

THE RIGHT PRISONERS ACCORDING TO THE IJARAH 'ALA AL-'AMAL CONTRACT: A STUDY AT CLASS III LHOKNGA PRISON, INDONESIA

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Abstract

Every prisoner has the right to guarantee work safety, wages or premiums from the results of their work. However, at the Lhoknga Class III Penitentiary, the fulfilment of this right is not yet optimal because there are no regulations or laws that determine the nominal amount or percentage of wages that prisoners must receive. Currently, the amount of wages received by inmates is only determined based on the policy of the Head of the local Correctional Institution. This article aims to explain the wage process applied by the Lhoknga Class III Penitentiary to prisoners, as well as to explain how the wages of prisoners in this institution are determined based on the ijarah 'ala al-'amal agreement. To obtain data, the author used qualitative research methods. The main data was collected through interviews with respondents and informants who were considered to have relevant information regarding the problem under study. Meanwhile, secondary data was obtained from reading sources such as books, journals, articles and other materials related to this research topic. From the research results, the fulfilment of the right to wages for work has not been optimal. Some prisoners' work activities do not yet receive decent wages, while in other activities, prisoners earn wages of 33% from sales of goods or products.

Keywords: Akad Ijarah Ala Al-Amal, Lapas Lhoknga, Prisons, and Wages

INTRODUCTION

Correctional Institution (abbreviated as Lapas) has an important position in the criminal justice system in Indonesia because it is connected to

its main role and function, namely as a law enforcement institution, especially in the context of being a coaching institution for prisoners.¹

The correctional system is a system or order that regulates the direction, limits, and methods of fostering correctional prisoners based on Pancasila.² This system is carried out in an integrated manner by coaches, who foster prisoners with the aim of improving the quality of prisoners to realise mistakes, improve themselves, and not repeat criminal acts that have been committed before.³ It is also intended that they can be accepted back by the community, play an active role in development, and live in a civilised and responsible manner. To achieve this, the role of correctional institutions requires decisive action and being a role model, so that it can confirm that Indonesia is a state of law that exists with strong institutions of power.⁴

The Republic of Indonesia is committed to establishing a just and prosperous society based on Pancasila. In its endeavours, the State faces various obstacles and barriers, including from lawbreakers. By arresting, prosecuting and placing lawbreakers as prisoners in correctional institutions, the State's task is not finished, in fact it has only just begun, because one day the prisoners must be released back into society as law-abiding citizens.⁵

The success of this task of the State depends on the effectiveness of the role of correctional institutions in fostering prisoners, which is also the responsibility of the State. Basically, the correctional system aims to socially rehabilitate prisoners. Although they currently have the status of prisoners, they are still human beings and human resources who must be treated properly and humanely.⁶

The religion of Islam regulates all aspects of human life both in this world and in the hereafter, including in terms of muamalah between fellow

¹ Victorio Hariara Situmorang, "Lembaga Pemasyarakatan Sebagai Bagian Dari Penegakan Hukum," *Jurnal Ilmiah Kebijakan Hukum* 13, no. 1 (2019), <https://doi.org/10.30641/kebijakan.2019.v13.85-98>.

² Satria Nenda Eka Saputra and Muridah Isnawati, "Overcrowding Lembaga Pemasyarakatan (Lapas) Dalam System Pemidanaan Di Indonesia," *Pagaruyuang Law Journal* 6, no. 1 (2022), <https://doi.org/10.31869/plj.v0i0.3822>.

³ Saputra and Isnawati.

⁴ Ferdy Saputra, "Peranan Lembaga Pemasyarakatan Dalam Proses Penegakan Hukum Pidana Dihubungkan Dengan Tujuan Pemidanaan," *REUSAM: Jurnal Ilmu Hukum* 8, no. 1 (2020), <https://doi.org/10.29103/reusam.v8i1.2604>.

⁵ Rosita Meici Raming, Debby T Antow, and Fonny Tawas, "EKSISTENSI LEMBAGA PEMASYARAKATAN DALAM PEMBINAAN ANAK MENJALANI PIDANA," *Lex Crimen X*, no. 9 (2021).

⁶ Iqraq Sulhin, "Filsafat (Sistem) Pemasyarakatan," *Jurnal Kriminologi Indonesia* 7, no. 1 (2010): 134-50.



human beings. The Qur'an and as-Sunnah are the main guidelines that regulate this matter in detail. One example of muamalah that is regulated in Islam is wage-hiring, or what is known in fiqh muamalah as *ujrah*.⁷ Humans are naturally social creatures that require interaction and cooperation with others. In daily life, humans work to fulfil their needs and receive salaries or wages in return. The importance of justice is reflected in the principle that the wage or salary received must be legitimate and appropriate in accordance with the work performed, without any oppression or injustice to the parties involved in the agreement.⁸

In fiqh, one form of lease or wage-hire transaction is regulated in the *ijārah* contract. *Ijārah* is a lease transaction for goods or wages for services within a certain period of time with rental payments or service fees.⁹

According to the opinion of the fuqaha, *ijarah* can be divided into two types based on its object, namely *ijarah ala al-manfaat* and *ijarah ala al-'amal*. *Ijarah ala al-'amal* or *ujrah* refers to the contract of giving wages to workers. In language, *ijarah 'ala al-'amal* or *ujrah* has the same meaning, namely wages, rent, or reward. *Ijarah 'ala al-'amal* is given in return for the work someone does.¹⁰

In the concept of *ijārah 'alā al-'amal*, wages are determined based on the principles of justice and equality, with the aim of ensuring a fair wage for the contribution that has been made in the production process. Wages are considered appropriate if they are able to meet the needs of workers. Wages play an important role in labour relations because they are a means for workers to improve their welfare. In the concept of *ijārah 'alā al-'amal*, wages must fulfil several conditions, among others: It must be in the form of property

⁷ Nuraini Nuraini, Fithriady Ilyas, and Rina Desiana, "Analisis Sistem Ujrah Buruh Tani Padi (Kajian Di Gampong Mon Ara Kecamatan Montasik Kabupaten Aceh Besar)," *Ekobis Syariah* 4, no. 2 (2021): 22, <https://doi.org/10.22373/ekobis.v4i2.10052>.

⁸ Tajul Muna Raya Guna, "PERTANGGUNG JAWABAN RISIKO KERJA PADA KARYAWAN PEMADAM KEBAKARAN DALAM PERSPEKTIF AKAD IJARAH 'ALA AL-AMAL (Studi Kasus Pada Dinas Pemadam Kebakaran Dan Penyelamatan Kota Banda Aceh)," *Angewandte Chemie International Edition*, 6(11), 951–952., 1967, 5–24.

⁹ Mawar Jannati Al Fasiri, "Penerapan Al Ijarah Dalam Bermuamalah," *Ecopreneur: Jurnal Program Studi Ekonomi Syariah* 2, no. 2 (2021): 236, <https://doi.org/10.47453/ecopreneur.v2i2.446>.

¹⁰ Susi Fajriana, "Fakultas Syari' Ah Dan Hukum Universitas Islam Negeri Ar-Raniry Darussalam - Banda Aceh 2017 M / 1438 H," *Skripsi Fakultas Syariah Dan Hukum Universitas Islam Negeri Ar-Raniry-Bands Aceh*, 2017, 43–129.



with value and clear value, and not in the form of benefits similar to the object of the contract (*ma'qud alaih*).¹¹

Shari'ah stipulates that in an *isti'jar* (labour contract), the wage must fulfil certain conditions.¹² One of the main requirements is that the wage must be in the form of property that has value (*mutaqawwam*), may be used and utilised according to religious teachings, and its specifications must be clear and well known to the worker regarding its level and nature, just as in a sale and purchase contract. This condition mandates that knowledge of the wage cannot be fulfilled except in a way that is explained and determined with certainty.¹³

In the Indonesian legal system rooted in Pancasila, the conception of the function of punishment has evolved to be more than just imprisonment for convicts. Punishment is now considered as an effort to rehabilitate and socially reintegrate prisoners, which is carried out holistically through collaboration between coaches, prisoners, and the community. The goal is to improve the quality of prisoners so that they realise their mistakes, improve themselves, and do not repeat criminal offences in the future.¹⁴ Pancasila, as the foundation for the correctional system, emphasises the importance of balance and harmony in human life as an individual, in their interactions with society, nature, other nations, and in their relationship with God.¹⁵

The important role of the Correctional Institution in making prisoners aware is emphasised in the above statement. This awareness aims to create citizens who obey the law.¹⁶ Therefore, the success of the detention or coaching process in the Penitentiary is measured by the extent to which the rights of prisoners are fulfilled properly.

¹¹ Diajukan Oleh et al., "PENETAPAN BIAYA PERAWATAN GIGI DALAM PERSPEKTIF AKAD IJARAH 'ALA AL-AMAL (Studi Kasus Pada Dentist Kota Banda Aceh) SKRIPSI," n.d.

¹² Chairul Fahmi, "Analysis Of Legal Aspects On Capital Investment Fraud In Indonesia," *Proceeding of International Conference on Sharia Economic Law (ICoShEL)* 1, no. 1 (September 9, 2024): 79–95.

¹³ Juhri Kurniawan, "SISTEM PEMBIAYAAN ULANG (REFINANCING) SYARIAH PADA LEMBAGA PEMBIAYAAN PASCA BERLAKUNYA QANUN ACEH NOMOR 11 TAHUN 2018 BERDASARKAN AKAD BAI' WA AL-ISTI'JAR (Suatu Penelitian Pada Adira Finance Syariah Blang Pidie)," 2022.

¹⁴ Aditya Nugraha, "Konsep Community Based Corrections Pada Sistem Pemasarakatan Dalam Menghadapi Dampak Pememjaraan," *Jurnal Sains Sosio Humaniora* 4, no. 1 (2020): 141–51, <https://doi.org/10.22437/jssh.v4i1.9778>.

¹⁵ Rifa Daullah et al., "Pancasila Sumber Dari Segala Sumber Hukum," *Gema Keadilan* 9, no. 2 (2022), <https://doi.org/10.14710/gk.2022.16268>.

¹⁶ Chairul Fahmi, *Hukum dan Fenomena Sosial* (Banda Aceh: Aceh Justice Resource Centre, 2015).



The concept of correctional was refined through the decision of the official conference of prison leaders on 27 April 1964. The decision stipulates that the implementation of imprisonment in Indonesia must be carried out under the correctional system. This statement not only determines the direction of the goal, but also makes imprisonment as a way to guide and foster prisoners.¹⁷

In the coaching process, the government must also pay attention to the fulfilment of the rights of prisoners as stated in Article 9 of Law Number 22 of 2022 concerning Corrections. Which stipulates that prisoners have rights:¹⁸

- a. Practising worship in accordance with their religion or belief;
- b. Receive care, both physically and mentally;
- c. Receive education, teaching, and recreational activities as well as opportunities to develop potential;
- d. Receive proper health services and food in accordance with nutritional needs;
- e. Receive information services;
- f. Receive legal counselling and legal aid;
- g. Submitting complaints and/or grievances;
- h. Obtain reading materials and follow mass media broadcasts that are not prohibited;
- i. Receive humane treatment and be protected from torture, exploitation, neglect, violence, and all acts that harm physical and mental health;
- j. Receive job security, wages, or work premiums;
- k. Receive social services;
- l. And Accept or refuse visits from family, advocates, companions, and the community.

From the above law in article 9 letter j, every prisoner who is serving a criminal period at the Class III Lhoknga Correctional Institution has various rights, including the right to receive wages for the work they do in the

¹⁷ Chairul Fahmi and Syarifah Riyani, "ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT," *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 11, no. 1 (July 17, 2024): 89-104, <https://doi.org/10.21580/wa.v11i1.20007>.

¹⁸ Papy Michael Napu, Rudepel Petrus Leo, and Heryanto Amalo, "Implementasi Hak-Hak Narapidana Berdasarkan Undang-Undang Nomor 22 Tahun 2022 Serta Hambatan-Hambatannya Di Lembaga Pemasyarakatan Kelas II A Kupang," *Petitum Law Journal* 1, no. 1 (2023): 54-62.



institution.¹⁹

At Lhoknga Class III Correctional Institution, there are a number of inmates who receive different wages for the different types of work they do, such as welding, among the handicrafts that have been made by inmates include canopies, window guards, flower shelves, fence doors and so on. Then there is also barbering, sewing, and agriculture. The wages received by workers usually depend on the results of their work. For example, workers who do welding work can receive a wage of around Rp 100,000 to Rp 150,000 per metre, while barber workers usually get around Rp 20,000 per person. For workers who sew, the wages range from Rp 10,000 to Rp 70,000 per job, while for agricultural workers, the wages depend on the crop harvest.

RESEARCH METHODS

This research uses a type of qualitative research, which means that this research examines the problem by analysing from the point of view of legal science and relating it to facts or phenomena related to the implementation of fulfilling the rights of prisoners to get wages from the work they do.²⁰ The research also involves interviews with respondents and informants who are considered to have relevant information regarding the problem being studied. In addition, the research also uses primary sources from the Law, DSN MUI fatwa and classical fiqh books, which are related to the research being studied. And the secondary data is obtained from the results of previous research related to the topic of this research, as well as other sources from journals and articles.²¹

RESULTS AND DISCUSSION

A. Definition of *ijarah 'ala al-amal* contract

Ijarah is a contract to transfer the right to use goods or services for a certain period of time with the payment of fees, without changing the

¹⁹ Chairul Fahmi et al., "Defining Indigenous in Indonesia and Its Applicability to the International Legal Framework on Indigenous People's Rights," *Journal of Indonesian Legal Studies* 8, no. 2 (November 8, 2023): 1019–64, <https://doi.org/10.15294/jils.v8i2.68419>.

²⁰ Muhammad Siddiq Armia, *Penentuan Metode Pendekatan Penelitian Hukum* (Banda Aceh: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022), <https://repository.ar-raniry.ac.id/id/eprint/22862/>.

²¹ Dadang Sumarna and Ayyub Kadriah, "Penelitian Kualitatif Terhadap Hukum Empiris," *Jurnal Penelitian Serambi Hukum* 16, no. 02 (2023): 101–13, <https://doi.org/10.59582/sh.v16i02.730>.



ownership of the goods.²² In Islamic economics, the concept of services is related to *ijarah* (leasing). *Ijarah* in Islam refers to the sale of services, which is a form of utilisation right. The word "*ijarah*" comes from the Arabic "*al ajru*", which means wage or salary. Etymologically, *ijarah* refers to the sale of the benefits of either goods or services. In sharia terminology, *ijarah* refers to a contract that is carried out by utilising something from another person by paying according to an agreed agreement along with certain conditions. Conceptually, *ijarah* is similar to buying and selling, but the objects traded in *ijarah* are services, both those produced by humans and those derived from the utilisation of goods. In contrast to buying and selling, which generally involves goods or services as the object of the transaction.²³

Here are some definitions of *ijarah* put forward by several scholars:

- a. According to Imam Shafi'i, *ijarah* is a contract to utilise a service for a specific purpose, which is permissible and can be utilised for a certain reward.²⁴
- b. The Malikiyah and Hanabilah groups define *ijarah* as the ownership of the benefit of something permissible (*mubah*), for a certain period of time in exchange for a specified fee.²⁵
- c. According to Sayyid Sabiq, *ijarah* is a type of contract to utilise something by providing compensation (reward).²⁶

According to the fatwa of the National Sharia Council (DSN), *ijarah* is an agreement to transfer the right to use (benefits) of an item or service within a certain period of time by paying rent or wages, without involving the transfer of ownership of the item itself. Meanwhile, according to Bank

²² Devianita Devianita, "PENERAPAN AKAD IJARAH DALAM PRODUK PEMBIAYAAN BANK SYARIAH," *MUTAWAZIN (Jurnal Ekonomi Syariah)* 2, no. 1 (2021), <https://doi.org/10.54045/mutawazin.v2i1.236>.

²³ Mawaddatul Ula, "Analisis Pertanggungjawaban Risiko Usaha Pada Transaksi Pre Order Percetakan Dan Grafika Pada Warna Graphic Design Menurut Konsep *Ijarah 'Ala Al-'Amal*," *Hukum Ekonomi Syariah*, 2022, 72.

²⁴ Aripin Marpaung Alfiki, "Mengambil *Ijarah* Berupa Upah Dari Pelaksanaan Mengajarkan Al-Qur'an Menurut Imam Syafi'i Dan Imam Ahmad Ibn Hambal," *Raudhah Proud To Be Professionals: Jurnal Tarbiyah Islamiyah* 7, no. 2 (2022): 364-75.

²⁵ Abdul Fattah, "Pendahuluan Hubungan Manusia Satu Dengan Manusia Yang Lain Memiliki Istilah Yang Disebut Dengan Muamalah, Sedangkan Muamalah Sendiri Di Bagi Menjadi Dua Artiyaitu Yang Pertama Muamalah Yang Di Artikan Sebagai Kegiatan Transaksi Yang Berhubungan Dengan Ek" 18 (2022): 309-39.

²⁶ Agung Fakhruzy, "Sistem Operasional Akad *Ijarah* Pada Kinerja Tukang Bangunan Menurut Ekonomi Islam Di Desa Kertagena Tengah Kabupaten Pamekasan," *Jurnal Baabu Al-Ilmi Ekonomi Dan Perbankan Syariah* 5 (2020): 66-67.



Indonesia, *ijarah* is the process of leasing the benefits of an item or service between the owner of the rental object and the tenant, where the tenant provides compensation in the form of rent or wages to the owner of the rental object.²⁷ Thus, *ijarah* is an agreement to transfer the right to use goods or services (benefits), through rental payments, without being followed by a transfer of ownership of the utilised object. The benefit (service) being leased is something that is permissible according to sharia provisions and can be utilised. The *ijarah* transaction occurs with the transfer of the right to benefit from the leased object.

Ijarah 'ala al-amal is an agreement made by one or several people to carry out certain work with binding conditions, made by both parties so as to create rights and obligations between them in providing services to other parties, based on agreed compensation.²⁸

The work agreement in the format of *ijarah 'ala al-'amal* is carried out in the form of a consensual agreement, where the parties agree to do a contract with a clear object and measurable rental compensation. Therefore, *ijarah 'ala al-'amal* as another consensual agreement, after the parties agree to the contract clause and the contract has taken place, the handover of the object of the transaction occurs. Thus, between *musta'jir* and *mu'jir* as parties involved in the *ijarah 'ala al-'amal* agreement, they agree to fulfil their mutually agreed rights and obligations. *Mu'jir* is obliged to deliver goods (*makjur*) to *musta'jir*, while *musta'jir* is obliged to give rent (*ujrah*).

In the concept of *ijarah 'ala al-amal* contract, when a company wants to hire a worker (*musta'jir*), it must first determine the type of work and the reward (*ujrah*). This is because in *ijarah 'ala al-amal*, the benefit taken is the service or labour of a person, so it must be clear about the type of work and working time. If it is not clear, then the contract is considered invalid.²⁹

Thus it can be concluded that *ijarah 'ala al-amal* is the taking of the benefits of a person's expertise or ability in the form of services, which provide benefits to the renting party. In other words, in this *ijarah 'ala al-amal* practice, what moves is only the benefit of a person's expertise and abilities, both in the form of labour and the results of his thoughts. In return for the services that have been utilised, the tenant is obliged to pay.

²⁷ Rosita Tehuayo, Fakultas Syariah, and Islam Iain, "Tahkim," n.d.

²⁸ Alvian Chasanal Mubarroq and Luluk Latifah, "Analisis Konsep Muamalah Berdasarkan Kaidah Fiqh Muamalah Kontemporer," *Tadayun: Jurnal Hukum Ekonomi Syariah* 4, no. 1 (2023): 95–108, <https://doi.org/10.24239/tadayun.v4i1.101>.

²⁹ Al Fasiri, "Penerapan Al Ijarah Dalam Bermuamalah."



B. Legal Basis of Ijarah 'Ala Al-Amal

In the Islamic view, the law of *ijârah 'ala al-'amâl* (rent for work) is permissible, which means that this action is allowed or allowed to be done as long as it is in accordance with the stipulated Sharia provisions. That is, the activity of *ijârah 'ala al-'amâl* is not prohibited by *shar'i*, as long as the process is carried out in accordance with Islamic principles governing the contractual relationship between the renting party (*mujîr*) and the hired party (*'âmil*).³⁰

The *fuqaha* have different opinions regarding the law of *ijarah*. In general, the majority of *fuqaha* agree that *ijarah* contracts are valid and permissible by *shara'*, although there are some scholars such as Abu Bakr al-Asham, Ismail Ibn A'liyah, Hasan al-Bashri, Al-Qasyani, Nahrawani, and Ibn Kisian who argue that *ijarah* is actually a sale and purchase of benefits. They argue that the benefit at the time of the contract cannot be fully handed over, and can only be enjoyed little by little after a certain time. In their opinion, something that does not exist at the time of the contract cannot be traded. However, this view has been refuted by Ibn Rushd, who argues that even if the benefit at the time of the contract does not actually exist, it will predominantly be realised in the future. Ibn Rushd's view is considered by *Shara'*. Thus, this difference of opinion reflects the complexity of understanding the law of *ijarah* in Islam, where each argument seeks to accommodate different *sharia* principles.³¹

The legal basis for the permissibility of *ijârah* is as follows:

1) Legal basis according to the Koran

Allah SWT also regulates wages in the Qur'an, where paying wages to people who have used their energy is an obligation, as explained in Surah At-Thalaq verse 6.³²

فَإِنْ أَرْضَعْنَ لَكُمْ فَارْتُدُّنَّ أَجُورَهُنَّ

Meaning: then if they suckle your young, give them their reward.

According to the commentary of Ibn Kathir, the meaning of the verse is that if parents agree to breastfeed their children to other people for certain

³⁰ M.M Dr. Hj. Ru'fah Abdullah, *Dr. Hj. Ru'fah Abdullah, M.M*, 2020.

³¹ Syamsul Hilal, "Urgensi Ijarah Dalam Prilaku Ekonomi Masyarakat," *Asas Jurnal Hukum Ekonomi Syariah* 5, no. 1 (2013): 4.

³² Azizah Rasad, "Pelajaran Dari Qs. Ath-Thalaq Ayat 6: Ajaran Islam Menentukan Upah Buruh," *Jurnal Ayat Dan Hadits Ekonomi* 1, no. 2 (2023): 70-79.



reasons, then there is no sin in that. The father can breastfeed his child to another woman by providing a fair wage for the breastfeeding service that has been performed.

Furthermore, the word of Allah in Surah al-Qasas verse 26 in the Qur'an reads:"

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَأْجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ

Meaning: One of the two (women) said, "O my father, hire him. Indeed, the best person you can hire is someone who is strong and trustworthy."

According to the commentary of Ibn Kathir, the above verse tells of a woman who came to Prophet Musa a.s and said, "Verily my father called you that he might reward you for your kindness in giving water to our cattle." When Musa went to the woman's father, Prophet Shu'aib, and told him the story, Prophet Shu'aib said, "Do not be afraid. You have been saved from those unjust people." One of his daughters then said to her father, "O my father, take him as our labourer, for surely the best person to work for us is one who is strong and trustworthy."

2) Legal basis according to the hadith

In addition to the Qur'anic verses mentioned above, there are several traditions that confirm the wages. The Prophet said:

عن عبد الله بن عمر، قال: قال رسول الله صلى الله عليه وسلم: أعطوا الاجير أجره، قبل أن يجف عرقه

Meaning, "From 'Abdullah ibn 'Umar, the Messenger of Allah (SAW) said, 'Give wages to labourers before their sweat dries.'" (HR. Ibn Majah).

The above Hadith explains that after a job is completed, the wages should be paid immediately without delay. Usually, workers want to enjoy the fruits of their labour immediately after completing their obligations. According to the majority of scholars, this Hadith is of sahih quality.³³

"Furthermore, in the hadith narrated by 'Abd ar-Razzaq through Abu Sa'id al-Khudri, the Prophet Muhammad s.a.w. said:"

³³ Dhaifina Fitriani, "Studi Al-Qur'an Dan Hadis Aturan Hukum Konkrit: Ijarah (Sewa Menyewa)," *Lentera: Indonesian Journal of Multidisciplinary Islamic Studies* 2, no. 1 (2020): 27-38, <https://doi.org/10.32505/lentera.v2i1.2112>.

مَنْ اسْتَأْجَرَ أَجِيرًا فَلْيُعْلِمْهُ أَجْرَهُ

Meaning: 'Whoever hires someone, let him declare his wages.'

The above Hadīth proves that *ijārah 'ala al-'amāl* (hire-to-work contracts) are permissible. The Hadīth also emphasises the importance of stating the wage clearly to avoid uncertainty, which can prevent disputes and quarrels.³⁴

3) Legal basis according to scholarly *consensus*

Ibn Rushd in his book *Bidayat al-Mujtahid* states that *'ijārah* (rental agreement) is allowed by all *fuqahā'* in all regions.³⁵ At the time of the Companions, Muslims had agreed that *ijārah 'ala al-'amāl* (rental agreement for work) was permissible because it provides benefits to humans. Anything that brings benefits makes the work good and lawful. There are no scholars who dispute this *ijmā'* agreement. As Sayyid Sabiq stated, *'Ijārah 'ala al-'amāl* has been agreed upon by Muslims, and opinions that differ from the consensus of the scholars have no force, because *ijārah* is a contract for the transfer of the right to use goods or services through payment of rent, without transferring ownership of the goods themselves.

C. Terms and Conditions of *Ijārah 'Ala Al-'Amāl*.

1. The pillars of *ijarah*

According to the Hanafiyah school of thought, the pillars of *ijārah* are *ijab* and *qabul* between the two parties to the transaction. Meanwhile, according to the majority of scholars, there are four pillars of *ijārah*, namely:³⁶

a) Two people who make a contract

People who do a lease contract consist of two parties: *mu'jir* and *musta'jir*. *Mu'jir* is the party who rents the goods or services, while *musta'jir* is the party who rents and receives compensation or wages for the work or services provided. The parties to an *ijārah* contract are required to understand the benefits of the goods or services that are the object of the contract, in order to prevent disputes in the future.

³⁴ Dewan Syariah Nasional et al., "Hai Orang -Orang Yang Beriman, Penuhilah Akad-Akad Itu..." b. QS. al-Qashash [28]: 26;" 2010.

³⁵ Silvia Nur Febrianasari, "Hukum Ekonomi Islam Dalam Akad Ijarah Dan Rahn (Islamic Economic Law in the Ijarah and Rahn Contracts)," *Qawānīn Journal of Economic Syariah Law* 4, no. 2 (2020): 193–208, <https://doi.org/10.30762/q.v4i2.2471>.

³⁶ S Khamisyah, "Analisis Teori Ijarah Terhadap Sewa Menyewa Tanah Milik Pemkot Surabaya Oleh Rukun Tetangga (Rt) 01 Kepada Para Pedagang Di Tandes Surabaya," *UIN Sunan Ampel Surabaya*, 2019.



b) Sighat (ijab and qabul)

Sighat is the expression used by the parties in the contract, in the form of ijab and qabul. Ijab is an initial statement from one of the parties to the contract, which describes his/her will in doing an ijārah contract. Meanwhile, qabul is a statement from the other party (musta'jir) expressing acceptance of the first party's will.³⁷

c) Ujrah or wage

Ujrah or wages in ijārah must be in the form of something that has value, either in the form of money or services, and is not contrary to public custom. The amount of ujrah must be known and agreed upon by both parties, both in the lease contract and in the wage-hiring contract.

d) Object

The object of ijārah is the item to be leased or the work to be done. The object of ijārah must be clearly specified to prevent disputes in the future. If the benefit of the object is not clear, then the contract is considered invalid.³⁸ The conditions that must be met in the object of this contract are:

- a) The object of ijārah is the benefit of the use of goods and services.
- b) The benefits of the goods must be clearly assessable and enforceable.
- c) Fulfilment of benefits must be in accordance with the permitted conditions.
- d) The ability to fulfil the benefits must be real and in accordance with sharia principles.
- e) The benefit must be specifically recognised to avoid jahalah (ignorance) that could lead to disputes.
- f) Benefit specifications should be clearly stated, including the timeframe, and recognisable through specification details or proper identification.
- g) Rent is the compensation promised and paid by the lessee to the asset owner in return for the benefits received.

³⁷ Diky Faqih Maulana, "Analisis Terhadap Kontrak Ijarah Dalam Praktik Perbankan Syariah," *Muslim Heritage* 6, no. 1 (2021), <https://doi.org/10.21154/muslimheritage.v6i1.2569>.

³⁸ R. Zainul Musthofa and Siti Aminah, "Tinjauan Hukum Islam Terhadap Sewa Menyewa (Ijarah) Tanah Kas Desa," *Al-Maqashid: Journal of Economics and Islamic Business* 1, no. 1 (2021): 41–62, <https://doi.org/10.55352/maqashid.v1i1.250>.



- h) Rental payments can be in the form of services (other benefits) equivalent to the type of contract object being rented.
- i) The leased goods must be objects that can be physically held or controlled.

2. Terms of Ijarah The terms of the ijārah contract are as follows:

- 1) According to the Shafi'i and Hanbali schools of thought, both parties to the ijārah contract must have reached puberty and be of sound mind. Therefore, if one of the parties has not reached puberty or is not of sound mind, such as a child or an insane person, then the ijārah contract made by them, whether as a tenant or as a labourer, is considered invalid. In contrast, according to the Hanafi and Maliki schools of thought, a person who enters into an ijārah contract does not have to reach the age of puberty; a child who is *mumayyiz* can enter into an ijārah contract provided that the contract is approved by his guardian.
- 2) Both parties to the ijārah contract must voluntarily express their willingness to do the contract. If one of the parties is forced to do the contract, then the contract is considered invalid.
- 3) The benefit that is the object of ijārah must be clearly known to prevent disputes in the future. If the benefit is not clear, then the contract is invalid.
- 4) The object of ijārah must be able to be handed over and used directly without defects. Therefore, *fiqh* scholars agree that it is not permissible to rent something that cannot be handed over or utilised directly by the renter.
- 5) The object of ijārah must be something that is permissible by *Shara'*. The *fiqh* scholars agree that it is not permissible to hire sorcerers, hire people to kill (hitmen), or rent houses for haram activities such as gambling or prostitution. Similarly, it is not permissible to rent a house to non-Muslims for their religious activities that are contrary to *shara'*.
- 6) The object of ijārah is something that can be rented out, such as a house, car, riding animal, and others.

- 7) The wage or rent in an *ijārah* contract must be clear, specific, and of value. However, the wage must not be in the form of goods that are prohibited by *Shara'*.³⁹

D. Wage process determined by Class III Lhoknga Correctional Institution for prisoners

According to Article 9 letter j of Law No. 22 Year 2022, every prisoner is entitled to receive wages for the work he has done. The provisions in this law must be implemented by all correctional institutions, including the Class III Lhoknga Correctional Institution.

Table 1: Types of work carried out by prisoners at Class III Lhoknga Correctional Institution.

No.	Type of work	Number of inmates working	Average length of service	Description
1	Cooking	10 people	3 months	No wages
2	Agriculture	4 people	6 months	Earning wages
3	Building work	6 people	2 months	No wages
4	Haircut	1 person	2 months	Earning wages
5	Hygiene	4 people	6 months	No wages
6	Welding	1 person	2 months	Earning wages
7	Sewing	1 person	2 months	Earning wages

At the Class III Lhoknga Correctional Institution, there are various work activities, both productive and maintenance, which are carried out by prisoners and supported by the correctional institution. Apart from functioning as a time filler, these work activities also provide provisions for life after prisoners or prisoners solve their criminal problems.

E. Calculation of Selling Price and Wages of Prisoners

In conducting guidance on work activities, both productive and maintenance, considerable funds are required. These funds are provided by the government through the Ministry of Law and Human Rights to support the coaching process, especially in work activities.

³⁹ Muhammad Ngasifudin, " Analisis Biaya Ijarah Dalam Sistem Gadai Syariah," *Jurnal Manajemen Dan Ekonomi* 2, no. 1 (2021): 26.



In productive work, the funds are used to finance the production process, including the purchase of raw materials, tools, maintenance, and other supporting items. After the production process produces various products, these products will have a selling value. This selling value affects the size of the wages received by prisoners who have worked. The calculation of product sales will be recorded every month, by recording the production price, selling price, and wages received by prisoners.

Table 2; Types of work performed by prisoners and the predetermined selling price or service."

No.	Type of work	Selling price of goods or services
1	Cooking	-
2	Agriculture	Mustard: IDR 6,000 per kg Water spinach: IDR 4,000 per kg Lettuce: IDR 25,000 per kg Pakcoy: IDR 20,000 per kg Eggplant: IDR 6,000 per kg
3	Building work	-
4	Haircut	IDR 20,000 per person
5	Hygiene	-
6	Sewing	IDR 10,000-70,000
7	Welding	IDR 100,000-150,000 per metre

The list of selling prices of products or services is the result of the calculation of all production costs to produce goods, which are carried out by the Class III Lhoknga Correctional Institution. The selling price of goods and services includes the wages received by prisoners for their work. Determination of the percentage of wages is not done arbitrarily. Based on the decision of the Head of Class III Lhoknga Correctional Institution, the percentage of wages or premiums for each working inmate is 33% of the selling price of the goods produced.

However, the authors found that in the maintenance type of work activities, such as cooking, building work, and cleaning, the prisoners involved do not receive wages. They only get drinks, food, and other facilities without detailed and clear wages. This is due to the assessment of the Correctional Institution which considers the work to be maintenance in nature

and the results cannot be sold. Therefore, prisoners who work in these maintenance activities do not receive wages.

To gain a more in-depth understanding of the individual income of prisoners, the author used the questionnaire and interview methods. below shows the results of both methods in determining the amount of wages for prisoners who have worked.

The first interview was conducted with a prisoner named Akmal, who was involved in a drug case with a sentence of 7 years and has served 3 years and 9 months. Akmal worked in the kitchen for 2 years, cooking rice from 04:30 to 08:30 am, then resting before returning to work from 15:00 to 16:00 pm. Akmal admitted that he did not receive any wages for his work, although he knew that other prisoners who worked were entitled to them. However, he does not mind this because he feels that working in the kitchen is better than having nothing to do in the residential room, so that the criminal sentence feels lighter.⁴⁰

The second interview was conducted with a prisoner named Zainal Abidin, who was involved in a case of sexual abuse with a sentence of 9 years and has served 4 years. Zainal Abidin has only been working in the agricultural section for about 8 months, with tasks ranging from cleaning the land, sowing, planting, to harvesting vegetables such as mustard greens, pakcoy, lettuce, eggplant, kale, and chilli. He works from 09:00 to 12:00 noon, takes a break, then resumes work from 15:00 to 17:00 in the afternoon. Zainal Abidin revealed that the vegetables he grows take 20-30 days to harvest, with yields reaching 20-40kg per day. Based on the provisions of the Lhoknga Class III Institution, he is entitled to 33% of the sales proceeds, so the wages or premiums he receives range from Rp200,000 to Rp400,000 per month.⁴¹

The third interview was conducted with a prisoner named T. Nazaruddin, who was involved in a case of illegal possession of firearms with a sentence of 7 years and has served 2 years and 2 months. T. Nazaruddin has been working as a labourer in the building for about 1 year. In addition to his main duties at the building, he also performs various other activities such as grass cutting and electrical installation. Work starts from 09:00 to 12:00 noon, takes a break, and then resumes from 15:00 to 18:00 in the afternoon. He has been involved in various projects such as building residential rooms, building

⁴⁰ Akmal, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024.

⁴¹ Zainal Abidin, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024



toilets, renovating inmate bathrooms, painting, and painting the front yard of the office. T. Nazaruddin claimed to have received only drinks, food, and cigarettes during his work, with no regular wages except Rp150,000. He felt that he should be entitled to a decent wage but did not dispute this because he felt that his work was voluntary and he enjoyed it.⁴²

The fourth interview was conducted with a prisoner named Syahrul Fuadi, who was involved in a drug case with a sentence of 8 years and has served 3 years. Syahrul Fuadi has only been working as a barber for 3 months. All barbering equipment is provided by the Correctional Institution, and prior to placement, the institution organises barbershop training with professional instructors to assess the skills of the inmates. In addition to barbering, Syahrul Fuadi is also in charge of cleaning and removing rubbish from the residential blocks. He works from 09:00 to 12:00 noon, takes a break, then continues from 15:00 to 17:00 in the afternoon. Syahrul Fuadi is able to cut 5-7 people per day at a rate of Rp20,000 per person. Based on the regulations of Class III Lhoknga Correctional Institution, he is entitled to 33% of the proceeds, so his monthly wage ranges from Rp200,000 to Rp400,000, which is usually paid once every 10 days.⁴³

The fifth interview was conducted with a prisoner named Bella Safira, who was involved in a drug case with a sentence of 7 years and has served 3 years. Bella Safira has been carrying out her duties as a cleaning assistant for about 2 years. Together with 3 other female inmates, she cleans the office from 6:30 to 7:30 am, before the employees enter the office. In addition to cleaning the office, Bella is also tasked with watering the flowers, maintaining the garden, and taking out the rubbish. Bella Safira admits that she does not receive wages for her cleaning work, but she does not mind this because the work she does is voluntary and without coercion.⁴⁴

The sixth interview was conducted with a prisoner named Mustakim, who was involved in a corruption case with a sentence of 6 years and has served 2 years and 5 months. Mustakim was chosen by the Correctional Institution as a tailor because he previously worked as a tailor, and this experience was taken into consideration in his placement. Mustakim has only

⁴² T. Nazaruddin, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024

⁴³ Syahrul Fuadi, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024.

⁴⁴ Bella Safira, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024.



been working as a tailor for 2 months, because previously there were no inmates who had sewing skills.

In his daily life, Mustakim works alone without the help of other prisoners, with all sewing equipment provided by the prison. In addition to sewing, he is also tasked with cleaning and removing rubbish from the residential blocks. He works from 09:00 to 12:00 noon, takes a break, then continues from 15:00 to 17:00 in the afternoon. The work performed includes repairs, alterations, and sewing of shirts and trousers. Rates for repairs and alterations range from Rp10,000 to Rp25,000, depending on size, while sewing shirts and pants costs Rp70,000 per item. Based on the provisions of Lhoknga Class III Correctional Institution, Mustakim is entitled to 33 per cent of the proceeds, with the remaining proceeds going to the Correctional Institution. The monthly wage he receives ranges from Rp200,000 to Rp350,000.⁴⁵

The seventh interview was conducted with a prisoner named Akbar who was involved in a narcotics case and sentenced to 5 years, with a sentence that has been served for 2 years and 6 months. At Class III Lhoknga Correctional Institution, infrastructure improvements are often carried out such as repairing room doors, adding iron bars, and repairing fences and security wires. The institution does not bring in outside workers, but rather employs its own inmates, including Akbar who has been selected for his welding skills. Akbar and one other inmate have only been working in this section for 4 months. All welding equipment is provided by the institution, and Akbar works from 9am to 12pm, then takes a break, and resumes work from 3pm to 5pm. Welding work includes making canopies, window guards, flower shelves, and turnstiles. Materials are usually provided by the customer, and the work rate varies from Rp100,000 to Rp150,000 per metre, depending on difficulty. Akbar is entitled to receive 33 per cent of the sales proceeds, while the rest goes to the organisation, so his wages range from Rp250,000 to Rp400,000 per month.⁴⁶

F. Determination of wages for prisoners that have been determined

In determining the amount of wages for working prisoners, Class III Lhoknga Correctional Institution does not have a clear legal basis or standardised standards. This is due to the absence of laws or government

⁴⁵ Mustakim, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024.

⁴⁶ Akbar, prisoner at Lhoknga class III correctional institution, interviewed on Friday 3 May 2024.



regulations governing the amount of wages. Therefore, Lhoknga Class III Penitentiary only refers to the policy of the Head of the local Penitentiary.

In accordance with the policy of the Head of Class III Lhoknga Correctional Institution, prisoners who carry out productive work will receive a wage of 33% of the selling price of goods or products. This wage will be given every month based on the sales of goods made by the prisoners.

There are several methods of providing wages to prisoners who have worked. Firstly, wages can be handed over directly in cash to the prisoner, which is then kept or used for personal purposes with the supervision of the correctional institution. The second method is to convert wages into necessities such as coffee, cigarettes, or other items for prisoners. The third method is to save the wages by the correctional institution, with the hope that the inmate can utilise it after release.

7. Determination of wages for inmates at class III lhoknga correctional institution according to *ijarah 'ala al-'amal* contract

Previously, the author discussed the definition of *ijarah ala al-a'mal*, which means wages, rent, or reward. *Ijarah bi al-amal* is the provision of remuneration for work done by someone. Although *ijarah ala al-a'mal* is not explained in detail in Fiqh Muamalah, the term *ijarah* is generally interpreted as wages or rent given after work in accordance with the provisions of Islamic Law.⁴⁷ In the Arabic dictionary, *al-amal* means to do or do, so *ijarah ala al-a'mal* can be understood as a lease for work or services, namely hiring someone to do a job.

Conceptually, the basis for determining the value of wages in Islam is the service provided by the worker, not the labour expended. The value of wages must be determined based on the principles of fairness, reasonableness, and policy. In practice, setting a fair wage value is very difficult, because it must be done carefully and pay attention to the rights and obligations of all parties. so that employers cannot arbitrarily reduce or eliminate wages that are the right of workers.

Regarding the determination of wages, which is also known as *ujrah* or compensation for the benefits of objects or services, an agreement has been reached between the Correctional Institution and the recipient of the work (the prisoners). Although there is no direct *ijab qabul*, this transaction is

⁴⁷ Chairul Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh (Kajian Terhadap UU No.11 Tahun 2006)," *Tsaqafah: Jurnal Peradaban Islam* 8, no. 2 (May 3, 2016): 295-309, <https://doi.org/10.21111/tsaqafah.v8i2.27>.



considered valid if both parties have agreed and understood the transaction in accordance with the customs prevailing at the Class III Lhoknga Correctional Institution. In this context, even though *ijab qabul* is not clearly pronounced, the transaction is considered complete. According to the books of the Syafi'iyah school of thought, *ijârah* transactions can be carried out directly if it has become a habit. However, if it has not become a habit, this is not allowed.

However, in relation to the various wages that have been determined for the work services of prisoners based on the results of the interviews above, according to the author, there is no problem in determining the wages. Because each prisoner does not really question their wages. because the work they do is based on voluntary and without a compulsion.

CONCLUSIONS

From the description and study of the fulfilment of the right to wages for the work of prisoners in the perspective of the *ijarah 'ala al-'amal* contract case study at the Class III Lhoknga Correctional Institution, the author can draw several conclusions as follows:

1. In Lhoknga Class III Correctional Institution, the wage determination for prisoners varies and is adjusted to the type of work they do, which includes various types of activities such as welding, barbering, sewing, and agriculture. The wages received by each prisoner are usually determined based on the results of their respective work. For example, prisoners involved in welding work can receive wages that range from IDR 100,000 to IDR 150,000 per metre of their work. On the other hand, inmates who do barbering work generally receive a wage of around Rp 20,000 per person. For sewing work, wages range from IDR 10,000 to IDR 70,000 per job, while for workers involved in agricultural activities, their wages depend on the harvest of the crops they manage. In contrast, work in building and cleaning, which falls under the category of maintenance work, is not given monetary wages like other jobs. Instead, prisoners doing this work are usually provided with facilities such as food, drinks and cigarettes while they work. Work in this category is carried out voluntarily without any coercion, so the prisoners involved in this work do it based on their own desires.
2. The mechanism for determining wages in the perspective of the *ijarah 'ala al-'amal* contract at the Class III Lhoknga Correctional Institution has



reflected the practice of the ijarah 'ala al-'amal contract properly. The pillars and conditions of the ijarah contract have been fulfilled adequately, as seen from various aspects. All contract actors have reached the age of puberty and are able to carry out transactions properly. In addition, both parties, the service provider and the service recipient, are mutually willing without coercion, and both have a clear understanding of the object of service and its purpose. In addition, there are benefits felt by both the prisoners and the Class III Lhoknga Correctional Institution after the implementation of the service mechanism.

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