

**IJTIHAD METHOD SHAYKH ATHIYAH SAQR ABOUT THE  
OBLIGATION OF THE HUSBAND TO FULFILL THE DESIRES OF THE  
WIFE WHEN CRAVINGS**

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**Abstract**

*Support in a marital relationship is an obligation for a husband towards his wife and children. Fulfilling the wife's wishes when she has cravings is categorized as a husband's maintenance according to Sheikh Athiyah Saqr, which is also legally obligatory. However, seeing the phenomenon of excessive coveting from wives that often occurs nowadays, it is necessary to classify wives' desires, which the husband must fulfill by law. This research aims to analyze Sheikh Athiyah Saqr's method of ijthad in his fatwa on the obligation for husbands to fulfill their wives' desires when they desire them and to relate the relevance to current phenomena. This research uses the library research method. The data collection technique used is library research. The data analysis technique used in this research is the descriptive method. The result of this research is that Sheikh Athiyah Saqr in determining this fatwa used the qiyas and maslahah murlah methods. According to Sheikh Athiyah Saqr, the obligation of a husband to fulfill his wife's wishes when she desires is translated into the obligation of the husband to provide his wife with daily living. Apart from that, fulfilling the wife's wishes by the husband is considered to bring benefits to the wife and the fetus. However, it is necessary to limit the wife's wishes which must be fulfilled by the husband, namely wishes that do not violate the Shari'a, do not bring harm, and are still within the limits of the husband's capabilities.*

**Keywords: Cravings, Athiyah Saqr, Ijthad, Livelihood**

**Abstrak**

Nafkah dalam hubungan pernikahan merupakan kewajiban bagi seorang suami terhadap istri dan anak-anaknya. Memenuhi keinginan istri saat ngidam dikategorikan sebagai nafkah suami menurut Syekh Athiyah Saqr, yang hukumnya juga wajib. Namun, melihat fenomena ngidam berlebihan dari istri yang sering terjadi saat ini, maka perlu adanya pengklasifikasian keinginan istri yang wajib dipenuhi oleh suami secara hukum. Penelitian ini bertujuan untuk menganalisis metode ijthad Syekh Athiyah Saqr dalam fatwanya tentang kewajiban suami memenuhi keinginan istri ketika istri menginginkannya dan mengaitkan relevansinya dengan fenomena yang terjadi saat ini. Penelitian ini menggunakan metode penelitian kepustakaan (*library research*) maka teknik pengumpulan data yang digunakan adalah studi kepustakaan. Teknik analisis data yang digunakan dalam penelitian ini adalah metode deskriptif. Hasil dari penelitian ini adalah Syekh Athiyah Saqr dalam menetapkan fatwa ini menggunakan metode qiyas dan maslahah mursalah. Menurut Syekh Athiyah Saqr, kewajiban suami untuk memenuhi keinginan istri ketika istri menginginkannya diterjemahkan ke dalam kewajiban suami untuk memberikan nafkah kepada istrinya. Selain itu, memenuhi keinginan istri oleh suami dianggap dapat membawa manfaat bagi istri dan janin. Namun demikian, perlu adanya batasan keinginan istri yang harus dipenuhi oleh suami, yaitu keinginan yang tidak melanggar syariat, tidak membawa kemudharatan, dan masih dalam batas kemampuan suami.

**Keywords : cravings, Athiyah Saqr, Ijthad, living**

## INTRODUCTION

In domestic life, husband and wife have their own rights and obligations. The right of the husband is the duty of the wife and vice versa. The husband as the head of the family has an obligation to meet the wife's maintenance in his household. The division of rights and obligations is adjusted to their respective proportions. For the one who is subject to greater obligations, it means that he will get greater rights as well. In Islam the provisions on the rights and duties of husband and wife in the family are found in several places. The following verses of the Qur'an are contained in the Qur'an Surah An-Nisa ' verse 19:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا <sup>ظ</sup> وَلَا تَعْضُلُوهُنَّ لِيَنْدَهَبُوا بِبَعْضِ مَا ءَاتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُّبِينَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا <sup>ا</sup> وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

“O you who have believed, it is not lawful for you to inherit women by force, and do not harass them in order to take away from them some of what you have given them, unless they commit manifest indecency and associate with them properly. but if you dislike them, [then be patient], for perhaps you dislike a thing, whereas Allah has placed therein much good”.<sup>1</sup>

Shaykh Nawawi explained that the intention of this verse is that husbands should treat their wives fairly, both in matters of overnight shifts (for men who are polygamous), living allowances, and behavior. This verse describes the balance between the rights and obligations of the wives, as in the relationship between husband and wife and also in terms of maintenance.<sup>2</sup> Maintenance is a gift that is the obligation of a husband to his wife in the form of material or non-material.<sup>3</sup>

One of the forms of obligations of the husband to the wife in the form of material is the fulfillment of the wife's wishes. There is one period, the wife wants her will to be realized by her husband, namely during pregnancy. The desire of the wife at this time is also called Cravings. Etymologically, cravings come from the word idam which means wanting, while in terminology cravings mean a condition experienced by women who are pregnant when they so want something both natural and beyond the limits of reasonableness.

<sup>1</sup> Imam Ghazali Masykur, Al Quran Surah AnNisa/3: 19

<sup>2</sup> Saiful Anwar, “Hak dan Kewajiban suami istri menurut Undang-Undang Nomor 1 Tahun 1974”, *Jurnal Kajian Islam Alkamal*, 2021, Volume 1 Nomor 1, h. 92

<sup>3</sup> Septi Wulan Sari, “Perbandingan Hukum Keluarga di Indonesia dan Aljazair tentang Nafkah”, *Al Manhaj : Jurnal Hukum dan Pranata Sosial*, 2023, Volume 5, Nomor 1, h.3

Signs of cravings that often appear are decreased appetite, feeling nauseous, vomiting, unstable emotions and so on. Nausea usually occurs due to changes in the sensory nerves of taste buds. However, sometimes we encounter the desire to enjoy certain foods or new places and usually this desire comes suddenly. According to expert opinion, cravings are influenced by changes in hormones and enzymes present in the body. Hormonal changes during pregnancy can cause emotional instability that can affect diet in pregnant women.<sup>4</sup>

From the above description, we can understand that the husband has an obligation to fulfill the maintenance of his wife in any period as already mentioned in the Qur'an. However, the authors have not found a detailed explanation of the husband's obligation to fulfill the wife's wishes when cravings. An Egyptian scholar issued a fatwa regarding this matter which says that it is also obligatory for husbands to fulfill the desires of wives who are craving.

In his fatwas, we can interpret that this ulama mentions that the law is mandatory and applies comprehensively to all cases. In fact, there are so many strange things a wife wants when cravings are burdensome to her husband. For this reason, the author is interested in discussing what method of *ijtihad* was used by the Egyptian scholar Sheikh Athiyah Saqr in establishing his fatwa and whether it is relevant to current conditions.

## **METHOD**

In this study, the authors used the research method of *library research* or literature. Literature research is a study that studies various reference books as well as similar previous research results that are useful for obtaining a theoretical basis for the problem to be studied. Library research is a data collection technique by reviewing books, literature, notes, and various reports related to the problem to be solved.<sup>5</sup> Data analysis techniques used in this study are descriptive methods, namely research that seeks to describe the existing data.

## **LITERATURE REVIEW**

A study conducted by Hazarul Aswat and Arif Rahman contained in his journal entitled husband's obligation to provide a living in the compilation of Islamic law. In his research he wanted to provide an explanation of the obligations of the husband regarding maintenance. This is considered necessary to understand in order to realize harmony in the household. In this study, he explained that the compilation of Islamic law (KHI) in Indonesia

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<sup>4</sup> Poliklinik Mother and chil RSUP Dr Wahidin Sudirohusodo Makasar, "Apa itu Ngidam", *Kementerian Kesehatan Direktorat Jenderal Pelayanan Masyarakat*, 02 Agustus 2022, [https://yankes.kemkes.go.id/view\\_artiker/816/apa-itu-ngidam](https://yankes.kemkes.go.id/view_artiker/816/apa-itu-ngidam)

<sup>5</sup> Milya Sri dan Asmendri, "Penelitian Kepustakaan (Library Research) dalam Penelitian Pendidikan IPA", *NATURAL SCIENCE: Jurnal Penelitian Bidang IPA dan Pendidikan IPA*, 2020, hal 43

adopted Islamic norms about the obligation of a husband to provide for his wife according to her ability, household needs, teach the wife about religion and so on because a wife is his responsibility. If a husband is not able to provide for his wife in the form of housing, clothing and daily necessities in the household, if the wife is patient with the situation and willing, then the wife includes getting a good religious education.<sup>6</sup>

Another study as written by Syauqie Fuady entitled *A review of the concept of Maslahah Ash Syatibi against cosmetic living as supporting harmony in the family*. Maintenance has an influence in creating harmony in a household. In addition, living is also often a factor in causing a quarrel and chaos in the household that leads to divorce. One of them is the non-fulfillment of cosmetic needs, which is one of the causes of divorce in the household. Given the urgency of cosmetic needs for the wife, then in this case the cosmetic needs can be categorized as a living that must be met by the husband. However, the burden of the maintenance in marriage is given in a fair way, that is, in good ways, in accordance with the traditions and situations of each community. But it does not contradict the norms of religion, common sense, or human nature, that is, in accordance with the circumstances and capabilities of the husband. Cosmetic needs can be a driver and booster of the formation of a harmonious family. This is an implication of *mashlahah as-Syatibi* who wants to withdraw benefits and reject harm. Because seeing the needs that are also increasingly dynamic, the fulfillment of primary needs such as clothing, food, and shelter has not been able to materialize the occurrence of family harmony, but with the existence of cosmetic income categorized as tertiary needs will be the primary needs that will support the formation of a harmonious family. Cosmetic ingredients that are fulfilled by the husband must be halal and pure, intended for the interests that are permissible in *Syar'i* and not harmful and in accordance with the circumstances and capabilities of the husband. Cosmetic needs for this wife is *mashlahah* by bringing all forms of benefits such as supporting the appearance and cleanliness of the body, but also maintain and care for the gift of Allah Swt. as well as pleasing the husband so that harmony is created in the family, or rejecting all destructive possibilities by avoiding quarrels that even lead to divorce because the wife's needs are not met such as cosmetics.<sup>7</sup>

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<sup>6</sup> Hazarul Aswat dan Arif Rahmat, "Kewajiban Suami memberi nafkah dalam Kompilasi Hukum Islam", *Jurnal Al Iqtishod*, 2021, Vol 5 No 1, hal 16

<sup>7</sup> Syauqi Fuady (2021). *Tinjauan Konsep Maslahah Asy Syatibi Terhadap Nafkah Kosmetik Sebagai Penunjang Keharmonisan Dalam Keluarga* (Tesis) Universitas Negeri Maulana Malik Ibrahim

Based on the review literature above, the author sees that there has not been explained how the law of fulfillment of the desires of the wife who craves by the husband. Just explain the maintenance for the wife. While in the second study analyzed how the benefits on the livelihood of cosmetics and influence on household harmony. Interestingly here, the author will analyze the method of *ijtihad* of a scholar who issued a fatwa that the law is mandatory. Research on this has not been discussed as far *literaturas* the author's literature.

### **Cravings**

Of the several signs of suspected pregnancy, one of them is cravings. Pregnant women often want certain foods, such desires are called Cravings.<sup>8</sup> Pregnancy is a series of processes that begin from conception or the meeting between the ovum and healthy sperm and continue with fertilization, nidation and implantation. Pregnancy naturally can only occur when a woman has experienced puberty which is characterized by menstruation. The time it takes in a normal pregnancy is 38-40 weeks or approximately 40 weeks from the end of the first day of the last menstruation. The initial phase of pregnancy is called the first trimester that starts from conception until the 12th week of pregnancy. Hormonal influences and changes in production, Anatomy and physiology generally occur in this phase, but many mothers sometimes do not know that they are pregnant until then the body is actively working to adjust the pregnancy process. This adjustment can cause physical and psychological changes in the mother.

Pregnant women will experience many changes that will require the mother to be mentally and physically prepared so that the pregnancy she is experiencing can grow healthy. Readiness of pregnant women will affect the mother in a comfortable pregnancy. Mothers who are ready with their pregnancy will quickly make the decision to seek first aid by reaching out to health services when experiencing discomfort. The first visit of pregnant women (K1) to health services such as health centers is the right way when mothers experience discomfort. System changes in the mother's body during pregnancy require an adaptation, both physical and psychological. It is not uncommon for the mother to experience discomfort in these changes, so it is necessary to provide some prevention and care. These discomforts, if not addressed wisely, can trigger anxiety in pregnant women, so concrete

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<sup>8</sup> Yulizawali. (2021). *Kajian Tentang Kehamilan dalam Al-Qur'an dan Asuhan Kebidanan*. Sidoarjo :Indomedia Pustaka. Hal 38

information is needed on how to deal with discomfort during the gestation period.<sup>9</sup> A pregnant woman is a woman who is carrying a fetus in her stomach.<sup>10</sup>

## RESULTS AND DISCUSSION

### A. Brief Profile Of Sheikh Athiyah Saqr

Athiyah Muhammad Saqr was born in the village of Bahnabai, Markaz Az Zaqaziq, Ash Sharqiyyah Province, Egypt, on 4 Muharram 1333 Hijriyah, 22 November 1914 AD. As the tradition goes, Athiyah Saqr from childhood was educated to read the Qur'an in her village. He finished memorizing the Quran at the age of 9. While completing the recitation of the Qur'an and reviewing the laws of his reading at the age of 10 years.

Little Athiyah Saqr started an elementary school in her village, then called *Al-Madrasah Al-Ilzamiyyah Al-Awwaliyyah*, a religious school under the auspices of Al-Azhar. Later, he completed his secondary education at Ma'had Al-Azhar Az-Zaqaziq in 1347 Ah (1928 Ah). His learning career continued into college. Young Athiyah Saqr studied at the Faculty of Usuluddin University of Al-Azhar until she achieved the Shahadah Al - 'Alimiyyah in 1360 Ah (1941 ad).

After undergraduate, Sheikh Athiyah Saqr studied Al-Wa'zh (Lectures). This study Program which at this time changed its name to the Department of Ad-DA'wah wa ATS-Tsaqafah in the same faculty. In 1363 Ah (1943 ad), he obtained a special license in the world of Da'wah. He was the first in the army and bagged the Shahada of Al-Azhar named Al-'Alimiyyah Ma'a degree Ad-DA'wah wa Al-Irsyad.

In Egypt, high-achieving graduates have the primary opportunity to work directly in several strategic sectors, both in Al-Azhar and the Egyptian Ministry of Endowments. Therefore, Sheikh Athiyah Saqr was immediately appointed *imam*, *khatib*, and lecturer at the Abdulkarim Al-Ahmadi mosque located in the number of Bab Ash-sya'riyyah, Cairo, precisely on August 16, 1943 ad.

Then, about a year later, precisely in February 1944, Sheikh Athiyah Saqr moved to Al-Arba'in Al-Bahri mosque in Al-Jizah province, a mosque that has now changed its name to 'Ammar bin Yasir mosque. Sheikh Athiyah was also appointed an official Speaker of Al-Azhar in 1365 Ah (1945 ad). During this time, in order to support his career, he often traveled to various parts of the world.

<sup>9</sup> Eniyati Dan Devi Rahayu. (2017) Sikap Ibu Hamil Dalam Menghadapi Ketidaknyamanan Kehamilan Trimester I Di Puskesmas Piyungan Bantul Yogyakarta. *jurnal Kesehatan "Samodra Ilmu"* Vol. 08 No. 01

<sup>10</sup> Siti Zakiyatur Rofi'ah (2017). Perilaku Kesehatan Ibu Hamil Dalam Pemilihan Makanan Di Kecamatan Puncakwangi Kabupaten Pati (Skripsi). Universitas Negeri Semarang

For the first time, he was stationed in the city of Thantha, Suhaj Province, Egypt. Then in the province of As-Suwais. After that, he was assigned to Ra's Gharib district, Al-Bahr al-Ahmar Province, Egypt. He eventually settled in Cairo. Career in the world of Da'wah Al-Azhar he performed well and rose one level after another until reaching its highest peak, namely as a supervisor (al-mufattisy) and then the general supervisor (Al-muraqib al - 'am). He reached retirement age in the Year 1400 H (November 1979 ad).

After a long service on the path of knowledge and Islamic Da'wah, Sheikh Athiyah Saqr died on 18 Zulkaidah 1427 H (December 9, 2006 ad). He left this world for eternal life. His fatwas, works, and adventures became a legacy for Al-Azhar's generation today. His body was buried in his beloved birth village, Bahnbai, Markaz Az-Zaqaziq, Ash-Syarqiyah Province, Egypt.

### **B. Fatwa Sheikh Athiyah Saqr On The Obligation Of The Husband To Fulfill The Desires Of The Wife When Cravings**

A contemporary scholar of Egyptian nationality and once the Mufti of Darul Ifta al-Misriyah, Sheikh Athiyah Muhammad Saqr (died 2006) was once asked about "is fulfilling the wife's request included in the category of compulsory living?" His explanation is documented in his book entitled *Mausu'ah Ahsanil Kalam fil Fatwa wal Ahkam*, as follows: "Indeed, the husband's maintenance of his wife is well known that the law is mandatory, there are many texts that explain it. The most important sustenance is food, clothing and shelter. Some of the fuqoha have determined among the scholars of Shafi'i madhhab, that including *Mu'asyarah bil Ma'ruf* (to accelerate well) which Allah has commanded husbands is to ensure living well and perfectly in accordance with their customs."

Dalam penjelasannya, Syekh Athiyah Saqr menukil keterangan Syekh Awad dalam kitabnya *Hasyiyah Syekh Awad ala Syarhi al-Khatib, Iqna' matn Abi Suja'*, juz II halaman 190.

أنه يجب عليه لها فطرة العيد، وكحك العيد وسمكه، ولحم الأضحية، -الي ان قال- وما تحتاجه عند  
الوحم

"It is obligatory for the husband to pay zakat al-Fitr for his wife, give Eid cakes, fish, udhiyah meat .... and what he needs during cravings." Finally he concluded:

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

"The conclusion that the phenomenon of cravings has been known from time immemorial and science bears witness to it. Including muasyarah bil Ma'ruf (accelerate well) is the husband provides for his pregnant wife what she wants during cravings, because it can have an impact on the fetus, as well as provide an atmosphere that brings joy to her, especially during pregnancy and breastfeeding."<sup>11</sup>

### **C. The method of Ijtihad Shaykh Athiyah Saqr in fatwas obliges the husband to fulfill the wishes of the wife when cravings**

In the Qur'an there are several verses that explain the obligatory provision of maintenance by a husband to his wife. It is found in surah AtThalaq verse 7:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قَدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ  
بَعْدَ عُسْرٍ يُسْرًا

Let him who is able to afford it spend according to his ability. and he whose provision is restricted, let him spend of that which Allah has given him. God does not burden a person except with what he has given him. Allah will give ease after hardship.<sup>12</sup>

It is also in Q.S Al Baqarah ayat 233 :

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا

.....and the duty of the father to feed and clothe the mothers in a way that is Ma'ruf. No one is burdened except according to his capacity....<sup>13</sup>

From 2 verses of the Qur'an above, it is quite clear that the law of providing maintenance by a husband to a wife is mandatory. As in the Marriage Act as a formal guideline for the implementation of marriage in Indonesia, it is expressly stated in Article 1 Paragraph (1) that the purpose of marriage is to form a happy and eternal family (household) based on the Almighty God. With the arrangement of marriage in the law of marriage as a legal instrument, marriage is a legal action that implies legal risks, as a result of the law that must be borne by the perpetrator of the legal action. The purpose of marriage as stated in Article 1 of the Marriage Law above, as a goal set by the Constitution has also been regulated

<sup>11</sup> Athiyah Saqr, *Mausu'ah Ahsanil Kalam fil Fatwa wal Ahkam*, [Cairo, Maktabah Wahbah: 2011] juz V halaman 226-227

<sup>12</sup> Imam Ghazali Masykur, *Al Quran Surah At Thalaq/65: 7*

<sup>13</sup> Imam Ghazali Masykur, *Al Quran Surah Al Baqarah/2: 233*

legal risks that must be met, so that these goals can be achieved by people who perform legal actions, namely marriage.<sup>14</sup>

Legal risks of the act of marriage, the Marriage Act also regulates some of the things that have been outlined in the articles of the law, the fulfillment of which is an obligation for the perpetrators of marriage. And included among these legal risks is the problem of economic capacity, especially those related to the concept of daily living needs, as basic needs that must be met, to maintain the continuity of life as a human being. So, it seems clear that maintenance is an obligation of the husband incurred due to the occurrence of marriage.

Maintenance is the main responsibility of a husband and the main right of his wife. When given to the wife with a spacious chest, without the slightest element of miserliness, it is a major contribution that can bring balance and happiness to the household. Maintenance is one of the rights that must be obtained by a wife from her husband since they agreed to build a household with the reference of the word of God which means that everyone who is able to pay their living expenses according to their ability.<sup>15</sup>

Based on that, Sheikh Athiyah Saqr issued a fatwa that the husband is obliged to fulfill the wishes of the wife who is craving it is also mandatory to use the method of *qiyas* and *maslahah mursalah*. In the language (Arabic) *qiyas* means measure, knowing the size of something, comparing, or equating something with another.<sup>16</sup> Etymologically, *qiyas* means to estimate or equate. It means to think about something or to compare something to something else. While terminologically, according to scholars of jurisprudence, *qiyas* is equating something that does not have a legal text with something that has a legal text because of the equality *illat* of legal *illat*.<sup>17</sup>

*Qiyas* means to bring together something that does not have a legal text with other things that have a legal text because there is equality, *illat* law. Thus, *qiyas* is the application of analogous law to the law of something similar because the principle of equality "*illat* will give birth to the same law as well. Therefore, as expressed by Abu Zahrah, the principle of *qiyas* is to connect two problems analogically based on the similarity of causes and properties that form them. If the analogical approach finds a point of similarity between the causes and

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<sup>14</sup> Mahpud (2010). Pertimbangan orang tua/wali nikah terhadap kemampuan ekonomi pasangan usia dini dalam memberi izin menikah perspektif *maslahah mursalah* (tesis) IAIN Palangkaraya

<sup>15</sup> Ibnu Rozali. "Konsep memberi nafkah bagi keluarga dalam Islam". *Intelektualita*. 2017. Vol 06 No 02. Hal 191

<sup>16</sup> Nasrun Haroen (1997) *Ushul Fiqh I*. Jakarta : Logos Wacana Ilmu. H.62-63

<sup>17</sup> Ahmad Masfufu Fuad, "Qiyas sebagai salah satu metode *istinbath al hukm*", *Mazahib*, 2016, Vol XV No 1 hal 44

the properties between the two problems, then the consequences must be the same as the established law.

So *qiyas* can only be done if it has been believed that there really is no nash that can be used as a basis for establishing the law. Therefore, the first task that must be done by someone who will do *qiyas*, is to find whether there is a nash that can be used as a basis for establishing the law of events or events. If it is believed that there is really no nash in question, then *qiyas* is performed.<sup>18</sup>

Although there are differences in the editorial of the classical and contemporary fiqh scholars in expressing the definition of *qiyas*, but they agreed to state that the process of establishing law through *the qiyas method* is not to establish and explain the law (*Al-kasyf wa al-izhhar li al-hukm*) in a case that is not clear law. This disclosure is made through a thorough and thorough discussion of the 'illat of a case at hand. If the 'ill is the same as the 'illat of the law mentioned in nash, then the law on the case at hand is the law that has been determined by nash.<sup>19</sup>

So it can be concluded that *qiyas* is to connect and enforce legal provisions, an issue that already has provisions in the nash to a new issue because both have the same illat. Therefore, if nash has explained the legal provisions of a matter and in it there is an illat determination of the law, then there is a new issue (event) whose illat is the same as what was explained by nash, then both apply the same legal provisions. In other words, the application of high Law between issues that are certain legal provisions can be done if there is a similarity or link between the two illat.<sup>20</sup>

In addition to *qiyas*, Seykh Athiyah Saqr also uses the method of *maslahah mursalah*. According to the understanding of the language *maslahah* means benefit and *mursalah* means loose. These two words are then combined into one term (*maslahah mursalah*) which according to *usul fiqh* scholars means the benefit that is not asserted in the Shari'a to rationalize and there is no particular *syara'* proposition either supporting or rejecting it.<sup>21</sup>

*Al-maslahah Al-mursalah* means a benefit that is not touched by the Shara ' and there are no arguments that tell to do or leave it, while if done will bring great good or *kemashlah*. Another meaning explains that *maslahah al-mursalah* means *maslahah* that is not mentioned with a particular nash, but in line with the will of nash. In other words, if there is an incident

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<sup>18</sup> Sakirman, "Metodologi Qiyas Dalam Istibath Hukum Islam", *Yudisia*, 2018, Vol 9 No 1, hal 41

<sup>19</sup> Ibid, h. 63

<sup>20</sup> Romli (2017) *Pengantar Ilmu Ushul Fiqh Metodologi penetapan hukum islam*. Depok : Kencana. h.118

<sup>21</sup> Kasuwi Saiban (2019) *Metode Penetapan Hukum Islam membangun mazhab fiqih kontemporer di Indonesia*. Jatim : Setara Press. h.67

in which there is no provision of the Shari'ah and there is no illat that comes out of the Shari'ah that determines the legal clarity of an incident, then something is found that is in accordance with the Shari'ah law which will be based on preserving harm or declaring a benefit, then the incident is called al-maslahah al-mursalah.<sup>22</sup>

Maslahat means to bring profit, reject harm and remove difficulties from them. The human soul is not limited to its parts and its individuals. Benefits will continue to emerge along with the development of the situation and the human condition due to environmental differences. Law enforcement sometimes brings benefits at one time and at another time brings harm. At the same time, sometimes a law can bring benefits in one environment but harm in another.<sup>23</sup>

The definition of *Al Maslahah* itself according to Al-Ghazali is basically an expression of attracting benefits and rejecting harm, but that is not what we mean; because attracting benefits and rejecting harm is the purpose of creatures (humans), and the good of the creatures will be realized by achieving their goals. What we mean by maslahat is to maintain the purpose of the Shara' / Islamic law, and the purpose of the Shara' of the creatures there are five, namely maintaining the religion, soul, mind, offspring (some who claim descent and honor), and their property. Every effort to maintain these five principles is called maslahat, and every effort to eliminate these five principles is called mafsadat and reject them is called maslahat.<sup>24</sup>

Al-Ghazali explained that Maslahah mursalah included in the proposition maahumah, can not be equated with the preaching of the Quran, Hadith, ijma and qiyas so that it can be said as the fifth proposition. He believes that everything must be returned to its rightful place. And the purpose of the Shari'a is known by the Al-Kitab, al-Sunnah and Ijma'. And therefore every Maslahah that does not refer to the Qur'an, Hadith and ijma' and Maslahah in the form of gharibah that is not in accordance with the rules of Shari'a is a void Maslahah that cannot be used. So every Maslahah that refers to the Qur'an, alSunnah and Ijma' does not come out of these arguments, but is not called qiyas, but Maslahah mursalah.<sup>25</sup>

Shaykh Athiyah Saqr issued a fatwa with *the qiyas method* because she saw the similarities between the two. In the provision of living it is in the form of a gift or fulfillment

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<sup>22</sup> Ahmad Cholili. "Urgensi dan Relevansi al maslahah al mursalah sebagai metode ijtihad kontemporer". *At Tahdzib*, Vol 1 No 2 hal.205

<sup>23</sup> Abdul Wahab Khallaf (2014) *Ilmu Ushul Fiqih*. Semarang : Dina Utama Semarang (Toha Putra Grub). H. 139

<sup>24</sup> Zainal Azwar. "Pemikiran Ushul Fiqih al Ghazali tentang almaslahah (Studi Eksplorasi terhadap kitab al-mustashfa min 'ilmi al ushul Karya al Ghazali). *Fitrah*. 2015. Vol 1 No 01 hal.60

<sup>25</sup> Muhammad Huzaifi. "Kedudukan Maslahah Mursalah menurut Imam Al Ghazali". *Jurnal Al-Nadhair*. 2023. Vol 2. No 1. hal. 10

of the needs of the wife, both clothing, food and board. Similarly, when the wife is in a state of cravings, the husband is asked to fulfill the wife's wishes. In addition, it can *also be interpreted* that the husband's obligation to fulfill his wife's desires when cravings are considered a form of action or good treatment of the husband to the wife because it has made his wife happy. It is also mentioned in the verse above that it is something that is commanded. So Sheikh Athiyah Saqr views that it is obligatory for the husband to fulfill the wishes of the wife in the condition of cravings. It can also be interpreted that the method used by Sheikh Athiyah Saqr is *maslahah mursalah* because according to her the fulfillment of the wife's wishes by the husband can bring benefits to the wife and also the fetus.

The fulfillment of the wife's desire is also seen to be able to realize harmony in the household. In realizing a harmonious family there are several characteristics that must be understood, according to Danuri revealed that a happy family, has the characteristics of the existence of peace of mind that is based on piety to God Almighty, harmonious relationships between individuals with other individuals in the family and society, guaranteed physical, spiritual and social health, sufficient clothing, food and shelter, the existence of legal guarantees, especially human rights, the availability of reasonable education services, there are guarantees in old age, so there is no need to worry about being abandoned in old age, the availability of reasonable recreational facilities. There are several other aspects to improve harmony in the family, namely spiritual well-being and minimizing conflict. Based on the aspects in realizing harmony in the family is to appreciate each other, love, attention to communication, have time in the family, improve spiritual well-being and minimize conflict.<sup>26</sup>

In his fatwa, Shaykh Athiyah Saqr argued that a husband who fulfills his wife's wishes when cravings are assessed can bring happiness and comfort to his wife. But it does not explain the forms of the wife's desire that must be fulfilled by the husband.

#### **D. Analysis of the relevance of the Fatwa Athiyah Saqr with the phenomenon of the desire of the wife Mengidam Pada present**

The existence of some cases or phenomena today, the author argues that the fatwa stated by Sheikh Athiyah Saqr is less relevant because it is still general. Maybe if in the old days the wife who was craving did not want anything strange or beyond her husband's ability, but in today's world it is the opposite.

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<sup>26</sup> Noffiyanti. "Mewujudkan Keharmonisan Rumah Tangga dengan Menggunakan Konseling Keluarga". *Al Ittizaan: Jurnal Bimbingan Konseling Islam*. 2020. Vol 3 No 1 hal.10

The author wants to reveal one of the facts that happened in Singapore, a husband who told me that his wife who was 24 weeks pregnant craved to eat crabs. At first the husband followed and fulfilled his wife's wishes. However, day by day his wife was getting stronger cravings so do not want to eat except eat crab every day so that her husband spent money for the fulfillment of his wife's desire was about 50 Singapore dollars or Rp. 530,000.00 to buy crabs. In one month he can spend 600 Singapore dollars or Rp.6400.000,00. Her husband had tried to find a way to persuade and even tried to trick his wife by buying a cheap crab, but the wife refused. This has made the husband difficulty in fulfilling the wife's wishes.

Moving on from one of the above facts, the author also often hears from everyday conversations with a number of wives that her cravings do not want to see her husband's face. Even more cases of wife cravings that can be categorized as strange and also troublesome for the husband.

For this reason, when viewed from the current reality, the author considers the need for further explanation of the wife's cravings which should be met by her husband. in addition, the author feels it is important to be limited or classified because strangely the wife's desire can lead to Discord or disharmony in the household.

Although in the expression of a young scholar from Kaliwungu, Kendal, Gus Rifqil Muslim Suyuthi said that these cravings are okay and the husband should fulfill the wife's wishes with limits that do not violate the Shari'a, but also have not been explained clearly what is illegal and the like. Because in fact, nowadays there are many cases of wife cravings that ask strange things to the husband.

If indeed Shaykh athiyah saqr relates the obligation of the husband to fulfill the wishes of the wife who is craving this with a living, of course there needs to be restrictions. The sustenance for a woman includes giving her food, drink, clothing, and things that are the demands of a decent natural life for a husband and wife without excesses and shortcomings. Islam tends to last forever, and it is not willful to depend on wealth or desire for pleasure. Even islam affects the element of earnestness and accepts expecting perfection in various favors and imposes various kinds of jewelry.<sup>27</sup>

Women are obliged to be reasonable and not excessive in living, housing, food, drink, and in dressing both for them and for their children, because excessive in this regard and following various models, making the wife change household furniture in various events. Is it not that it can be destructive, in fact it can be jealous, as some neighbors and relatives do. All

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<sup>27</sup> Ali Yusuf As Subki (2019) *Fiqh Keluarga*. Jakarta : Amzah. H. 189

that is superfluous and useless. God has strictly forbidden it. When man's lust submits to all this, he will face various difficulties because of his greed that knows no limits. As the current development of various models in the current era, they change and change the fashion to be followed and the merchandise can sell hard regardless of one's suffering. Indirectly they try to divert the wealth owned by someone to something more useful. Thus, unwittingly subjecting man to material and external values.<sup>28</sup>

## CONCLUSION

Shaykh Athiyah Saqr was one of the leading scholars in Egypt in his time. Shaykh Athiyah Saqr issued a fatwa stating that it is obligatory for the husband to fulfill the wishes of the wife who is craving the method of Qiyas and Maslahah Mursalah. With this qiyas method, Shaykh Athiyah Saqr equates the obligatory law with the obligation to pay maintenance for the husband to the wife. It is also attributed to the commandment to treat wives well which is enshrined in the Qur'an. As for the method of maslahah mursalah, Shaykh athiyah saqr considers the treatment of husbands to bring benefit to their wives and children. But it is necessary to limit the desire of the wife that the husband must fulfill is a desire that does not violate the Shari'a, does not cause harm and is also within the limits of the husband's ability.

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<sup>28</sup> Abdul Aziz Muhammad Azzam dan Abdul Wahhabh Sayyid Hawwas (2019) *Fiqh Munakahat*. Jakarta : Amzah. H. 216

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