights and obligations are divided into 3 (three) categories: common rights, wife's rights which are the husband's obligations, and husband's rights which are the wife's obligations (Thayib, 1991). The rights and obligations that arise between husband and wife must be accountable to each other. The husband is responsible for the wife, and the wife is responsible for the husband. Human responsibility begins from the smallest scope first (family) and then progresses to a wider scope (Hasan, 1996).

Islam has obligated the husband to provide *nafkah* (financial support) to his wife. With a valid marriage bond, a wife becomes bound only to her husband and becomes his property because the husband has the right to enjoy her forever. The wife is obliged to obey her husband, stay in his house, manage her household, care for and educate her children. Conversely, the

husband is obliged to meet her needs and provide *nafkah* to her as long as the husband-wife bond lasts and the wife does not commit disobedience (*nusyuz*) or for other reasons that make the wife not entitled to *nafkah* (Sabiq, 2007).

What is meant by *nafkah* here is both material and spiritual *nafkah*. Material *nafkah* includes all living needs or necessities, whether food, shelter, and all its services. Meanwhile, spiritual *nafkah* is the fulfillment of biological needs, such as love, affection, attention, protection, and in its concrete form is the marital relationship (Depdiknas, 2005). This is the ideal criterion for the *nafkah* that a husband must provide to his wife if he is financially and non-materially stable, and providing *nafkah* is obligatory according to the Qur'an, Sunnah, and Ijma'.

In reality, nowadays in household life, there are various problems that must be faced by both husband and wife. One of them is an imbalance in the fulfillment of material and spiritual *nafkah* between husband and wife, caused by the husband being entangled in criminal acts and becoming a convict who must serve a sentence, thus being called a prisoner (*Narapidana*). This problem makes the husband suddenly unable to fulfill his obligations because he has to serve a sentence in a correctional institution. This will certainly lead to problems in both moral and material burdens.

A convict is a human being, a member of society who is separated from his main group and for a certain period is processed in a specific institutional environment with correctional goals, methods, and systems. At some point, the convict will return to being a good and law-abiding member of society (Poernomo, 2002).

Correctional institutions are also places where convicts are forged with discipline by providing a deterrent effect. Here, convicts also receive guidance, direction, and mental and spiritual education, with the aim that after serving their sentences, they become better people and have awareness and a sense of responsibility for all their actions, so that they are reluctant to commit acts that violate the law.

The correctional efforts made by the Government certainly have various consequences for both the husband and wife. The husband may not be able to strive to meet the material and spiritual *nafkah* needs of the wife, or the wife may not be able to perform her sexual role towards her husband. But on the other hand, as long as the wife does not commit disobedience (*nusyuz*) towards the husband, and the husband does not divorce her, their relationship remains valid as husband and wife, and the husband is still responsible for providing *nafkah* to his wife and children.

So this becomes a problem where the husband, as a convict, is no longer able to carry out his responsibility to provide *nafkah* to his family. Thus, there is suddenly a new burden and task that the wife must bear, which is, in addition to being a housewife who has to take care of her children, she also acts as the head of the family who must think about the survival of her family. It is not too much of a burden for a wife of a husband (convict) who is already well-off or has a lot of wealth so that the wife does not have to struggle to find money, but for the wife of a husband (convict) whose economic life is difficult, they are forced to work to earn a living to meet daily needs, while *nafkah* is the husband's obligation that must be fulfilled as the head of the family.

The rights of convicts are regulated in Law Number 12 Year 1995 concerning Corrections, found in Article 14, namely: a. Performing worship according to their religion or belief; b. Receiving care, both spiritual and physical; c. Receiving education and instruction; d. Receiving decent health services and food; e. Submitting complaints; f. Receiving reading materials and following other non-prohibited mass media broadcasts; g. Receiving wages or premiums for work performed; h. Receiving visits from family, legal advisors, or certain other persons; i. Receiving sentence reductions (remission); j. Receiving opportunities for

assimilation including leave to visit family; k. Receiving parole; l. Receiving pre-release leave; and m. Receiving other rights in accordance with applicable laws and regulations.

However, not all of these laws can be applied in the reality existing within correctional institutions and need to be reviewed, so that a convict can still bear *nafkah* for his family despite his limitations within the correctional institution, and the convict also does not have to accept the consequence of divorce from his wife if she does not accept the situation he is experiencing.

The consequence of the non-fulfillment of *nafkah* for the wife and children in family life will lead to problems that can later trigger disputes and even end in divorce. *Nafkah* is an important factor in maintaining household harmony. Often, divorce and disputes arise due to insufficient *nafkah* or an imbalance between material and spiritual *nafkah*. Therefore, it cannot be denied that providing sufficient and balanced material and spiritual *nafkah* is the preservation of a family's peace, harmony, full of love and affection (Fitriana, 2024).

In the present time, due to the increasingly heavy demands of family life in meeting life's needs or as humans who can make mistakes, sometimes a husband commits an intentional or unintentional error. If this erroneous act falls into a legal violation, it will make him a convict who must serve a sentence (Aziz, 2023).

In marriage, when husbands commit legal violations that make them convicts, there is a new burden and task for the wife: how they maintain their household while the husband is serving his sentence. The wife's task becomes very heavy; in addition to being a housewife who has to take care of her children, she also acts as the head of the family who has to think about the survival of her family. It is not too much of a burden for a wife of a convict who is already well-off or has a lot of wealth so that the wife does not have to struggle to find money, but for the wife of a convict whose economic life is difficult, they also have to work to earn a living (Hadaiyatullah, 2024).

A marital or wedding life where the husband has to serve a prison term raises issues regarding the husband's *nafkah*. While serving a sentence in a correctional institution/detention center, the movements of convicts are very limited, and they still have the responsibility to provide *nafkah* to their wives and children. This becomes a problem faced by a prisoner regarding the obligation to provide *nafkah* (Nazam, 2024).

In a situation where a husband is serving a sentence as a convict, as long as his wife does not commit disobedience (*nusyuz*) towards him, and the husband also does not pronounce *talak* (divorce) or divorce her, their relationship remains valid as husband and wife, and the wife is still bound only to her husband, and the husband is still responsible for his wife and family (Lekahena, 2024).

Law Number 16 Year 2019 concerning Marriage is expected to improve and enhance the status of women. Before the enactment of this Marriage Law, many husbands treated their wives arbitrarily, neglected their obligation to provide *nafkah*, and divorced their wives without clear reasons. Law Number 16 Year 2019 concerning Marriage (hereinafter referred to as the Marriage Law) does not provide a specific definition of divorce. However, Article 39 paragraph (2) of the Marriage Law and its explanation state that divorce can be carried out if it complies with the specified reasons. Furthermore, this Marriage Law explains that marriage can be dissolved by death, divorce, and court decision (Nuroniya, 2019).

In terms of *nafkah* fulfillment, the Maliki school of thought states that the husband's *nafkah* obligation lapses if the husband is poor and unable to provide *nafkah* (Karimuddin, 2021). This is in accordance with the principle contained in the Compilation of Islamic Law (KHI) which regulates that a wife can release her husband from the *nafkah* obligation under certain conditions, as regulated in Article 80 paragraph (6) of KHI (Hamzani, 2010). Therefore, to provide justice for wives facing convict husbands who are unable to provide *nafkah*, there are several legal solutions and efforts that can be taken. In this context, not only Islamic law

applies, but also positive Indonesian law that can provide protection to wives in this difficult situation.

From the perspective of positive Indonesian law, there are several legal efforts that can be taken by the wife to ensure the fulfillment of *nafkah* or seek legal solutions related to *nafkah* problems arising from the husband's convict status (Siahaan, 2024). First, Filing a *Nafkah* Claim to the Religious Court. Even though the husband is a convict, the religious court has the authority to determine the husband's *nafkah* obligation to the wife in accordance with Law Number 16 Year 2019 concerning Marriage. The Religious Court can consider the husband's economic conditions and legal status to make a fair decision. If the husband is unable to provide *nafkah*, the court can grant a postponement or exemption of *nafkah* in accordance with the husband's ability, which is in line with the provisions in Article 80 paragraph (6) of KHI (Nurlaelawati, 2010).

A number of developed countries have long employed convicts in various forms of productive work accompanied by wages. One prominent example is in Norway, particularly at Bastøy Prison. This prison is known as a rehabilitation-focused prison, where convicts are employed in agricultural, fishing, environmental maintenance, and administrative tasks. Convicts in Bastøy earn a daily wage of around 63–80 NOK (about Rp 90,000–Rp 115,000) which they can use to buy daily necessities or save. Another example is in the United States, through the Federal Prison Industries (UNICOR) program. Convicts working at UNICOR are paid wages ranging from 23 cents to US\$1.15 per hour. Although these wages are often criticized as being too low, this system allows convicts to earn income, pay restitution, or save for their release.

The main legal basis governing marriage in Indonesia is Law Number 1 Year 1974 concerning Marriage, which has now been partially amended by Law Number 16 Year 2019 concerning Marriage. This law stipulates that marriage aims to form a happy and eternal family based on belief in the One God. This Marriage Law also emphasizes that marriage is not only a private relationship but also has a social dimension regulated by the state for the sake of order and legal protection.

The concept of Correctional Institutions (*Lapas*) as places of rehabilitation is regulated in Law Number 22 Year 2022 concerning Corrections (replacing Law No. 12 Year 1995). This law asserts that the purpose of corrections is to prepare convicts to integrate healthily into society. Law Number 22 Year 2022 concerning Corrections provides a legal basis for convicts to participate in work development programs that can generate income. Article 38 of Law Number 22 Year 2022 concerning Corrections states that based on Litmas results, guidance includes: a. personality development; and b. independence development. Furthermore, Article 39 of Law Number 22 Year 2022 concerning Corrections states that paragraph (1) Independence development as referred to in Article 38 letter b can be enhanced into activities that produce goods and services with benefits and added value. (2) The results of the development as referred to in paragraph (1) become a source of non-tax state revenue in accordance with the provisions of laws and regulations.

Counseling and Mediation. In Indonesian positive law, family mediation or counseling processes can be carried out through relevant institutions, such as mediation institutions in the Religious Court or other social institutions (Hartawati, 2022). Mediation can help resolve disputes between husband and wife regarding *nafkah* issues without going through litigation. In this case, a neutral third party can help reach a fair agreement, both regarding *nafkah* and the division of joint property. This approach is in line with the principles of positive Indonesian law that encourage peaceful dispute resolution.

Although convict husbands may not be able to fulfill their obligation to provide *nafkah*, both Islamic law and positive Indonesian law provide several solutions that allow *nafkah* fulfillment to be done fairly, considering the abilities of each party. In this case, the wife can

choose to understand or take over the *nafkah* obligation, but still maintain the principles of justice and partnership in living household life. If necessary, the wife can pursue legal efforts, such as filing a *nafkah* claim with the religious court, utilizing joint property, or participating in a mediation process to achieve the best solution for both parties.

In many cases, convicts are the backbone of the family who worked to meet the needs of their wives and children before being detained. When convicts serve their sentences, the abandoned families often experience extraordinary economic pressure, often even triggering further social problems such as poverty, dropping out of school, and even divorce.

Currently, correctional institutions actually have work development programs for convicts. However, these programs are generally not yet oriented as productive work systems that guarantee convicts receive wages equivalent to their work and can be allocated to support their families. Convict wages, if any, are often symbolic or very minimal, and are not yet systematically regulated in the national legal system. Therefore, a legal breakthrough is needed in the form of regulations that affirm the right of convicts to work, receive decent wages, and allocate them to fulfill their *nafkah* obligations to their families.

Based on the description above, the author is interested in discussing this topic in a thesis titled: Prospective Legal Concept On The Fulfillment Of Support Obligations For Convicted Persons.

## **RESEARCH METHODS**

The research to be conducted by the author is normative legal research, which is research based on applicable legal norms. In this case, the research is carried out on the "Prospective Legal Concept for the Fulfillment of Support Obligations for Convicts."

The type of research used by the author is normative legal research, specifically library legal research, as it primarily relies on library materials. In this normative legal research, the author examines legal principles originating from specific areas of legal systems by first identifying the legal norms that have been formulated in particular laws and regulations.

Furthermore, the research approaches used to answer the research problems are the Statute Approach, which is used to examine all laws and regulations related to the research problem or legal issue at hand, and the Case Approach, which is used to examine cases related to the legal issue being faced. The cases examined are those with legally binding court decisions related to the research problem.

## **RESULT AND DISCUSSION**

### **A. Concept of Regulating Financial Support Obligation for Convicts in Correctional Institutions**

In the Indonesian legal system, a convict is an individual who has been sentenced to imprisonment based on a court decision with permanent legal force. Although losing some of their freedom, a convict retains their position as a legal subject with certain rights and obligations, including the moral and legal obligation to provide financial support (*nafkah*) to the family left outside the correctional institution. However, reality shows that the regulation of financial support obligations for convicts is still not explicitly and operationally regulated in the Indonesian legal system. This raises fundamental questions about the extent to which the state can and should regulate this obligation within a prospective, just, and humane legal framework.

The obligation to provide financial support by a husband or father is a fundamental principle in the family legal system in Indonesia, both according to positive law and Islamic law. Even if a man is in a special condition, such as serving a prison sentence, this obligation remains inherent. This is in line with the principle of responsibility and justice in family relations, where a person's legal status or physical condition does not automatically nullify their

responsibility towards their children and wife. This study will discuss how the concept of *nafkah* obligation remains applicable to convicts, by referring to the Civil Code (*Kitab Undang-Undang Hukum Perdata - KUHPerdata*), the Compilation of Islamic Law (*Kompilasi Hukum Islam - KHI*), the Correctional Law (*Undang-Undang Pemasyarakatan*), and the Child Protection Law (*Undang-Undang Perlindungan Anak*).

*Nafkah* can also be interpreted as a husband's provision to his wife, children, and also to his relatives as basic necessities in daily life. If someone is said to provide *nafqah*, it means that their wealth is slightly reduced because it has been spent for the benefit of others. However, if the word *nafqah* is associated with the word marriage, it means "something that is expended from one's wealth for the benefit of one's wife, thereby reducing one's wealth" (Munawwir, 2002).

Regarding the regulation of *nafkah* in Marriage Law Number 1 Year 1974, we can see it in Article 34 paragraph (1) which reads: "The husband is obliged to protect his wife and provide all household necessities according to his ability" (Arif et al., 2022). Another obligation of the husband to the wife is to provide a decent place to live for the wife, according to the husband's ability. The obligation of a husband to his wife as regulated in Article 80 paragraph (2) of the Compilation of Islamic Law is to be a guide to the wife and household, but important matters in household affairs must be decided by the husband and wife. Article 80 of the Compilation of Islamic Law paragraph 4 states that, according to his income, the husband is responsible for: a. *nafkah*, clothing (*kiswah*), and residence for the wife; b. household expenses, care expenses, and medical expenses for the wife and children; c. education expenses for the children (Tim Redaksi Nuansa Aulia, 2009).

The Civil Code also regulates *nafkah*, namely in Article 107 paragraph (2) of the Civil Code as follows: "Every husband is obliged to accept his wife into the house he inhabits. He is also obliged to protect her and provide her with everything necessary, in accordance with his position and ability" (Huda & Munib, 2022).

The position of *nafkah* is something that is very influential in the family. The husband becomes the pillar in carrying out household life. Primary and secondary needs must be met according to the needs and ability of the husband. The wife, meanwhile, becomes an encouragement for the husband in carrying out this responsibility. A wife's obligation is to serve her husband well according to the husband's needs; the wife also has obligations towards the husband.

The position of *nafkah* in the household according to positive law itself is adjusted to the rights and obligations of husband and wife, and the family life situation is explained according to the actual law. As stipulated by Marriage Law Number 1 Year 1974 Article 30 which states "husband and wife bear the noble obligation to uphold the household which is the basic foundation of social structure." From this article, it is explained how husband and wife are responsible for their obligations in the household, so that it can have a good impact on the family, thereby achieving the goal of the marriage.

Furthermore, Article 33 of Law Number 1 Year 1974 concerning Marriage explains that "husband and wife are obliged to love, respect, be loyal, and give physical and spiritual assistance to each other." A husband and wife who love and respect each other would not possibly tarnish each other's good name.

Article 34 explains that: (1) the husband is obliged to protect his wife and provide all household necessities according to his ability. (2) the wife is obliged to manage household affairs as well as possible.

From these articles, it is explained that *nafkah* is imposed on the husband, covering both material and spiritual needs in the household. From this, the position of *nafkah* is closely related to the duties and functions of husband and wife, namely mutual care, respect, and attention to their partners.

According to positive law, *nafkah* signifies that a right has been obtained after the fulfillment of an obligation. The husband must take good care of his wife, provide what the wife needs in household life, and then the wife has an important role in the household, namely managing household affairs well.

Article 149 KHI regulates several obligations of a former husband to his former wife whose marriage ended due to *talak* (repudiation), including providing a decent *mut'ah* to his former wife, in the form of money or goods, unless the former wife was *qobla al dukhul* (before consummation). *Nafkah Mut'ah* according to Article 1 letter (j) is a provision from a former husband to his wife, who has been divorced, in the form of goods or money and others. Based on Article 158 KHI, *Mut'ah* can be given provided that the dowry for the wife *ba'da al dukhul* (after consummation) has not been determined and the divorce was at the husband's will. Based on the above provisions, the obligation to give a decent *mut'ah* by the former husband to his former wife is imperative and inherent, whether financial (money) or non-financial (tangible goods), unless the wife has never been consummated by her husband (*qobla al-dukhu*) during their marriage (Fatimah, 2014).

Furthermore, the husband must provide *nafkah*, residence (*maskan*), and clothing (*kiswah*) to his former wife during her *iddah* (waiting period), unless the former wife has been irrevocably divorced (*talak ba'in*) or committed disobedience (*nusyuz*) and is not pregnant. *Nusyuz* refers to a wife's disobedience to her obligations in a marital relationship, leading to disputes in the household.

*Nafkah iddah*, *maskan*, and *kiswah* are provided to the former wife during the *iddah* period, unless the divorced woman has been irrevocably divorced (*talak ba'in*) or committed *nusyuz* and is not pregnant. The meaning of *nusyuz* is a state where a woman, as a wife, does not fulfill her obligations to her husband, which is to be devoted physically and spiritually. Determining whether a woman as a wife is *nusyuz* is based on valid evidence presented during the trial process. However, the former husband is obligated to provide a place to live (*maskan*) for the woman after divorce during her *iddah* period, regardless of whether the former wife committed *nusyuz*. This is regulated in Article 81 KHI.

*Nafkah hadhanah* is financial support given to a child until the child reaches adulthood and can take care of themselves. Article 80 Paragraph 4 Letter (c) KHI states that family *nafkah*, which includes living expenses and education for children, is borne by the father. Similarly, after a divorce, Article 105 KHI states that child maintenance costs are borne by the father. This indicates that child maintenance costs, both before and after divorce, remain the responsibility of the husband. The former wife is also entitled to child custody or *hadhanah* for children under 12 years old. And also entitled to outstanding dowry by settling the entire outstanding dowry, and half if *qobla al dukhul* in accordance with Article 149 letter (c) KHI (Iksan, 2020).

Juridically, the Civil Code affirms that in a marital relationship, the husband is responsible for the maintenance of his wife and children. Article 186 of the Civil Code states that the husband is obliged to provide *nafkah* to his wife during the marriage, regardless of whether they live together or not. This implies that the responsibility is not only physical (in the sense of shared residence) but also legal and moral. Thus, a husband who becomes a convict and is serving a prison sentence is not automatically exempt from the obligation to provide *nafkah* to his family.

In the context of Islamic law codified in the Compilation of Islamic Law (KHI), similar provisions are also found. Article 80 paragraph (4) KHI states that the husband remains obligated to provide *nafkah* to his wife even if the wife does not live in the same house, as long as there is no disobedience (*nusyuz*) from the wife. Likewise, in Articles 149 and 156 KHI, it is stated that *nafkah* is a child's right that must be fulfilled by the father, even after divorce. From this perspective, the *nafkah* obligation is not terminated by the father's or husband's personal situation, unless it is legally proven that he is truly economically unable. Therefore,



the presence of a father behind bars does not automatically remove his financial responsibility to his family.

However, on the other hand, Law Number 22 Year 2022 concerning Corrections, which is the latest regulation in the Indonesian penal system, does not explicitly mention the *nafkah* obligation for convicts. This Law focuses more on the rights and rehabilitation of convicts, including the right to worship, receive education, work training, health services, and family visits. Nevertheless, the absence of an explicit clause regarding *nafkah* obligation does not mean that convicts are free from this responsibility. Precisely because convicts still have the right to work and receive skill training, there is legal and moral room that allows them to continue fulfilling their *nafkah* obligation, especially for convicts who work while serving their sentence (e.g., in work programs in correctional institutions).

In practice, the condition of convicts who have no income is a major obstacle in fulfilling their *nafkah* obligation. Convicts, especially those serving long sentences, often lose their regular source of income which was previously the family's livelihood. Informal work or entrepreneurship pursued before detention usually cannot be continued. In fact, in many cases, convicts come from economically disadvantaged backgrounds, so even before entering prison, they already had difficulty meeting their family's basic needs. Nevertheless, this does not mean that the *nafkah* obligation automatically lapses. In principle, legal responsibility remains inherent. In this context, there is a possibility for the family, especially the wife, to demand the fulfillment of *nafkah* through civil legal channels. Such a lawsuit can be filed with the religious court (for Muslim couples) or the district court (for non-Muslims), on the grounds that the husband is not fulfilling his obligations as head of the family. Article 34 paragraph (3) of the Marriage Law even states that if one party does not fulfill their obligations, the other party can file a lawsuit with the court.

However, the problem that arises is not only about legality but also about effectiveness. If an imprisoned husband truly has no income and does not get a job while in the correctional institution, a court decision winning the wife's *nafkah* claim will be difficult to implement practically. In this case, the court may set the amount of *nafkah* to be paid, but enforcement of the execution will not yield results if there are no assets or income from the defendant that can be seized or used to pay.

In addition, the wage system in correctional institutions tends not to be in line with the regional minimum wage (UMR). Convicts working in correctional institution workshops, for example, only receive wages in the form of pocket money or small savings, with a certain percentage having to be deposited with the state. In such conditions, the results of convict labor cannot be fully relied upon to adequately support family needs. However, even if small, this can still be a source that can be allocated, especially if the convict has commitment and support from correctional officers to arrange the regular distribution of work results to the family.

Sociologically, the burden of fulfilling a convict's *nafkah* often shifts to the extended family, especially parents, siblings, or the wife. In many cases, the convict's wife has to become the sole breadwinner and play a dual role in the family. Meanwhile, children are vulnerable to neglect, dropping out of school, and other psychosocial problems due to the absence of a father figure and economic pressure. The state does not yet have a specific social protection scheme for convicts' families, even though they are in a vulnerable position.

From a legal protection perspective, this situation indicates a significant regulatory void. The state has not provided certainty on how *nafkah* obligations are fulfilled in such special situations. The National Commission on Human Rights for Women (*Komnas Perempuan*) and the Indonesian Child Protection Commission (*KPAI*) have also noted that convicts' families often become a marginal group overlooked by social policies. The mechanism of *nafkah* by convicts is a complex issue that not only concerns legal aspects but also economic, social, and policy aspects. Legally, the family still has the right to sue for *nafkah* fulfillment even if the

husband or father is in prison. However, practically, the execution of *nafkah* obligations will greatly depend on the convict's economic condition, including access to work programs in correctional institutions. Therefore, the state needs to be present in the form of affirmative policies, for example, through social assistance for convicts' families or the expansion of productive work programs in correctional institutions specifically directed at fulfilling family *nafkah*.

It is also necessary to formulate a regulatory mechanism that allows the proceeds of convict labor to be routinely allocated for the benefit of the family, especially young children who require education funding. In the long term, the state needs to broaden the understanding that imprisonment should not stop the economic rights and social protection for abandoned families, especially children who should not bear the consequences of their parents' criminal acts.

In addition, Law Number 35 Year 2014 concerning Child Protection as an amendment to Law No. 23 Year 2002, explicitly states that parents are responsible for the care and upbringing of children. Article 26 (1) Parents are obliged and responsible for: a. nurturing, caring for, educating, and protecting Children; b. developing Children according to their abilities, talents, and interests; c. preventing marriage at child age; and d. providing character education and instilling moral values in Children. (2) In the event that Parents are absent, or their whereabouts are unknown, or for some reason cannot fulfill their obligations and responsibilities, the obligations and responsibilities as referred to in paragraph (1) may be transferred to the Family, which is carried out in accordance with the provisions of laws and regulations. This Law does not provide an exception for parents who become convicts. This means that as long as they are still fathers, convicts still have obligations towards their children. In fact, in some cases, the inability or negligence of the father to fulfill child support can be used as a basis for filing a civil lawsuit or a report to child protection agencies.

In practice, several court decisions have reinforced the view that convicts can and should still fulfill their *nafkah* obligations. Civil lawsuits related to *nafkah* are often filed by the wife or child's guardian to the religious court (if the parties are Muslim) or the district court (if non-Muslim) to demand *nafkah* that is not provided by the husband who is serving a prison sentence. In certain cases, judges can order the husband to sell assets, or require the husband's family to channel *nafkah* assistance on the basis of appropriateness, although the primary responsibility remains with the father.

The implementation of *nafkah* obligation by convicts involves technical and economic aspects. Not all convicts have access to work or income while serving their sentences. In this case, the court usually considers the objective conditions of the convict to determine a reasonable amount of *nafkah*, or even postpone the implementation until he is able. Nevertheless, legal principles still dictate that the obligation does not lapse merely due to imprisonment.

However, when a husband or father serves a criminal sentence and is confined in a Correctional Institution (*Lapas*), the fulfillment of this *nafkah* obligation faces practical and legal challenges. Although the obligation legally remains inherent, its realization is almost impossible when the convict has no regular income or assets that can be utilized.

Juridically, up to now, there is no explicit regulation concerning the procedure for fulfilling *nafkah* obligations by convicts who do not have a regular income. There is no specific regulation governing the mechanism for paying *nafkah* from the proceeds of convict labor in correctional institutions to their families. Although courts can rule on *nafkah* obligations through civil lawsuits, such decisions are difficult to execute when the defendant is a convict and has no assets or income that can be reached by law.

The absence of detailed regulation indicates a legal vacuum. The state has not provided adequate legal instruments to ensure that convicts' families still receive their economic rights,

especially when the convict is the sole breadwinner in the family. However, according to the principle of legal protection in the theory of a rule of law state, the basic rights of the family, especially the wife and children, should still be guaranteed even if the head of the family is serving a sentence. Therefore, this legal vacuum not only impacts technical ambiguity but also has the potential to lead to violations of the principles of justice and protection for vulnerable groups.

From a sociological perspective, the absence of *nafkah* from convicts directly impacts the social welfare of families, especially wives and children. In many cases, convicts are the backbone of the family. When they serve a criminal sentence, the abandoned families face a double burden: loss of livelihood and the burden of social stigma as "convict families."

Convicts' wives often have to assume the role of primary breadwinner and child caregiver. Many of them did not have established skills or jobs before, forcing them to work in the informal sector with minimal income. This leads to a high level of economic vulnerability, especially in meeting basic needs such as food, education, and children's health.

Convicts' children are a very vulnerable group. In addition to being at risk of economic neglect, they also face psychological and social pressure. Stigma from the environment, economic difficulties, and the physical and emotional absence of their father can negatively affect their growth and development. Many studies show that children of convicts have a higher risk of dropping out of school, domestic violence, and even engaging in deviant behavior.

Theoretically, Correctional Institutions (*Lapas*) play an important role not only in carrying out convict rehabilitation but also in providing space for convicts to remain productive and responsible towards their families. This has been accommodated in Minister of Law and Human Rights Regulation Number 40 Year 2017 concerning Guidelines for the Implementation of Work Activities for Convicts. Under this regulation, convicts can participate in work programs that include handicrafts, agriculture, animal husbandry, and even industrial cooperation with private parties.

From the results of this work, convicts can receive incentives or wages. However, problems arise because the amount of wages given is very minimal and not uniform across correctional institutions. In addition, not all convicts get the opportunity to work due to limited facilities, work program quotas, or the type of crime committed.

Nevertheless, normatively, correctional institutions can facilitate the flow of a portion of the convicts' earnings to their families. This mechanism is not yet regulated in detail, but some correctional institutions have initiated internal policies that allow convicts to send a portion of their earnings to their families in the form of savings or transfers. This shows a potential that can be further developed through national policy.

Regulation of Convict *Nafkah* Obligation in Other Countries can be seen in the United States, where, although its criminal justice system is very repressive, there are policies that allow detention not to automatically exempt convicts from child support and spousal support obligations. In many states, convicts are still required to pay child support even if they have no regular income. However, a modification request can be filed with the family court if income drastically decreases or becomes nil due to imprisonment. This process is not automatic it must be filed and proven that the convict is genuinely unable to pay. In some cases, courts can arrange for a portion of the income earned by convicts from prison labor to be allocated for child support payments.

Furthermore, in Canada, the fulfillment of *nafkah* is viewed as part of moral and legal obligations, even when someone is in the correctional system. Convicts in Canada can participate in work programs within prisons and earn honorariums (albeit small). Through a system called the Inmate Trust Fund, convicts can transfer a portion of their earnings to their families or use it to pay *nafkah* debts. This system is also integrated with court orders so that support payments can be tracked and recorded as part of civil obligations.

In the UK, convicts can still be required to fulfill child support obligations, although the amount can be reduced or temporarily stopped depending on the financial situation. The body that regulates child maintenance (Child Maintenance Service) allows for the submission of requests for reduction or suspension of payments during detention. However, if a convict receives income from work in prison or from outside, the authorities can collect a portion to be given to the family.

Punishment is fundamentally not just about retribution for crimes, but also a process of social and moral rehabilitation of the perpetrator. In the context of convicts who have families, especially a husband and father, the rehabilitation process cannot be separated from responsibility towards the wife and children left outside the walls of the correctional institution. One of the most basic forms of responsibility is the obligation to provide *nafkah*. However, in the practice of corrections in Indonesia, this obligation has almost no space for adequate regulation or facilitation. Therefore, a correctional policy proposal needs to be put forward that makes the implementation of *nafkah*, both symbolically and practically, an integral part of the convict rehabilitation program.

The obligation to provide *nafkah* for wives and children is actually not only a legal responsibility but also a moral and social trust inherent in every head of the family. From the perspective of Islamic law, for example, the *nafkah* obligation remains valid as long as the marital relationship is legitimate, and does not disappear merely because someone is serving a sentence. In the national legal system, Law Number 1 Year 1974 concerning Marriage states that the husband is responsible for providing *nafkah* according to his ability.

Normatively, it can be concluded that the *nafkah* obligation by convicts remains legally and morally existent. The Civil Code and KHI affirm that the husband's and father's responsibility for the *nafkah* of the wife and children remains valid unless legally annulled. Meanwhile, although the Correctional Law does not explicitly mention this, other regulations such as the Child Protection Law and the Marriage Law continue to emphasize the role of parents in fulfilling the needs of children. In practice, courts also support the existence of this *nafkah* obligation through progressive decisions.

The protection of the right to *nafkah* for wives and children of husbands or fathers who become convicts must still be guaranteed. The state must be present not only in imposing sentences but also in ensuring justice and welfare for affected parties, especially women and children. The formation of derivative regulations or implementing regulations in the field of corrections that include a mechanism for channeling *nafkah* for convicts with families will be an important step in bridging these rights and responsibilities more operationally.

Sociologically, the obligation to provide *nafkah* to the family is an inherent responsibility of every head of the family, regardless of their legal status. When a person is convicted and placed in a correctional institution (*lapas*), their responsibility as a breadwinner does not automatically lapse. In this context, there is a gap between ideal conditions and actual practice, because most convicts lose access to sources of income due to being cut off from the world of work or business. Meanwhile, their families outside the *lapas* often experience severe economic pressure, especially if the convict was previously the sole breadwinner.

From the perspective of family law, especially according to Law Number 1 Year 1974 concerning Marriage and the Compilation of Islamic Law (for Muslims), a husband still has the obligation to provide *nafkah* to his wife and children as long as he remains the head of the family. When a husband goes to prison, there is no provision that automatically nullifies this obligation. However, on the other hand, there is also no specific regulation that obliges convicts to work to fulfill this obligation, or a legal mechanism that systematically guarantees the economic rights of convicts' families.

In the Indonesian correctional system, based on Law Number 22 Year 2022 concerning Corrections, convicts have the right to receive guidance, both personality development and

independence development. Independence development usually involves work training such as agriculture, carpentry, sewing, handicrafts, and so on. These activities are intended to equip convicts with useful skills after release, but it is also possible that these activities can be utilized to generate economic value during their sentence. This is where the regulatory potential lies: making convict work activities part of the obligation to provide *nafkah* to the family.

This concept has actually begun to be adopted in a limited way in some correctional institutions that have collaborated with the business world to market the work of convicts. However, this economic contribution has not been made part of a structured legal obligation. Ideally, the state can regulate a scheme where convicts who earn income from their work during their sentence can have a portion of that income directly allocated to their families outside as a form of *nafkah*. This mechanism requires accountable and transparent administrative arrangements, as well as supervision from correctional institutions.

A prospective legal approach to this issue can begin by reconstructing the paradigm of punishment, which has so far focused solely on aspects of retribution and imprisonment, into an approach that also emphasizes social responsibility and the restoration of convicts' social relationships with their families and communities. This means that punishment not only punishes but also educates and reshapes convicts' moral awareness of their responsibilities. Thus, regulating the obligation to provide *nafkah* for convicts becomes an integral part of the social rehabilitation process.

Normatively, there needs to be a provision in the form of a Government Regulation or even a revision of the Correctional Law that explicitly regulates a productive convict work scheme, the distribution of work proceeds, and the obligation to provide *nafkah* to the family. In such a system, the state can provide incentives to convicts who actively participate, for example, by reducing their sentence (remission) or other rights such as extended family visits. The state can also cooperate with the private sector to create organized, quality, and family-economic-oriented job opportunities for convicts.

From the perspective of legal protection, this policy will protect two vulnerable groups at once: convicts as inmates who still have the right to dignity and work, and convicts' families who often become indirect victims of imprisonment. Families, especially wives and children of convicts, often experience social stigma, economic pressure, and psychological distress due to the absence of the head of the family. Therefore, making the *nafkah* obligation part of the correctional system will strengthen the social safety net and reduce the risk of family disintegration, which ultimately also impacts social stability.

From a human rights perspective, this approach is consistent with the principles set out in the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which emphasize the importance of humane treatment of convicts and strengthening the rehabilitative role of correctional institutions. By providing convicts with the opportunity to continue fulfilling their economic function for their families, the state not only upholds criminal justice but also social justice.

In conclusion, the concept of regulating the *nafkah* obligation for convicts is a very relevant and urgent discourse to be accommodated in the national legal system. The presence of this policy will not only improve the quality of life for convicts' families but also strengthen the purpose of corrections as a process of rehabilitation and social recovery. The state needs to think more progressively and humanely in viewing convicts not merely as law violators but also as human beings who still have responsibilities and opportunities to improve themselves, including through the fulfillment of family *nafkah* during their sentence.

## **B. Legal Concept Regarding the Obligation of Financial Support for Convicts**

In the family legal system in Indonesia, the husband's obligation to provide for his wife and children is a fundamental principle guaranteed by law. Article 34 of Law Number 1 Year

1974 concerning Marriage explicitly states that the husband is obliged to protect his wife and provide all household necessities according to his ability. This obligation does not disappear merely because the husband is serving a prison sentence. The status of a convict is only a legal status in the criminal context, not a civil status that abolishes responsibility towards the family. Therefore, the wife still has the legal right to sue for financial support, and the state should intervene when the burden of financial support cannot be personally fulfilled by the convict due to economic constraints.

A lawsuit for financial support in this context can be filed through the religious court for those who are Muslim. The lawsuit can be filed on the grounds of unfulfilled material *nafkah* obligations, whether in the form of clothing, food, shelter, or children's education and health expenses. Even though the husband is in detention, the legal process can still be carried out, as the law does not grant immunity to a convict's status in civil family matters. In fact, Article 77 of KHI (Compilation of Islamic Law) states that a wife who has not been provided for more than three months without valid reason has the right to file for divorce or request *nafkah* from the court. This shows that the national legal system still views the continuity of *nafkah* responsibility as important, even in extreme conditions such as the husband's imprisonment.

The concept of *nafkah* contained in Law Number 1 Year 1974 concerning Marriage and the Compilation of Islamic Law serves as a rule for family relationships with the aim of providing solutions and addressing family problems considered more needed by the community concerning how men, once they become heads of families, and women, once they become wives. Wherein part of its content, Article 77 paragraph (1) states that husband and wife bear a noble obligation to build a household that is *sakinah*, *mawaddah*, and *rahmah*. Implicitly, both have a trust from God, a trust to protect one another, so that the marriage aligns with the purpose of marriage. Article 80 paragraph (4) states that, according to his income (ability), the husband is responsible for: a. *nafkah*, clothing (*kiswah*), and residence for his wife; b. household expenses, care costs, and medical expenses for his wife and children; c. education expenses for his children. This article explicitly only mentions that the husband is emphasized to provide necessities and broadly carry out responsibilities, and the moral message is to adjust to the husband's ability in providing what has become his wife's right.

In the household structure, *nafkah* plays a central role as the primary responsibility of the head of the family, which is usually the husband. *Nafkah* includes the fulfillment of basic family needs such as food, clothing, and shelter, as well as other needs according to ability. In addition, the head of the family is also responsible for children's education, maintaining good relationships within the family and community, and serving as an example for family members.

Article 83 paragraph (1) explains that a wife must obey and devote herself to her husband in anything that does not contradict the purposes of *syari'ah*. As a form of devotion, service, and obedience, a wife follows her husband's wishes, even concerning *nafkah* matters. If a wife helps her husband in seeking *nafkah*, this is a sign of obedience, devotion, and sympathy towards her husband, in accordance with that article. However, before such laws were written and universally realized in society, Islam already had rules for the concept of *nafkah* regulated in conventional *fiqh* contained in classical literary texts.

*Nafkah* is everything that humans need, including clothing, food, and shelter. Providing *nafkah* as the head of the family is absolutely essential for the family (Karim, 2007). The head of the household, as the family leader, has the primary duty to provide both material (*dhahir*) and spiritual *nafkah* to his wife and children within the family. An extended family is a family that consists not only of husband, wife, and children, but also includes younger siblings, in-laws, and nephews/nieces (Satriah, 2018).

In correctional institutions, convicts are given guidance in the form of personality and independence development. Independence development can be carried out through skill-building activities and work guidance that prioritize the talents and interests of the convicts.

This independence development is carried out so that convicts have professional skills that can be used when they complete their sentence and return to society (Panjaitan, 1995).

A convict who is serving a sentence in a correctional institution for having committed a criminal offense has the following rights (Priyatno, 2013): a. Not allowed to be confined in a dark cell or subjected to corporal punishment; b. Handcuffs and prison jackets may not be used on convicts; c. Entitled to know the applicable regulations and official channels to obtain information and submit complaints; d. Right to communicate with the outside world; e. Right to obtain educational reading materials such as books; f. Right to receive religious services; g. Right to guaranteed safekeeping of valuables; h. Notification of death or illness of family members.

A convict is a convicted person serving a sentence of deprivation of liberty in a correctional institution. Although convicted persons lose their liberty, certain rights of convicts remain protected within the Indonesian correctional system. Meanwhile, the definition of a convicted person itself is someone who has been sentenced based on a court decision that has gained permanent legal force. Convicts are obliged to obey existing regulations and orderly follow rehabilitation programs. In addition, convicts are also obliged to work while taking into account their health conditions.

The rehabilitation of convicts means treating a person with the status of a convict to be built up to become a good person. Based on this understanding of rehabilitation, the targets that need to be developed are the convict's personality and character, encouraging the cultivation of self-esteem and respect for others, and developing a sense of responsibility to adapt to a peaceful and prosperous life in society. Furthermore, they have the potential to become noble and highly capable individuals. The rehabilitation of personality and character referred to is not unlimited, but for a certain period of time, it provides a basic foundation so that convicts will not commit crimes again in the future and will obey the laws applicable in society.

The obligation to provide *nafkah* is part of a person's legal and moral responsibility towards their family, particularly in the context of the relationship between husband and wife or parent and child. In the Indonesian legal system, the obligation to provide *nafkah* is regulated in various legal instruments, such as the Civil Code (*KUHPerdata*), Law Number 1 Year 1974 concerning Marriage, and the Compilation of Islamic Law (KHI). However, when a person is sentenced and becomes a convict in a correctional institution, new complexities arise regarding how the legal concept regulates or treats this *nafkah* obligation. Does the obligation lapse, remain in effect, or need to be reconstructed? This question becomes the starting point in discussing the legal concept of the obligation to provide *nafkah* for convicts.

Normatively, Indonesian positive law does not explicitly state that convicts lose the obligation to provide *nafkah* during their sentence. In family law, both according to Islamic law and civil law, the obligation to provide *nafkah* is inherent in the status as a husband or parent, not dependent on one's physical presence or freedom. This means that even if a husband is serving a sentence in a correctional institution, legally he is still obliged to provide *nafkah* for his wife and children. However, in practice, the fulfillment of this obligation is often hampered by the convict's limited ability to earn income within the correctional institution.

Positive law has not explicitly regulated the mechanism for enforcing or implementing the *nafkah* obligation by convicts. This lack of regulation creates a legal vacuum that impacts legal certainty for convicts' families. In many cases, the wives or children of convicts who depend on the *nafkah* from their husbands or parents end up experiencing economic difficulties after the convict serves their sentence. This is certainly contrary to the principle of justice in law, as convicts' families become indirect victims of the penal system.

From the perspective of correctional law, Law Number 22 Year 2022 concerning Corrections provides room for convicts to engage in rehabilitation activities, both personality development and independence development. This independence development includes

vocational training and production activities that can provide skills and potential income. However, this Law does not specifically regulate that the proceeds of convict labor can or must be allocated to fulfill family *nafkah* obligations.

A more ideal and prospective legal concept should position convicts not only as subjects of punishment but also as legal subjects who have continuous rights and obligations, including obligations towards their families. This is in line with the goals of modern punishment, which no longer emphasizes retribution but rather rehabilitation, and social reintegration. Thus, it is necessary to formulate a legal instrument that allows the fulfillment of *nafkah* obligations to be carried out by convicts through a structured and fair legal mechanism.

In terms of legal principles, this concept reflects the principles of justice, legal certainty, and utility. The principle of justice is realized by maintaining a balance between the rights and obligations of convicts and their families. The principle of legal certainty will be fulfilled through clear regulations regarding the procedure for fulfilling *nafkah* obligations by convicts. Meanwhile, the principle of utility is realized by providing positive impacts on family welfare and preventing the emergence of social problems due to the inability of convicts' families to survive.

The legal concept of the obligation to provide *nafkah* for convicts requires holistic and humanistic legal reform. The state must dare to adopt a more progressive approach in the correctional system by incorporating the aspect of family responsibility as part of the convict rehabilitation process. Only in this way can law not only be a tool for punishment but also a means to improve social life and ensure justice for all affected parties.

Regarding the rights of convicts and detainees, the government has provided protection for these rights in Law Number 22 Year 2022 concerning Corrections, Government Regulation of the Republic of Indonesia Number 32 Year 1999 concerning Requirements and Procedures for Exercising the Rights of Correctional Inmates, and Government Regulation Number 58 Year 1999 concerning Requirements and Procedures for Exercising Authority, Duties, and Responsibilities for Detainee Care.

The fulfillment of convicts' rights as mentioned above is entirely the responsibility of the government. Responsibility, according to legal dictionaries, is a necessity for someone to carry out what has been mandated to them (Hamzah, 2005). Responsibility is human awareness of their intentional or unintentional behavior or actions. Responsibility is an obligation that must be borne as a result of an act by the acting party (Mustamu, 2014).

Government responsibility arises from the authority held by the government. In exercising its authority, the government has rights and obligations that must be carried out according to applicable provisions. According to Bagir Manan, authority in legal language is not the same as power. Power only describes the right to act and not to act. Authority means rights and obligations (Nurmayani, 2009).

Article 5 of Law Number 22 Year 2022 concerning Corrections states that convict rehabilitation must be carried out based on the following principles: First; Protection (*Pengayoman*), which means treating convicts to protect society from the possibility of repeated criminal acts by convicts, and also providing convicts with life skills to become useful citizens in society. Second; Equality of Treatment and Service. Equality means providing equal treatment and service to convicts without discrimination.

Education implies that the provision of education is carried out based on Pancasila, including instilling a spirit of family, skills, spiritual education, and opportunities to perform worship. Fourth; Guidance (*Pembimbingan*), means that the provision of education and guidance is carried out based on Pancasila, including instilling a spirit of family, skills, spiritual education, and opportunities to perform worship. Fifth; Respect for Human Dignity. As individuals who have erred, convicts must still be treated as human beings.



Deprivation of Liberty is the Sole Suffering. This means that although convicts must be in Correctional Institutions or Detention Centers for a certain period, the state must still fulfill their rights and they must have the opportunity to improve themselves. Seventh, the guaranteed right to remain in contact with family and certain individuals. Although convicts are in Correctional Institutions or State Detention Centers, they must still be allowed to communicate with family or relatives in the form of visits or family visit leave programs.

The system for obtaining wages or premiums that convicts will receive is adjusted to the amount of work completed. To carry out work activities, grouping will be done, where each group will be supervised by LAPAS officers. Convicts will be formed into groups that will cooperate as a team to work on assigned projects. After the work is completed, the results of the convicts' work are submitted to the work output processing section to be sold to entrepreneurs who are partners of the correctional institution (Akbar, 2019).

According to the author, the current correctional system still has many shortcomings in various aspects, both in terms of human resources and infrastructure. The disproportionate ratio between inmates and correctional officers is one of the obstacles in implementing an ideal correctional system. After all, correctional officers, categorized as human resources, are indeed human beings with inherent limitations, especially in carrying out their duties on the ground, which involves rehabilitating inmates of various types. This factor also hinders the provision of work wages for convicts, as limited human resources and inadequate infrastructure can impede the marketing process of convict labor products.

The amount of work wages stipulated in the Decree of the Minister of Justice of the Republic of Indonesia Number M.01-PP.02.01 Year 1990 concerning Funds Supporting Convict Rehabilitation and Convict Work Incentives, has fulfilled the principle of justice, where the convict's percentage of profit from the sale of their work is 50%. This is because convicts not only receive wages but also free training and skills as provisions after leaving the correctional institution, and these skills can later become a basis for improving their standard of living upon returning to the community.

Fulfilling the convict's right to receive fair wages for work can also be done by implementing an assimilation program in correctional institutions, where, according to Article 1 Number 4 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 Year 2018 concerning Requirements and Procedures for Granting Remission, Assimilation, Family Visit Leave, Parole, Pre-Release Leave, and Conditional Leave, assimilation is defined as the process of rehabilitating Convicts and Children by integrating Convicts and Children into community life. Basically, all convicts can be granted assimilation, with exceptions for those whose lives are threatened; or those serving life sentences.

The decision to grant assimilation is made by the Director General of Corrections on behalf of the Minister of Law and Human Rights. Requirements for Granting Assimilation to Convicts who Commit Certain Crimes. For Convicts sentenced for committing acts of terrorism, narcotics and narcotic precursors, psychotropics, corruption, crimes against state security and serious human rights crimes, as well as other organized transnational crimes, the requirements for granting assimilation differ from the general requirements for granting assimilation. The requirements are as follows (Utami, 2017):

1. Good behavior proven by not undergoing disciplinary punishment in the last 9 (nine) months;
2. Actively participating in the rehabilitation program well; and
3. Having served 2/3 (two-thirds) of the sentence with a minimum of 9 (nine) months.

With the assimilation program, the government has an option in fulfilling the rights of convicts related to providing decent wages, where this assimilation program can serve as a place

for convict rehabilitation with entrepreneurs who are willing to accept convicts to work for a certain period in their companies.

Although Article 30 paragraph (1) indicates the equality of husband and wife in the family (Utami, 2017), it does not mean that the obligation to seek and provide *nafkah* is considered equal (balanced) between husband and wife. This is because both have different aspects with different burdens of responsibility. As per Article 34 paragraph (2) that, the wife is obliged to manage household affairs as well as possible. Thus, it can be concluded that the husband is responsible for providing *nafkah* for what is managed by his wife. If the wife works to earn *nafkah*, it is solely her own desire, a form of obedience to her husband, and/or because both desire a stable economic life.

Punishment is a form of legal consequence for criminal norm violations by a citizen. However, it is important to understand that the status of a convict is a legal status within the criminal domain and does not automatically abolish or remove legal status within the civil domain. One consequence of this view is that a convict retains civil rights and obligations, including the obligation to provide *nafkah* for his wife and children. This view does not only stem from the principle of justice but is also affirmed by applicable national laws and regulations, which never state that punishment eliminates the civil rights and obligations of a citizen.

Doctrinally, criminal law and civil law are two different branches of law, both in terms of their objectives and legal consequences. Criminal law aims to maintain public order and impose sanctions for norm violations deemed harmful to the wider community. Conversely, civil law regulates private relationships between individuals, including family relationships, such as marriage, child rearing, and financial support. Therefore, when a person is sentenced and serves time, their status as a husband, father, or breadwinner does not automatically lapse. Punishment does not nullify this civil status, except in certain cases explicitly determined by law, such as the revocation of custody rights for reasons of domestic violence or divorce due to adultery.

In the context of Indonesian national law, this is reinforced by the absence of any provision in the Criminal Code (*Kitab Undang-Undang Hukum Pidana - KUHP*), including Article 14A KUHP, which states that a person sentenced to imprisonment loses civil rights or obligations. Article 14A KUHP indeed regulates the possibility of abolishing or reducing sentences through clemency or pardon, but it does not touch upon the issue of the civil legal status of convicts. Even Law Number 22 Year 2022 concerning Corrections, which is the latest legal basis for convict rehabilitation, affirms that the goal of corrections is to restore the convict's relationship with society, including family. This goal would not be achievable if the state allowed the severance of convicts' moral and legal responsibilities towards their families.

In practice, many wives and children of convicts suffer significant economic and social impacts due to the head of the family's imprisoned status. It is not uncommon for them to experience neglect, economic hardship, and even dropping out of school. However, it is important to emphasize that their right to receive *nafkah* does not disappear merely because their husband or father is imprisoned. Normatively, Article 34 of Law Number 1 Year 1974 concerning Marriage clearly states that the husband is obliged to protect his wife and provide all household necessities according to his ability. This is also affirmed in the Compilation of Islamic Law (KHI), especially Article 80, which states that the husband is obliged to bear the *nafkah*, clothing, and shelter of his wife. This provision applies as long as the marriage bond is valid, without any exception for the status of a convict.

Therefore, in a legal context, a wife who does not receive *nafkah* from a husband who is serving a criminal sentence still has the right to sue in court. The religious court, within its jurisdiction for family matters, can determine the amount of *nafkah* that must be provided by the husband, although its implementation largely depends on his economic capacity. Even if a

convict has no regular income, it does not mean that the state or the legal system can ignore the existence of the wife's and children's rights. Precisely here lies the importance of the state's presence, either through the correctional system or through social protection policies, to ensure that convicts' families can still live decently.

In the long term, the state also needs to build a Restorative Economic Responsibility system, which is a system that places economic obligation as part of a holistic correctional process. It is not just about moral and skill development but also about accountability to affected families. In this model, convicts with family dependents are facilitated to work, and a portion of their earnings is allocated to their families. This not only provides material solutions but also serves as a means of social reintegration, preventing families from abandonment, and motivating convicts to serve their sentences with an orientation towards returning to their families responsibly.

Therefore, it can be concluded that the *nafkah* obligation does not automatically lapse with the status of a convict. The wife still has the right to sue for *nafkah* through the religious court, and the proceeds of convict labor can be allocated to fulfill part of this obligation. When there is no economic ability, the legal system also provides room to file a declaration of inability, which serves as a basis for state intervention through social policies. These steps need to be understood not only as the implementation of legal norms but also as part of a social justice system that humanizes citizens, including those within the correctional system.

One way to bridge the fulfillment of this obligation is through a correctional system integrated with family responsibilities. Correctional Institutions (*Lapas*) as rehabilitation institutions should not only be places for serving physical sentences but also spaces for social recovery. In this context, the rehabilitation of convicts should not stop at discipline and work skills but must also touch upon moral awareness of their responsibilities as family members. The fulfillment of *nafkah* obligations, even symbolically, should be part of the rehabilitation program carried out by *Lapas*.

This program can be realized in the form of organized convict labor, with a portion of the earnings allocated to family needs. In countries like Germany, Norway, and Canada, such models have been successfully implemented, where convicts with family dependents are prioritized in work programs, and their earnings are facilitated to be sent to their wives and children. Even in some states in the United States, there is a system of deducting convict wages for child support payments, which are then managed by government financial institutions.

The implementation of similar policies in Indonesia is highly possible, considering that the Correctional Law provides room for correctional institutions to organize work programs and independence training. What is needed is the strengthening of derivative regulations and administrative systems that allow for the data collection of convicts with family dependents, prioritization in work programs, and a transparent and planned system for channeling work results. On the other hand, there needs to be an explicit recognition in regulations that the *nafkah* obligation remains valid, and that its fulfillment is part of a responsible correctional process.

Thus, the affirmation that convict status does not eliminate legal obligations, including the *nafkah* obligation, is not only based on normative interpretation but also on the spirit of social justice and moral responsibility. Convicts' families should not become secondary victims of the penal system. The state, through its legal and correctional systems, is obligated to ensure that punishment does not lead to deeper social disintegration. The rights of children and wives must remain protected, and convicts must still be viewed as complete legal subjects citizens who, despite serving a sentence, still have responsibilities towards those they leave behind.

## CONCLUSIONS

Correctional Institutions (*Lapas*) indicate that the obligation to provide financial support for convicts is still not explicitly regulated in Indonesian law. Although convicts still have

responsibilities as heads of families, there is no binding legal mechanism that obliges convicts to continue providing for their families during their prison sentences. Some correctional institutions have indeed implemented independence development programs, such as vocational training or craft production, but there is no structured system yet that links the results of this work with the obligation to provide *nafkah* to the family. This shows the need for more operational, progressive, and socially just legal arrangements.

The Legal Concept Regarding the Obligation to Provide Financial Support for Convicts states that the obligation to provide *nafkah* does not lapse just because someone becomes a convict. The Marriage Law and the Compilation of Islamic Law still oblige a husband or parent to provide *nafkah*. However, there are no norms or provisions in Indonesian positive law that directly regulate or enforce this obligation in the context of convicts. As a result, convicts' families often lose their economic source without adequate legal protection. An ideal legal concept should harmonize the rights of convicts as inmates with their social obligations as heads of families, realized through legal arrangements that are just and responsive to social realities.

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