

# COMMITTAL ORDERS FOR DISOBEYING WITH MAINTENANCE ORDERS IN THE SELANGOR STATE SHARIA COURTS: LITERATURE REVIEW

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**Abstract:** *Implementation and enforcement of maintenance order often becomes an unresolved issue at the Syariah Court. In order to ensure obedience to the maintenance order, several alternatives could be applied for the enforcement of the maintenance order, for instance; committal order. This research aims to study the concept of imprisonment in Islam. It also aims to study the legal provision related to committal order and its procedure of refusal of maintenance order, as well as the potential and challenges in enforcing the committal order due to the refusal of maintenance order at the Syariah Court of Selangor. This is qualitative research. Data collection is through document analysis, as literature is the principal method in this paper and was analyzed inductively. The outcome of this research was to discover that the concept of imprisonment in Islam was discussed in the context of ta'zir. The research outcomes also show that the gap in the provision of committal orders at Section 151(1) of the Syariah Court Civil Procedure Enactment (State of Selangor) is silent during the duration of imprisonment. Furthermore, there is also a gap in the application of cases that should be applied separately, whereby there are situations where the petitioner has to apply for divorce and maintenance separately. The research also discovers that the committal order is effective in encountering a person who refused to pay maintenance and has the potential to gain back the arrears. However, there are challenges in enforcing the committal order, such as the attitude of parties, loopholes in laws, weakness of enforcement of order, and trial duration. This research has an impact on practitioners and legislators in Selangor to upgrade the provision and enforcement of committal orders due to the refusal of maintenance orders. This research also assists in giving recent information to the petitioner on the provision and enforcement of orders related to maintenance.*

**Keywords:** *Enforcement; Committal order; Maintenance order*

## Introduction

In the modern era, Malaysia has two court systems, namely the civil court and the Sharia court (Sofiana et al., 2021)). For the Sharia court, various provisions are found in the Islamic Family Law enactments of each state, aimed at restoring the rights of those who have been wronged (Samuri et al., 2022). Among the provisions available to address maintenance issues is a committal order (Mansu, M. O., & Nasohah, Z., 2024). A committal order is an order issued by the court against an offender deemed to have insulted the court or failed to comply with the court's directives (Mansu, M. O., & Nasohah, Z., 2022). Therefore, the court may impose a penalty, such as imprisonment, on the offender (Ismail, M.H., 2024).

According to statistics released by the Malaysian Sharia Judiciary Department from 2013 to 2017, a total of 12,983 maintenance cases were registered in Sharia courts across Malaysia. Selangor recorded the highest number of registrations, with 3,409 cases (Anon, 2018) which increased to 3,949 cases in the period from 2018 to 2023 (Malaysia, Perbahasan Dewan Negeri, 2024).

Additionally, according to the statistics on the enforcement and implementation of child maintenance orders by the Family Support Division (BSK) of the Selangor Sharia Judiciary Department, a total of 1,438 cases were registered from 2016 to 2020 and 2022 alone 544 cases were registered (Laporan Tahunan Jabatan Kehakiman Syariah Selangor, 2022). Meanwhile, the statistics on committal cases recorded from 2000 to 2017 amounted to 96 cases, encompassing all 14 states in Malaysia (Sahabat Syarie, 2017).

Existing research provides valuable insights into the theoretical and practical aspects of enforcing maintenance orders. Studies by scholars like Abdul Qadir Awdah and Sayyid Sābiq outline the theological and legal underpinnings of punitive measures such as imprisonment (Abdul Qādir ʿAwdah, 2008), while Zakaria, Z. I., & Zaini Nasohah highlights ambiguities in existing laws that impede effective enforcement and the challenges of implementing the enforcement of syariah criminal law (Zakaria, Z. I., & Nasohah, Zaini, 2019).

Similarly, research by Roslina Che Soh et al. discusses procedural inconsistencies in determining child maintenance (Che Soh, et al., 2017), meanwhile research by Zawawi, N.A.N.M. & Muhammad, F.S suggests that several factors contribute to women's reluctance to claim alimony." (Zawawi, N.A.N.M. & Muhammad, F.S., 2024), and Sahlawati Abu Bakar et al. examines the socio economic repercussions of imprisoning noncompliant individuals (Sahlawati Abu Bakar et al., 2016).

Musa Awang's work underscores the deterrent potential of committal orders but cautions against their overuse due to their profound social impacts (Awang, M. & Persatuan Peguam Syarie Malaysia (PGSM), n.d.). Despite these contributions, existing literature often focuses on fragmented issues or theoretical frameworks, leaving significant gaps in understanding the integrated challenges and potential of committal orders within Selangor's Sharia courts.

Addressing these gaps, this study aims to identify and resolve procedural ambiguities and legislative inconsistencies that hinder the enforcement of committal orders. It seeks to balance the principles of *maṣlaḥah* (benefit) and *mafsadah* (harm) to enhance compliance while mitigating negative societal impacts.

The research's specific goal is to evaluate the feasibility of committal orders in Selangor, make practical recommendations to improve their implementation, and advocate for a more just and balanced enforcement system. Using a qualitative method based on document analysis (Johari, F., et al., 2013), the study examines secondary sources such as academic literature and case studies, as well as primary sources such as statutory provisions and court decisions - to gain a comprehensive understanding of the situation.

As conclusion, this research posits that addressing procedural and legal ambiguities is crucial for optimizing the enforcement of maintenance orders in Sharia courts. By offering a nuanced analysis of the committal order mechanism and situating the findings within the broader discourse of Islamic jurisprudence and contemporary legal systems, this study aspires to advance both theoretical and practical knowledge. Ultimately, it aims to support policymakers, legal practitioners, and scholars in promoting justice and welfare through more effective enforcement mechanisms within Malaysia's Sharia judicial system.

### Methodology

This study employs a qualitative technique primarily based on document analysis (Johari, F., et al., 2013), with an emphasis on legal, religious, and procedural materials pertaining to committal orders for noncompliance with maintenance orders in the Selangor State Sharia Courts. The study examines primary and secondary sources to understand legal requirements, procedural frameworks, and the efficacy of committal orders.

Data sources and collection methods include government publications, statistics from the Malaysian Sharia Judiciary Department, academic works, Sharia Court Civil Procedure Enactments, and Islamic Family Law Enactments. These were collected from government records, academic journals, and legal databases, ensuring comprehensive coverage of Sharia court rulings, enforcement tactics, and legal research concerning maintenance orders.

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### Result and Discussion

In the context of Islamic jurisprudence, varying perspectives among scholars have existed regarding the necessity of imprisonment as a form of punishment and its correlation with the concepts of *maṣlaḥah* (public interest) and *mafsadah* (harm).

The literature review highlights discussions among scholars concerning detention, confinement, and imprisonment in Islam. There is disagreement among scholars, particularly between Hanbali scholars and others, regarding the permissibility of this punishment (Ibn Qayyim, 2002). Some are in favor, while others have opposed it (Abd Muhsin, 2001). The divergence can be seen in the fact that some scholars justify imprisonment while others do not, arguing that it was not practiced by the Prophet or Abu Bakr (Muslich, 2005).

Historically, Prophet Muhammad (SAW) once detained a man who was accused but later released him, indicating that the detention was precautionary in nature. Additionally, during his leadership, he imposed imprisonment as a punishment, detaining several individuals accused

of murder. He also imprisoned a man based on an accusation but later released him. The evidence supporting imprisonment includes Quranic verses.

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ

*Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land.*

(Al-Quran, Al-Māidah 5:33)

According to al-Zaila'i (al-Zaila'i, 2000), the term "النفي" (al-nafy) means to imprison someone. Meanwhile, it is narrated from Al-Tabari that the phrase of "أَوْ يُنْفَوْا مِنَ الْأَرْضِ" (or they are banished from the land) means to expel them from the place where the act was committed to another place and to imprison them (Al-Tabari,). Meanwhile, the scholars of Kufa believe that the meaning of the verse is to imprison those who commit such acts (al-Shaukānī Muḥammad bin ʿAlī bin Muḥammad, 2007). However, there are also views asserting that a ruler should not necessarily construct a specific facility for imprisonment because, according to them, the prison system as it is known today does not exist (Ibn Qayyim, 2002).

From the perspective of maintenance (nafkah), it is obligatory to provide maintenance, a duty agreed upon by scholars (al-Shīrāzī, t.th). According to al-Kasani (al-Kāsānī, 1986), a husband can be imprisoned for neglecting the maintenance of his wife, and likewise, a father can be imprisoned for neglecting the maintenance of his children. On the other hand, Ibn Nujaim's view is; the imprisonment is mandated in cases of necessity (Ibn Nujaim, 2013).

If someone refuses to spend on their dependents, and if they have the means to do so, their wealth can be taken from them to fulfill their needs, and they have no choice in the matter. If they still refuse, they can be brought before a judge, who will order them to provide maintenance. If they persist in their refusal, they can be imprisoned (Ibn Qudāmah, 1985). Additionally, a father can be compelled to work if he is physically able. If he refuses to work, he can be forced to do so, or else he can be imprisoned (Ibn al-Humām, 1995).

However, the question arises was; is imprisonment being conducted as a form of punishment for those who refuse to provide maintenance nearly effective in educating and imparting lessons to the offenders from the perspective of the benefits (maṣlaḥah) of the prison system, or does the harm (mafsadah) resulting from imprisonment outweigh its benefits? Imprisoning a father, from one perspective, may make it difficult for him to fulfill his maintenance obligations because a detained individual is unlikely to have a job, leading to continued neglect.

According to Zanariah Noor, a committal order may exacerbate an already dire situation. A father with a fixed income may risk losing his job upon incarceration. Furthermore, imprisonment, in some cases, can have deep negative effects not only on the individual involved but also on their family and the community (Nasohah, 2014).

### Uncertainty in the Law and Procedures of Committal Orders and Discussion

In the context of committal orders for non-compliance with maintenance obligations, there exists a notable lack of clarity in both the legal framework and procedural aspects.

Each state in Malaysia has its own Islamic law. Despite efforts towards standardization, given that each state has its own jurisdiction, differences still exist among them - including in laws related to maintenance. However, according to Zaini Nasohah, Islamic family law in Malaysia is generally becoming more uniform (Nasohah, 2018).

On October 22, 2008, the Malaysian Sharia Judiciary Department established the Family Support Division (BSK) to manage matters related to the enforcement and implementation of maintenance orders (Potensi Dan Cabaran Perintah Komital Kerana Ingkar Perintah Nafkah Di Mahkamah Syariah, n.d.). The BSK operates in all states to streamline the administration related to maintenance. In terms of committal orders, the law applied in Selangor regarding committal orders is Section 181(1), Section 151, and Section 229 of the Selangor Sharia Court Civil Procedure Enactment 2003 (Enakmen Tatacara Mal Mahkamah Syariah (Negeri Selangor), 2003).

The government's initiative to establish specialized courts specifically for maintenance-related matters is a good strategy for addressing delays in maintenance cases. According to Jamil Khir, the existence of Special Marriage, Custody, and Maintenance Courts can expedite the process of divorce cases, child custody rights, and maintenance (Abdullah, 2018).

However, the issue that arises is the lack of clarity in existing laws. As Tun Zaki Tun Azmi (Bernama, 2017) pointed out when commenting on the amendment to the Federal Constitution, even though the government has amended the Federal Constitution by inserting Article 121(1A) in 1988, stating that Sharia matters shall be decided by Sharia courts, it remains unclear and has led to certain Sharia cases being heard in civil courts. The government needs to systematically review, amend, and rectify these laws to fill the gaps with new legislation.

The issue here is whether the existing laws and procedures regarding committal orders are unclear, had loopholes, and are overly complex - causing difficulties for applicants and being overlooked by the public. As Roslina Che Soh et al. (Roslina Che Soh, et al., 2017) stated in their study, there is an issue with the lack of clear guidelines on the procedure for assessing child maintenance claims, leading judges to set inconsistent amounts. Additionally, there are shortcomings in the enforcement aspect within the judicial branch's jurisdiction (Tan Abdullah, 2018).

### **Trends in Choosing Committal as a Punishment in Sharia Courts**

There is a trend in Sharia courts towards choosing committal as a punishment for non-compliance with maintenance orders. Furthermore, in today's modern era, offenders are often aware of and sensitive to existing laws. Consequently, they may seem to manipulate judicial orders, and unfortunately, some may refuse to resort to the courts for resolution altogether (Hussain, 2020).

Moreover, court orders from Sharia courts are often considered easy to disregard or, in other words, not deemed significant. This phenomenon is relatively rare in criminal and civil courts but differs in Sharia courts (Mohd Sies, 2003). According to Afizul Ibakarim Mohd (Ibakarim, 2017), punishments in Sharia courts may not effectively deter offenders from repeating their mistakes, whereas in Islam, punishments should serve as a deterrent to prevent offenders from repeating their actions.



Therefore, judges should be more vigilant in identifying and detecting offenders with such records or those attempting to follow immoral paths, in order to impose more suitable punishments and have a greater impact on offenders, including the imposition of committal orders.

According to Siti Zubaidah Ismail, the reality is that Sharia court judges in Malaysia have been seen as less inclined to impose imprisonment for Sharia criminal offenses, preferring fines instead (Ismail, S.Z., 2013). It is interesting to consider whether committal orders are irrelevant in this context. Sharia court judges in Malaysia tend to be cautious in imposing committal orders and prefer to exercise discretion in imposing strict punishments (Hanum, 2019) such as imprisonment.

However, the prison method is more effective in pressuring husbands to pay their overdue maintenance, as stated by Musa Awang (Hanum, 2019), who noted that when imprisonment is mentioned, these fathers will find money no matter what. There is a fear that imprisonment will have an impact on various aspects, such as one's profile, job, record, and new family, if applicable.

### **Committal Orders for Noncompliance with Maintenance Orders in the Selangor State Sharia Courts: Literature Review**

#### **Concept and History of Imprisonment in Islam**

Imprisonment is a facility where prisoners are detained, monitored, and undergo various rehabilitation activities until their release date (Nasir, 2013). It is also a place for educating and rehabilitating them towards a harmonious, orderly, and fulfilling life (Shaee, M.K., 1992). According to Sayyid Sābiq (Sayyid Sābiq, 1971), the concept of detention is not limited to specific and narrow places; rather, detention can also be carried out in homes, mosques, and open spaces, which are also considered prisons.

Detention also means restraining someone and preventing them from acting on their own behalf or going to work. The idea of establishing prisons as a means of punishment is not a new concept. The Quran itself has explained the existence of this institution, as Prophet Yusuf (peace be upon him) himself became a victim of imprisonment by the authorities at that time. Allah says:

قَالَ رَبِّ السِّجْنُ أَحَبُّ إِلَيَّ مِمَّا يَدْعُونَنِي إِلَيْهِ وَإِلَّا تَصْرِفْ عَنِّي كَيْدَهُنَّ أَصْبُ إِلَيْهِنَّ وَأَكُن مِّنَ الْجَاهِلِينَ

*He said, "My Lord, prison is more to my liking than that to which they invite me. And if You do not avert from me their plan, I might incline toward them and [thus] be of the ignorant."*

(Al-Quran, Yusuf 12:33)

There are various studies touching on the concept and history of imprisonment in Islam. Researchers highlight writings from both classical and contemporary scholars. Abdul Qadir Awdah's work, "al-Tashri' al-Jinai al-Islami Muqaranan Bi al-Qanun al-Wadi'i, (Abdul Qādir Awdah, 2008) " provides definitions of imprisonment, while Omar Al-Ali's article "al-Tazir Bi al-Sijn" discusses the beginnings of prisons in human civilization (Omar Al-Ali, 2018). Ibn Qayyim, in his book (Ibn Qayyim, 2002) "al-Turk al-Hukmiyyah Fi Al-Siyasah Al-Shar'iyyah," presents various Islamic scholars' views on the legality of imprisonment in Islam.

Additionally, al-Zaila'i, in his book "Tabyin al-Haqa'iq Sharh Kanz al-Daqa'iq, (al- Zaila'i, 2000) " also provides definitions of the term "prison" as interpreted by scholars.

Researchers refer to Sayyid Sabiq's book "Fiqh al-Sunnah," (Sābiq, 1971) which narrates the origins of prisons and lists the offenses that can lead someone to prison. The initial concept of detention, beginning at home and expanding over time, refined by governments, thereafter, is further elaborated by al-Zuhaili in his book "al-Fiqh al-Islami Wa Adillatuhu" (al-Zuhaili, 1985). The characteristics of detainee placement before the construction of prisons are documented in "Tabyin al-Haqa'iq Sharh Kanz al-Daqa'iq Wa Hashiyah al-Shalabi" by al-Shalabi (al-Shalabi, 1895). The study by Abdul Halim El-Muhammady titled "Syariah: Development and the Demands of Implementation" (A.H. El-Muhammady 2022) touches on Islamic law, beginning from the era of the Prophet, the Companions, the Umayyah and 'Abbasiah periods. It also discusses the laws in Islamic countries during colonization and after independence, as well as the differences between man-made laws and Islamic laws.

Furthermore, the researcher also highlights a journal article by Darussalam Budin Mahmod, (Z. & Buang, A. H. 2016) titled "Pendidikan Juvana Di Jabatan Penjara Malaysia: Dasar, Hala Tuju, Pelaksanaan Dan Cabaran," which discusses the introduction of prisons, how prisons function, the role of the Malaysian Prison Department, and its connection to education. It also explains how juvenile offenders undergo education within the prison system. Additionally, Munirah Nasir's (Nasir, 2013) research project report, "Kajian Tahap Kepuasan Penghuni Terhadap Fasilitas Penjara," provides insights into the meanings of prisons and emphasizes the importance of maintaining prison facilities in optimal conditions. Meanwhile a study by Farahsyinta Gladisia et.al "A Comparative Analysis of the Missing (Mafqud) Husband Regulations in Indonesia and Malaysia: A Study to Reform the Regulation That Meets Legal Certainty in Indonesia" (Gladisia et.al., 2022) discussed about the concept and circumstances of missing husband and its consequences towards nafkah.

Based on the researcher's observations, current studies often discuss the meaning of prisons, imprisonment laws in the context of ta'zir, and imprisonment for Islamic criminal offenses. Although there are studies discussing imprisonment in the context of maintenance orders, there are still gaps that need to be filled to discuss imprisonment laws from the perspective of maṣlaḥah and mafsadah, especially regarding non-compliance with maintenance orders, which is not extensively discussed.

### **Application of Committal Orders for Non-Compliance with Maintenance Orders and Their Implementation Procedures**

Maintenance is a form of obligation that must be complied with and fulfilled not only the right of the wife in the bond of marriage but also after the divorce (Hasanatul Jannah, 2010). According to Zaini Nasohah's study (Nasohah, 2018), "Analisa Keputusan Mahkamah Syariah Dalam Penentuan Kadar Dan Bentuk Nafkah Anak," assessments and evaluations regarding the amount of maintenance have evolved over time in accordance with the changing times. The amount and type of maintenance determined in the past were significantly different from those determined by the courts today. This study analyzed the decisions of Shariah courts in determining the amount and form of child maintenance.

In Bahiyah Ahmad's study (Bahiyah Ahmad, 2019) titled "Determining the Minimum Standard for Livelihood and the Ability to Resolve Outstanding Livelihood Issues" in the Valley of Klang, Malaysia, the minimum requirement for livelihood and the ability to resolve outstanding

livelihood issues are discussed. Meanwhile, the livelihood of children based on Islamic law and current statutory provisions, especially the Act and Enactment of Islamic Family Law, is mentioned in Zaini Nasohah's book "Children's Livelihood and Claims in Shariah Courts" (Nasohah, 2019). The book explains the importance of complying with the law and court orders to ensure the livelihood of children is protected.

The law and defense concerning children are highlighted in Nurul Izzah Izzati Hashim, Wafaa Yusof, and Zuliza Mohd Kusrin's journal article (Nurul Izzah Izzati Hashim, Wafaa Yusof, Zuliza Mohd Kusrin, 2019) "Child Neglect and its Guarantees According to Shariah and Law in Malaysia". The article found that provisions for livelihood and other provisions ensuring protection and safeguarding of children's welfare have been enacted.

Provisions regarding livelihood and marital affairs from a legal perspective are discussed in Zaini Nasohah's book (Nasohah, 2018) "Administration of Islamic Law in Malaysia: Provisions of Acts and Enactments". This book summarizes Islamic family law in Malaysia, including provisions regarding livelihood, which exhibit uniformity, but there are some differences in terms of phrasing and handling based on court directives or administration.

A study by Amin al-Jarumi and Nadia Murshida titled (Al-Jarumi, A., & Murshida, N., 2017) "The Islamic Criminal Law System and its Implementation in Malaysia: Between Islamic Demands and Current Realities" examines the extent of its implementation in Malaysia by comparing divine demands with current realities.

The importance of understanding the concept of prevention and punishment in Sharia criminal law is discussed in Mohamed Azam's book (Adil, M. A. M., 2018) "Illusion or Reality? Implementation of Islamic Law in Malaysia". The book finds that the implementation of Islamic law requires a combination of governmental wisdom and lawmakers adopting the approach of *fiqh al-awlawiyyāt* and the objectives of *sharī'ah* and the demands of *siyāsah sharī'iyah*.

Additionally, a journal article written by Zaini Nasohah and Suwaid Tapah titled (Nasohah & Suwaid Tapah, 2011) "Analysis of the Implementation of Summons Proceedings for Judgment Debtors in Enforcing Maintenance Payment Orders: A Case Study of the Shariah Courts in Selangor" analyzes the procedures for implementing maintenance orders and judgment debtor summons from both theoretical and practical perspectives. The article finds that the effectiveness of these proceedings largely depends on the discretion of the judge.

Meanwhile, Mohd Hazwan Ismail & Jasni Sulong's study titled (Ismail, M. H., & Sulong, J., 2021) "Summons for Judgment Debtors: The Need for Maintenance Orders or Arrears Orders" addresses the procedures for judgment debtor summons, which carry imprisonment penalties. The study found that several factors contribute to judges differing in imposing judgment debtor summons penalties for non-compliance with maintenance orders, including the ambiguity of legal provisions.

From a legal perspective, the reviewer examines Mawardi Che Man's paper titled (Mawardi Che Man, 2012) "Committal Proceedings (Section 151) & Contempt of Court (Section 229) under the Shariah Courts (State of Selangor) Criminal Procedure Enactment 2003," which discusses the procedures for application and provisions of committal orders under sections 151 and 229 of the Shariah Courts (State of Selangor) Criminal Procedure Enactment. The paper found discrepancies in section 151, which does not specify the duration of imprisonment.



Mohd Nadzri Abdul Rahman's book (Abdul Rahman, M. N., 2013) "Shariah Courts Criminal Procedure Enactment Principles and Practice" discusses the method of applying for enforcement orders, including committal orders, under the Shariah Courts Criminal Procedure Enactment of Negeri Sembilan. The book found that the enactment used in Shariah courts as the basis for handling cases is still imperfect, but these shortcomings do not affect the credibility of the Shariah courts if judges can interpret the law judiciously and have the courage to exercise independent legal reasoning.

Additionally, Mohd Nadzri Abdul Rahman's book titled (Abdul Rahman, M. N., 2008) "Contempt of Court in Civil Law and Islamic Law" explains how the contempt of court procedures that can lead to committal are implemented. The book found that civil law and Islamic law are not significantly different; the difference lies only in the basic concepts and sources. The reviewer also examines the Shariah Courts (State of Selangor) Criminal Procedure Enactment 2003, the Administration of Islamic Law (State) Enactment Selangor 2003, and the Rules of the High Court 1980.

The impact of imprisonment orders can be observed in Raneta Lawson Mack's book (Mack, 1999) "A Layperson's Guide to Criminal Law." The book found that imprisonment can deter the community from committing crimes due to the stigma associated with being incarcerated.

The implementation of committal orders as a last resort to enforce maintenance payments is discussed in the journal article by Nur Amalina Azman & Norhusairi Mat Hussin titled (N.A Azman & N.M. Hussin, 2017) "Income Execution Orders." The article found that committal is one of the orders used in enforcing maintenance orders and is also an effective measure in addressing cases of maintenance neglect.

Furthermore, the negative impact resulting from imprisonment orders is discussed in Petersilia's article titled (Petersilia, J. 2003) "When Prisoners Return to Communities: Political, Economic, and Social Consequences." The findings of this article indicate that prison can have negative effects on inmates in various aspects such as physical, mental, and emotional well-being.

Meanwhile, Farid Suhaimi's journal article titled (F.S. Shuaib, 2015) "Constitutional Issues and Human Rights in the Administration of Shariah Criminal Justice" discusses the principles of justice in Shariah courts. The article suggests that imprisonment may not always be a just punishment for all offenses to ensure fairness.

The difficulty in the social integration process due to imprisonment orders is discussed in Samuri et al.'s journal article titled (Samuri et al., 2012) "Legal Issues in Sentencing Child Offenders in Malaysia." This article explains the issues of stigma and negative labeling that prisoners may face upon reintegration into the local community.

Based on the review conducted, the researcher found that studies on the provision of committal orders for non-compliance with maintenance orders have been carried out, both in terms of provisions and procedures. However, the researcher found that there is still no specific study on the loopholes and ambiguities in the implementation and enforcement of maintenance orders.

### Potential and Challenges of Committal Orders for Non-compliance with Maintenance Orders

Furthermore, committal orders have provisions and enforcement that are legislated. In examining the law regarding committal orders and their challenges, the researcher looked at a journal article by Zaini Nasohah titled (Nasohah, 2009) "Challenges in Enforcement and Implementation of Maintenance Orders in the Selangor Sharia Court from the Perspective of Shariah Lawyers." The results of the journal article indicate several major problems in the enforcement and implementation of maintenance orders that require further consideration, with most of these issues being related to human attitudes.

Another journal article by Najibah Mohd Zin et al., titled (Mohd Zin, N et.al. 2015) "A Baseline Study of the Enforcement of Maintenance Orders in the Selangor Sharia Court," examines the relationship between the complexity of the process and the time taken in maintenance order trials, the duration involved, and the expenses incurred in maintenance orders. Also discussed is the enforcement of maintenance, including committal orders.

The committal order as an alternative that can be sought in the enforcement and implementation of maintenance orders is discussed in the journal article by Jazilah Mohd Saad@Mat Saud et al., titled (Saad, et al., 2013) "Mechanism of Enforcement and Execution of Muslim Maintenance Order: Court-Based System." Findings from this journal article indicate challenges identified in efforts to enforce maintenance orders.

A study by Azalea Sharmeen Zaizan & Zainunnisaa Abd Rahman titled (A.S.Zaizan & Z.A. Rahman. 2019) "Maintenance for Children According to Act 303" discusses the welfare of children and children's rights to maintenance that fathers are obliged to provide, as well as the need for an extended committal period for the purpose of father's compliance. The study found that loopholes in Section 78(1) of Act 303 pose challenges in enforcing maintenance orders for adopted children.

Forms of enforcement for non-compliance with maintenance orders, including committal orders, are discussed in the article by Nur Izzaty Sapien & Ahmad Azam Mohd Sheriff titled (N.I. Sapien & A.Z.A Sheriff. 2019) "Enforcement of Maintenance Orders in the Selangor Sharia Court." This article also discusses the importance of strengthening the body responsible for managing cases related to maintenance. The findings of this article indicate challenges in enforcing maintenance orders, especially administrative issues.

Additionally, a study by Fadil et al. titled (Fadil et al., 2024) "Fulfillment of Women's Rights After Divorce: Dynamics and Transformation in the Legal Journey" found that several provisions in the Malang Regency Religious Court are ineffective. The factors influencing this ineffectiveness are community awareness and cultural attitudes, which pose significant barriers.

Moreover, a journal article by Muslihah Hasbullah, Najibah Mohd Zin titled (M. Hasbullah, N.M. Zin, 2012) "How Divorced Women Can Effectively Enforce the Financial Support Orders: The Legal and Administrative Actions" discusses the types of enforcement provisions that can be sought after divorce, including committal orders. The review of this article found challenges faced after divorce in terms of obtaining maintenance, and committal orders are more effective in recovering maintenance compared to small fines.

Based on the conducted study, it is still found that there are no studies specifically discussing the potential and challenges of committal orders for non-compliance with maintenance orders.

## Conclusion

This study looked into the concept of imprisonment in Islam, with a focus on committal orders issued by the Selangor State Sharia Courts to anyone who fails to comply with maintenance requirements. The study clarified the legal norms and procedural components governing committal orders, identifying flaws such as the lack of clarity in determining the length of confinement and the complex procedures involved in filing for divorce and maintenance in isolation. Despite these issues, committal orders have been shown to be effective in making people pay their support obligations; however, enforcement is hampered by factors such as party attitudes and legal uncertainties. To increase clarity and efficacy in executing regulations, the research emphasizes the importance of performing a complete jurisdiction.

Overall, this study underlines the need to resolve concerns related to committal orders for disobeying with maintenance commitments in Sharia courts. It identifies areas where legislative frameworks and enforcement mechanisms might be improved while also emphasizing the potential of committal orders to enforce adherence to maintenance orders. In order to promote justice and welfare in society, the study acknowledges the work of different stakeholders and recommends additional research to continue investigating and addressing the issues underlying committal orders.

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