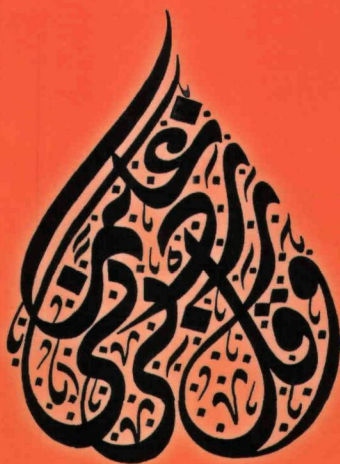


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Husband-Wife Income Sharing from al-Ma'ruf Perspective

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ABSTRACT

Current scenario has indicated that the number of women going to work is increasing and cases of wives having more incomes than their husbands are common. This has led to a question of whose responsibility is the expenditure of a family, particularly when the husbands are having lesser incomes. The concept of income sharing between husband and wife is seen as a solution to the issue. This study attempted to examine the *al-ma'ruf* concept of income sharing from the view of the scholars. The survey method was then adopted to examine the current practice of income sharing under the *al-ma'ruf* concept. Finding of the study showed that a significant number of husbands neglect their responsibilities to bear the financial rights of the wives, thus non-complying the ma'ruf concept. The study proposed for the husbands to strive harder in fulfilling their responsibilities to finance the expenditure of the family.

Keyword: Al-ma'ruf, Had kifayah, Income sharing, Nafqah.

1. Introduction

Sharing of income between husband and wife for family expenditure is not new in Islam. The idea was propagated more than 1400 years ago even though the idea is attended by the scholars in the 19th century. This is proven as Allah swt has highlighted in the Quran: "Give women their dowries as a free gift, but if they of themselves be pleased to give up to you a portion of it, then eat it with enjoyment and with wholesome result..." (al-Nisa': 4). The verse implies that it is permissible for a husband to share his wife's property subjected to the halal way (Al-Tabari, 1999). In a similar context, the Prophet (pbuh) illustrated several

examples of wives who helped their husbands in settling household expenditure. Among others is a story narrated in a hadith about Zaynab binti Abi Salamah from Ummu Salamah who asked: "Was it sufficient for us to give sadaqah to our husbands and the orphans under our care..." (Hadis No. 1001(47), chapter (14), Sahih Muslim Bi Syarh al-Nawawi).

Assisting the financial expenses of a family is one of the reasons for a wife to go to work. Nowadays, it is common to see mothers juggling their life in between career and household chores at the same time. This phenomenon had resulted in the changing of role and function of the wives from being the sole caretaker of a family to become the co-breadwinner. This had also resulted in the changing of perspective of the women who looked at themselves as modern and contemporary whenever they are working (Berns, 1993).

In Malaysia, the scenario of wives going out for work is not new. A study showed that 90 percent of women were involved actively in contributing directly or indirectly to the economic sectors during the 1980s as their husbands' income was insufficient to maintain their children (Nik Safiah & Rokiah, 1984). A similar study indicated that husbands with homemaker wives in small-income families have been among the reasons for a breakdown of the family (Azizah, 1984).

Becoming career women is allowed in Islam as long as they managed to safeguard their dignity and pride as Muslims. Islam allows a woman to go out searching for income, just like the husband does provide the aim of working is to assist her family expenses. Indeed, such noble deed would be rewarded with Jannah in the hereafter (Fahd, 2004). Nevertheless, the trend of women going to work for family sustenance should not be left unattended and ungoverned by the authority as this could lead to abuse of wives by the husbands. Worst is when the husband took full advantage of his working wife to the extent of him decided to stay at home unemployed. This paper would, therefore, look into this issue theoretically from the Islamic perspective. Discussion of the paper is focused on the scholarly views and rulings on husband-wife income sharing under the concept of al-maaruf. The contemporary perspective of Muslim scholars on the issue is also discussed. Analysis of a survey was also discussed to see the practice of al-maaruf among families.

2. The Concept of Income Sharing

The word share is defined as combining two or more of something. Therefore, sharing is combining of one's possession with other's

possession for a common use like sharing of money for bill settlement, sharing of a house to live in, sharing of utensils and as such. The word income, on the other hand, is someone's earning in the form of wage or salary or commission (Noresah, 1998). Hence, income sharing could be defined as combining the earnings of two or more people to be used for expenses. In other words, husband-wife income sharing means sharing of the two earnings in financing the expenses of their family. In the same context, sharing is defined as letting someone to have or to use something that belongs to you (Summers et al., 2001). This could also mean that the wife is letting the husband to have part or whole of her income for their use. In sum, husband-wife income sharing involves the use of wife's income by the husband for family expenses including perhaps the maintenance of the wife herself, and the use could either be combined or separated.

2.1 Scholarly Views on Income Sharing

Jurists unanimously agreed that the responsibility of providing sustenance to the family is shouldered by the husband. Nevertheless, there are cases where the husband could not provide the amenities and necessities that the family needs the most. In this regards, the Hanafis viewed that a wife could purchase the family's basic necessities on credit under her husband's name, but this could only be done by the court order (Ibnu 'Abidin, 1966). The Malikis, on the other hand, did not view a husband's financial handicap as a liability. The husband is not even obligated to feed the family in case of poverty (Imam Malik, 1905). In fact, the wife instead should spend for the family if she is well off and whatever amount that she has spent is considered as sadaqah (almsgiving).

The Shafiis and Hanbalis have quite a different view. The two schools of fiqh allowed a husband to use his wife's income in case the former is unable to provide the necessities of the family. Under the concept of *I'sar al-Zawj Bi al-Nafaqah* (al-Bujayrimi, 1981), a wife may advance her own earnings to purchase family's necessities to be paid later by the husband. In other words, whatever amount spent by the wife is considered as a liability to the husband; even without any court order. The husband should therefore repay to the wife the amount that she has spent accordingly (Al-Syarbini, n.d.; Rawdah al-Talibin, 2000).

The preceding views of the fuqaha' from the four schools of thought conclude that Islam permits a husband to use or to spend his wife income for family spending in the case of insufficiency of his own. In

short, sharing of income could take place when the husband's earning is not sufficient to cover the basic necessities of the family comprising at least food, clothing and shelter (Al-Syarbini, 1933).

The view is supported by Ibnu Hazm in his book *al-Muhalla* where he used the terms *Kallafat al-Nafaqah 'Alayhi* to refer to the responsibility of a wife to bear the financial expenses of the family in case of inability of the husband to do so (Ibnu Hazm, 1064). This is especially so when the wife is more well off as compared to the husband. Ibn Hazm's view strengthens the opinion of Imam Malik in *al-Mudawwanah al-Kubra*. He used the terms *Tanfaqa Min Maliha 'Ala Nafsiha wa 'Ala Zawjiha* to mean "a wife should financially maintain herself and her husband using her property" (Imam Malik, 1905). We may therefore conclude that both are having the same opinion in relation to the sharing of income by the husband and wife. Indeed, a wealthier wife is considered responsible financially in maintaining the family as the use of the word *kallafat* by both fuqaha' refers to *ma yalzimu ada'uhu min mal* or simply financial obligation (Fu'ad Iqram al-Bustani, 1976).

In conjunction to the views, whatever amount that the wife has spent for the family should not be claimed against the husband in a situation where the latter is incompetent. The wife nevertheless, could claim the expenses if the husband is competent financially. Non-settlement of the claims is considered as a debt payable by the husband to the wife (Imam Malik, 1905).

The above discussion by the respective jurists implied that the issue of husband-wife income sharing has long been debated in the fiqh discipline. Contemporary Muslim scholars however, have their own interpretation in understanding the concept of income sharing. While the former discussed the issue from the fiqh points of view, the latter discussed it from the sociological points of view (Mahmud, 1973). The following section delves into the views of the scholars in a modern context. Comparative view of western scholars is also highlighted.

2.2 Income Sharing In Contemporary Perspective

Al-Qaradawi viewed that sharing of income between husband and wife could take two forms. First, the whole income of the wife is credited to her husband's account which implies that hers become his. The husband could then use her money for the family. Second, the income of both husband and wife are credited into a joint account from which the husband could then withdraw the money for family expenses.

Nevertheless, al-Qaradawi would only recognise the two forms of sharing if they are done voluntarily by the wife (Al-Qaradawi, 2001). Al-Qaradawi's view on income sharing indicated that there is a decent contribution by the wife to the husband and their family.

In the western context, it is elucidated that assisting the husband to fulfill the needs of their children is one of the reasons for a wife to work (Berns, 1993). In complementing the needs, both husband and wife jointly contributed their money to share the family financial burden. The word *contribute* has also been used to refer to the sharing of income by both husband and wife. Her empirical study showed that working wives often contribute their income to purchase household needs (Komarovskiy, 1967). In other words, women contribute their income to complement their husband's income. Other similar study viewed that both husband and wife would work to make ends meet for the family.

As far as family financial management is concerned, it is not just a matter of the spouses managing the income. It should also involve the sharing of financial responsibility among them. In managing the finance, Lamanna and Agnes (1994) highlighted the importance of the two to discuss on (i) how to manage their banks' accounts and (ii) who should own the money in the accounts. Furthermore, they should also make it clear on whose money should be used and what sorts of expenses each one of them should spend. In distributing the financial responsibility among the spouses, three questions need to be addressed; i) should the expenses be divided equally, ii) should there be percentage of fair distribution, and iii) what if only one party is financially competent for a particular purchase (Lamanna & Reidmann, 1994).

The above discussion from Islamic and western perspectives implies that the western views are not contradicted to the views of Al-Qaradawi in explaining the concept of income sharing. The two important elements of income sharing namely combining of the two incomes and financial contributions of the two parties are both contended. Perhaps, what makes Al-Qaradawi views to be more distinguished because he made it compulsory for the husband to seek approval from the wife to share the income. This would mean that there should be willingness on the part of the wife to combine and share her income with that of her husband. In addition, Al-Qaradawi also emphasized that the husband could only use his wife's income merely for family expenses.

The preceding discussion led us to define husband-wife income sharing as a voluntary financial contribution of the wife, separately or combined with the husband's income, to be used for family expenses.

Based on the definition, three essential elements need to be there for income sharing to be practised. First, the wife voluntarily gives her income to be shared with the husband. Second, the combined incomes are shared by both, and third; the husband may only use the money for the fulfillment of family's necessities, or the wife herself does the shopping for the family.

Al-Qaradawi's view is consistent with the view of al-Layth and Imam Malik who argued that a husband has the right to monitor the use of his wife income and property. Indeed, it is not advisable for a wife to give hibah or donation more than 1/3 of her property. Instead, it is much more recommendable for the wife to give the 1/3 portion for the sharing in order to lighten the burden of her husband in maintaining the family (Al-'Asqalani, 1977).

Mahmud Syaltut, one of the Al-Azhar scholars, gives a significant and relevant conclusion with regards to income sharing in contemporary practice. Based on the views of the Malikis, Hanafis, Ibn Hazm and Ibn al-Qayyim as well as al-Layth, he opined that their views are very much closer to the wisdom of Islamic teaching in al-Munakahat discipline. The basis (al-asl) of maqasid al-shariah in al-Munakahat is to educate the wife to be loyal to the husband and help one another in time of need and necessity (Mahmud, 1973). In addition, the Hanafis did not condone a wife who seeks divorce just because her husband is not competent financially. Indeed, it is noble for a wife to stay in a marriage and persevere with the difficulty that they are facing. In line with Ibn Hazm, Mahmud Shaltut viewed that sharing of income could be made compulsory in a case where the husband's earning is lesser than that of the wife. In other words, wealthier wife is highly recommended to lighten the burden of her husband in feeding the family.

Consistent with Mahmud, Hammudah is of the opinion that income sharing is practical and relevant in modern living style due to the increase in the cost of living. He conversely disapproved those husbands who took advantage of their wives generosity by leaving them alone in shouldering the family expenses. In fact, he emphasized that the husbands should reimburse the money that their wives had spent whenever they are able to do so (Hammudah, 1985). He supported the view of Hanafis and Malikis for a wife not to take short cut solution by asking for a divorce in the case of her husband is broke financially. As a wife, she should instead support her husband by giving financial and non-financial support in time of difficulty. Her insistence to seek fasakh or divorce could only lead to a danger that affects especially the children. Based on the general principle

of fiqh, choosing an option that caused the least harm (*akhaf al-dharar*) is prioritized over other option that would cause greater danger (*a'zam*). Hence, staying in the family and persevering with the difficulty of having a husband with insufficient income is more dignified for the wife to choose (Hammudah, 1985). In this regard, he proposed the view of Malikis and Al-Layth who recommended the wife to contribute not more than 1/3 of her wealth to reduce the financial burden of the family (Al-'Asqalani, 1977). This would ultimately safeguard the five essential qualities of life (*dharuriyah al-khomsah*) of the *maqasid al-shar'iyah* and preserving the *mawaddah wa rahmah* (love and compassion) in the family.

The preceding discussions on income sharing by the classical and contemporary scholars indicated that a wife is encouraged to use her own money or property to fulfill her sustenance based on *ma'ruf* at times of financial insufficiency of the husband. Indeed, sincere contribution by the wife to assist the husband is recommendable and shall be rewarded based on the concept of *tatawwu'* as mentioned in al-Qur'an and as-Sunnah. One particular example is the case of Ummu Salamah who had fed her step-children (Abu Salamah's children from his earlier marriage) using her own money as her husband was not capable financially (Al-'Asqalani, 2000).

2.3 Al-Ma'ruf Approach on Income Sharing

In principle, there is no specific percentage or proportion for a wife to share her income with her husband. Indeed, a wife could do anything she likes on her income and wealth including sales and purchase for her own, hibah (gift), donation, waqf and other forms of wealth disposal so long as she is legally capable ('Abd al-Karim, 2000). This is because her income and wealth are considered as her own right. Nevertheless, contemporary scholars have given certain guidelines in implementing income sharing.

Ibnu Hazm viewed that a married woman or a girl who still has a father should not utilize her wealth at her own disposal. She should instead seek permission from her husband or father. The view is consistent with earlier views of Sufyan al-Thawri, Abu Hanifah, al-Syafi'ie, Abu Thur, Abu Sulayman and their companions (Ibnu Hazm, 1064). Therefore, a wealthier wife should prioritize the giving of hibah or sadaqah to her not-so-wealthy husband instead of giving them to outsiders ('Abd al-Karim, 2000; Ibnu Hazm, 1064). Further, Imam Tawus, Imam al-Layth and Imam Malik opined that a husband has the

right to monitor his wife's income and wealth. Thus, she needs to get her husband permission prior to disposal ('Abd al-Karim, 2000). Imam al-Layth proposed for a wife to give only a small portion of her wealth for hibah or sadaqah while Imam Malik suggested for her to give not more than 1/3 for such purpose (Al-'Asqalani, 1977; 'Abd al-Karim, 2000).

The views of Imam al-Layth and Imam Malik could then be used as a basis in determining a wife's contribution to income sharing. In principle, a wife's disposal of wealth for hibah or sadaqah should not exceed 1/3 of hers and priority of such forms of disposal should be given to the husband in the form of income sharing. Al-Qaradawi is also of the opinion that 1/3 should be the maximum amount of a wife contribution, but the proportion should be calculated from the total expenditure of the family. The rest of 2/3 expenses should be shouldered by the husband (Al-Qaradawi, 2001). The justification for such a sharing is because of the additional expenses that the husband should incur when the wife is out to work. Such additional expenses include the hiring of a babysitter, tutors for the children, costs of a vehicle, the wear and tear of the vehicle and other related costs (Al-Qaradawi, 2001).

3. Method and Data

A descriptive study has been conducted in the area of Shah Alam to examine the practice of income sharing among married couples in Malaysia. A stratified cluster random sampling method has been used to withdraw a total of 500 samples from three designated areas in Shah Alam namely the Northern (Section U1-U20), Middle (Section 1-24) and Southern (Section 25-36) areas of Shah Alam. An estimated 37.8% (189 samples) were drawn from the Northern part, 42.2% (211 samples) from the Middle area and 20% (100 samples) from the Southern area. A set of questionnaire was distributed to each of the respondents. The collected data were then processed and analysed.

4. Results and Analysis

The study indicated that there were many cases of husbands neglecting the essential and non-essential nafqah of the wife. Cases of husbands who paid the nafqah showed that the amount spent was less than the 2/3 percentage of *ma'ruf* in the case of income sharing. Data indicated that husbands were neglecting 7.6% on food spending, 8.5% clothing and 12.4% shelter.

Of the total non-fulfillment of essential nafqah based on *ma'ruf*, 53.5% were giving less on their wives' food, 63% were spending less on their wives' clothing and 45.1% could not care less on their wives' shelter. Giving less than 2/3 *ma'ruf* nafqah to the wives signifies the husbands' negligence in fulfilling their duties and responsibilities.

Outcomes of the study also indicated that nafqah on non-essentials were neglected by the husbands. In other words, the husbands are violating *ma'ruf* principle. A total of 49% were neglected on the purchase of the wives' personal items and cosmetics, 59.1% on health-care, 64.2% on accessories and decoration, 62.2% on childrens' schooling, and 53.3% on child day-care, 36.2% on maid, 38.6% on car installment and 52.6% on health and education insurances.

Overall, findings of this study proved the cases of negligence on the part of the husband in giving essential and non-essential nafqah to the wives. They were giving less than the 2/3 *ma'ruf* portion that the wives should have received. This study also indicated that a total of 52.7% husbands had neglected their wives' essential nafqah and 51.9% for non-essentials. This study also proved that wives have contributed 50% to 75% of their income for the family. As discussed earlier, Al-Qaradawi has given a guideline where, under the *ma'ruf* principle, the sharing portion of husband and wife is 2/3 and 1/3 respectively. Hence, a husband is considered negligent if he spends less than the 2/3 of the total expenditure as spending less would mean taking more of the wife's income. In other words, the husband is depriving his wife's financial right. The negligent husband was proven in this study as findings showed that a significant percentage of husbands i.e 71.5% were having incomes surpassing the subsistence level (*had kifayah*). Guideline given by LZS and MAIS states that a well-off husband is one who has a monthly income of at least RM2,000 and this amount is considered sufficient to cover the *had kifayah* (Lembaga Zakat Selangor (LZS) and Majlis Agama Islam Selangor (MAIS)). An average income of the husbands under study ranged between RM2, 000 to more than RM5, 000. Hence, they were considered affluent to fulfill *had kifayah* of a family and therefore unjustified for negligence.

On top of that, findings of this study indicated that sharing of income by the wives is not obligatory as 60.2% of the wives under study were having lower incomes than their husbands. A total of 13.2% was having equal income with the husbands, while the rest of 26.6% were having higher incomes. The study implied that only a small number of wives in Shah Alam area fit the criteria of income sharing as perceived by

the Muslim scholars. The study therefore proposed for the husbands to strive harder in providing family sustenance and *dharuriyah* needs. After all, providing nafqah is the main responsibility of a husband, not the wife.

5. Conclusion

Income sharing would take place when a wife is formally or informally contributing a certain portion of her earnings for the expenses of the family. Muslim scholars viewed that the sharing of income between husband and wife is not incompatible with the teaching of Islam particularly when the husband is not capable. A specific guideline has been prescribed that a wife is recommended to contribute not more than 1/3 of her earnings for the family in case of needs. In other words, a husband should finance at least 2/3 of the total family expenses and failing to do so would mean that the husband failed to comply with the ma'ruf principle. The study showed that a significant number of husbands were neglecting their responsibility in giving the financial rights of the wives, thus non-complying to the ma'ruf principle. The study proposed for the guideline on al-ma'ruf to be enforced in order to prevent from abuse and exploitation in the family. The study also proposed for the husbands to strive harder in fulfilling their responsibility in financing the expenditure of the family.

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