

## THE IMPLEMENTATION OF LEGAL PROTECTION FOR WOMEN'S RIGHTS AFTER DIVORCE IN THE PURWAKARTA RELIGIOUS COURT

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### Abstract:

This research is motivated by the phenomenon that the physical and emotional rights of wives during the iddah period following divorce are often not in favor of women. Many ex-husbands assume that after divorce, they no longer have any responsibilities, resulting in the neglect of wives' rights, including the physical and emotional needs of their children. This study aims to explain the legal basis used by the panel of judges at the Purwakarta Religious Court in determining claims related to women's rights after divorce, the judges' considerations, and the efforts made by the court to ensure that women's post-divorce rights are fulfilled. The research employs a descriptive qualitative method. The findings indicate that the Purwakarta Religious Court strives to fulfill the physical and emotional rights of wives after divorce by providing information to the parties to include claims for *nafkah iddah* (maintenance during the waiting period) and *mut'ah* (consolation gift) in divorce petitions. The Purwakarta Religious Court has also attempted to cooperate with the husband's workplace to directly deduct the husband's income, although this effort has not yet been implemented.

**Keywords:** Legal protection, women's rights after divorce

### Abstrak:

Penelitian ini dilatarbelakangi oleh fenomena bahwa hak-hak lahir dan batin istri selama masa iddah pasca perceraian sering kali tidak berpihak pada istri. Banyak mantan suami beranggapan bahwa setelah perceraian, mereka tidak lagi memiliki tanggung jawab, sehingga hak-hak istri, termasuk hak-hak fisik dan batin anak-anaknya, sering kali tidak terpenuhi. Penelitian ini bertujuan untuk menjelaskan dasar hukum yang digunakan oleh majelis hakim di Pengadilan Agama Purwakarta dalam menentukan tuntutan mengenai hak-hak perempuan setelah perceraian, pertimbangan hakim, serta mengungkapkan upaya yang dilakukan oleh majelis hakim agar hak-hak perempuan setelah perceraian dapat terpenuhi. Penelitian ini menggunakan metode deskriptif kualitatif. Dari hasil penelitian dapat disimpulkan bahwa Pengadilan Agama Purwakarta berupaya memenuhi hak-hak lahir dan batin istri setelah perceraian dengan memberikan informasi kepada para pihak agar mencantumkan tuntutan hak nafkah iddah dan mut'ah dalam gugatan perceraian. Pengadilan Agama Purwakarta juga bekerja sama dengan tempat kerja suami untuk melakukan pemotongan langsung dari penghasilan suami, namun upaya ini belum terlaksana.

**Kata Kunci:** Perlindungan hukum, hak-hak perempuan setelah perceraian

## INTRODUCTION

Divorce becomes an unavoidable reality when both parties (husband and wife) have made efforts to seek a peaceful resolution through deliberation. If no agreement can be reached and the integrity of the family is deemed unsustainable, the issue is often brought before the court. The court thus becomes the final course of action (Gussevi, *The Religious Judiciary in Indonesia: A Theoretical and Practical Review of Islamic Law in Indonesia*, 2023) dan (Gussevi, Maulani, & Muhfi, *The Footsteps of the Religious Court of Purwakarta*, 2023) to reunite the husband and wife who initially intended to separate, through a settlement process conducted via deliberation with the judge acting as a mediator, or with an external party appointed by the Supreme Court as a non-judge mediator.

In accordance with Article 144 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), divorce may occur either through talak pronounced by the husband or through a divorce petition filed by the wife. However, such divorce is only considered valid if it is based on a court ruling issued by the Religious Court, as stipulated in Article 115 of the KHI. In cases where divorce occurs through talak by the husband, Article 41(c) of Law Number 1 of 1974 authorizes the court to oblige the former husband to provide financial support and to impose certain obligations toward his former wife. This provision emphasizes that the former husband is required to provide maintenance during the iddah period, except in cases where the wife is proven to be in a state of *nusyuz* (disobedience).

In reality, however, many women feel that their rights are neglected after divorce, as they often do not receive their entitlements from their former husbands during the iddah period. This legal affirmation is expected to promote a sense of justice and offer better protection for women after divorce, ensuring that their rights remain safeguarded and properly fulfilled.

The husband's obligations toward his children and former wife are also regulated in Article 149 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), which states as follows:

If a marriage is dissolved due to talak (divorce initiated by the husband), the former husband is obliged to:

- a) Provide a reasonable mut'ah (consolation gift) to his former wife, either in the form of money or goods, except if the divorce occurs before consummation (*qobla al-dukhul*).
- b) Provide living expenses for clothing (*kiswah*) and housing (*maskan*) for his former wife during the iddah period, except if the divorce is ba'in (irrevocable), the wife is *nusyuz* (disobedient), or she is not pregnant.
- c) Fully pay any outstanding mahar (dowry) in full, or half of it if the divorce occurs before consummation (*qobla al-dukhul*).
- d) Provide *nafkah hadhanah* (child support) for all his children who are under 21 years of age.

In practice, the regulations concerning post-divorce financial obligations in cases of talak often do not benefit the wife and children; instead, they tend to place them at a disadvantage (Raudhatunnur, 2016). To date, there are no specific provisions or technical regulations governing the obligation and procedures for providing financial support to ensure the fulfillment of the rights of wives and children. It is often the case that after the panel of judges grants a *talak* divorce

petition and determines the husband's obligation to provide financial support for his former wife and children, the former husband fails to fulfill those obligations (Gussevi, Novianty, & Supiana, The Father's Obligation for Child Support After Divorce, 2023).

The formal procedures for filing an execution request are often too complex for the general public, and the execution costs are disproportionately high compared to the amount of monthly support awarded. As a result, many court rulings that contain provisions on maintenance rights cannot be enforced effectively, as they do not compel the defendant to fulfill these obligations regularly. At times, even when the former husband does provide *nafkah mut'ah*, *iddah*, or *madhiyah* (financial support and compensation), the amount given does not correspond to what should rightfully be paid. This situation frequently occurs within society.

Based on the aforementioned background, this study aims to analyze the legal basis used by the panel of judges at the Purwakarta Religious Court in determining claims related to women's rights after divorce, the considerations taken by the panel of judges in making such determinations, and the efforts made by the Purwakarta Religious Court judges to ensure the fulfillment of women's rights after divorce.

## RESEARCH METHOD

The method employed in this research is a descriptive qualitative method, which aims to explore the phenomena experienced by the research subjects in depth. This method investigates various aspects such as their perceptions, motivations, behaviors, and actions comprehensively. The understanding is conveyed through descriptions that portray the actual conditions using words and language that align with the natural context of the research subjects. This approach is expected to authentically capture the richness and complexity of the subjects' experiences (Moleong, 2016). This research was conducted at the Purwakarta Religious Court in 2023. Preliminary observations began in 2022 during a study entitled "Implementation of the Purwakarta Religious Court Decision Concerning the Father's Obligation for Child Support After Divorce."

The informant in this study is an individual who possesses the capacity to provide information regarding the conditions and background relevant to the research (Moleong, 2016). Their role is highly significant, as they provide valuable insights and input, both directly and indirectly, all of which constitute essential data for the researcher. In the context of this study, the informants were selected because they possess a deep understanding of the issues being examined, namely: (1) judges of the Purwakarta Religious Court, (2) the secretary of the Purwakarta Religious Court, (3) the junior registrar for legal affairs of the Purwakarta Religious Court, (4) legal practitioners associated with the Purwakarta Religious Court, and (5) members of the public as users of the court's services. Their involvement is expected to offer comprehensive and diverse perspectives on the issues that are the focus of this research.

In this study, the researcher collected data directly from the field through several methods (Sugiyono, 2019), namely: *First*, observation, which is a complex process involving various biological and psychological activities, including perception and memory. The researcher conducted direct observation at the Purwakarta Religious Court, the site of the research object. *Second*, interviews, which serve as a form of verbal communication aimed at obtaining information,

wherein the researcher interacts directly with the research subjects. In this method, the interviewer must be creative, as the quality of the interview results largely depends on the researcher's effort in eliciting accurate responses. *Third*, documentation, which involves collecting data from books, journals, records, newspapers, transcripts, and other sources. This documentation method is used to complement the data obtained from interviews and observations.

To explore previous research related to the issues under study, the following findings were obtained:

1. A study conducted by Muhammad Fauzan, Judge of the Lima Puluh Kota Religious Court, entitled "Maqashid of Nafkah Iddah and the Protection of Women" (Fauzan, 2016). The findings of this study reveal that a divorced wife is entitled to receive *nafkah* (maintenance), regardless of whether the divorce is *raj'i* (revocable) or *ba'in* (irrevocable). This obligation is grounded in the principles of *maqashid al-shari'ah*, particularly the preservation of life (*hifzh al-nafs*). By ensuring the provision of *nafkah* during the iddah period, the well-being of the divorced wife can be maintained. In the context of positive law, judges no longer hesitate to apply this concept, as Article 41(c) of Law No. 1 of 1974 provides a legal basis for such enforcement. This is further reinforced by Book II of the Supreme Court, which contains the regulations concerning the implementation of duties and the administration of the Religious Courts.
2. A study conducted by Tara Fathin Rusli from Universitas Muhammadiyah Makassar, entitled "Implementation of Women's Rights After Divorce at the Kaloka Religious Court." (Rusli, 2020). The research findings indicate that many women today are unaware of their rights after divorce. Most of them tend to forgo their post-divorce rights in order to expedite the divorce process. However, the situation differs when children are involved, as mothers will generally strive diligently to obtain child custody.
3. A study conducted by Nandang Ihwanudin from the Siliwangi College of Islamic Studies (STAI Siliwangi) Bandung, entitled "Fulfillment of Post-Divorce Obligations in the Religious Court." (Nandang, 2016). The results of the study reveal that problems in fulfilling the obligations of former husbands toward their ex-wives; such as *nafkah iddah*, *hadhanah*, *mut'ah*, and others; often occur due to a lack of voluntary compliance with court rulings. Even the fulfillment of children's rights frequently becomes a complex issue. In some court decisions, the judgment requires the former husband to fulfill these obligations before pronouncing talak, meaning that the husband cannot divorce his wife until he has met such obligations. However, if the ruling does not specify the fulfillment of the husband's obligations at the time of talak, and the husband fails to comply with a legally binding decision, the former wife may file an execution request with the relevant Religious Court. This situation illustrates the complexity and difficulties faced by divorced women in obtaining justice after divorce.
4. A study conducted by Luluk Amalia from the State Institute for Islamic Studies (IAIN) Metro, entitled "Implementation of Child Rights and Maintenance After Divorce." (Amalia, 2019). This study discusses the implementation of child maintenance fulfillment following divorce in Giri Klopomulyo Village, Sekampung District, East Lampung Regency. The findings of the study indicate that:
  - a. The father did not demonstrate any effort to provide financial support after the divorce.

- b. The mother has a limited understanding of her obligations to fulfill the child's needs following the separation.
- c. The low level of education; having completed only elementary school; and limited knowledge of religious teachings are among the factors contributing to the failure to meet the child's financial needs after the divorce.*perceraian*.

Unlike the studies described above, this research focuses on the legal foundations applied by the panel of judges at the Purwakarta Religious Court in handling claims related to women's rights after divorce. It also explores the judges' considerations in making decisions regarding women's post-divorce rights. Finally, this study reveals the concrete efforts undertaken by the judges of the Purwakarta Religious Court to ensure that women's rights after divorce are fulfilled properly and fairly.

## FINDINGS AND DISCUSSION

Based on the research findings, the following points are explained:

### A. Legal Basis of the Panel of Judges of the Religious Court of Purwakarta in Determining Claims Concerning Women's Rights After Divorce

In determining a case, the panel of judges is guided by a strong legal foundation. This legal foundation (Yuliasih, 2023). The panel of judges of the Religious Court of Purwakarta, in determining claims concerning women's rights after divorce, is guided by the following considerations:

1. Law Number 1 of 1974 Article 41 paragraph (c) stipulates that the Religious Court may decide that the husband is obliged to provide financial support to his former wife during the *iddah* period.
2. Supreme Court Circular Letter (SEMA) Number 7 of 2012, Religious Chamber Formulation Number 16, establishes that the criteria for determining the amount of *iddah* maintenance, *mut'ah*, and child support must take into account the husband's financial capacity and reasonableness, including factors such as the duration of the marriage and the husband's take-home pay.
3. Supreme Court Circular Letter (SEMA) Number 3 of 2018, Religious Chamber Formulation III.A-2, states that in determining *madhiyah* maintenance, *mut'ah*, *iddah* maintenance, and child support, judges must consider fairness and propriety by examining the husband's economic capacity and the basic living needs of the wife and children.
4. Supreme Court Circular Letter (SEMA) Number 3 of 2018, Religious Chamber Formulation III.A-3, provides that in divorce cases filed by the wife (*cerai gugat*), *mut'ah* and *iddah* maintenance may be granted to the wife as long as it is not proven that she is *nusyuz* (disobedient to her husband).
5. To further ensure the protection of women's rights after divorce, the respondent's obligation to pay *iddah* maintenance to the petitioner must be accompanied by an order guaranteeing that the obligation is fulfilled. In accordance with Supreme Court Circular Letter (SEMA) Number 2 of 2019, Religious Chamber Formulation C.1.b, payment of *iddah* maintenance must be executed before the respondent can obtain the Divorce Certificate (*Akta Cerai*). The court clerk (*Panitera*) shall issue the Divorce Certificate only after the respondent has fulfilled all post-divorce obligations, as stated in the Circular Letter of the Director General of the Religious Courts of the Supreme Court of the Republic of Indonesia Number 1960/DjA/HK.00/6/2021 dated June 18,



2021, concerning the Guarantee of the Fulfillment of Women's and Children's Rights After Divorce.

6. Article 105 of the Compilation of Islamic Law (KHI) stipulates that the custody of a child who has not reached maturity (*mumayyiz*) or is under 12 years of age belongs to the mother. Article 105(c) of the same regulation states that the cost of child maintenance shall be borne by the father.
7. Supreme Court Regulation Number 3 of 2017 on Guidelines for Adjudicating Cases Involving Women in Conflict with the Law, Article 3(c), guarantees women's right to equal access to justice.

The determination of a case by the panel of judges is not carried out arbitrarily but is instead based on strong and comprehensive legal norms. In line with this finding, the panel of judges of the Religious Court of Purwakarta employs various national legal instruments and internal regulations of the Supreme Court to ensure the protection of women's rights after divorce. These provisions reflect a progressive legal paradigm that places gender justice and humanity as the fundamental principles in the practice of the religious judiciary.

All the legal foundations applied by the panel of judges of the Religious Court of Purwakarta demonstrate an integration between national positive law, Islamic law, and the principles of social justice. This approach illustrates the evolution of Islamic legal thought in Indonesia, which has become increasingly adaptive to the values of gender equality and the protection of human rights. Thus, the determination of women's rights after divorce not only represents the implementation of legal norms but also embodies the manifestation of substantive and humanistic justice within the religious judicial system.

## **B. Considerations of the Panel of Judges of the Religious Court of Purwakarta in Determining Claims Concerning Women's Rights After Divorce**

In delivering a judgment, judges do not merely adhere rigidly to the literal text of statutory provisions. Given the continuous evolution of society and the increasing complexity of legal issues, judges are required to exercise *ijtihad* (independent reasoning) in order to achieve public welfare (*maslahah*). Consequently, such judges are often referred to as progressive judges (Anwar, 2021). In fact, the term "progressive" has long existed within the context of Islam, wherein a progressive judge is one who strives to realize the welfare (*maslahah*) of society.

In the effort to achieve public welfare (*maslahah*), judges must be responsive to emerging societal issues while continuously promoting equality of rights and access for women within the legal system. The notion that the law inherently favors men must be reformed. It is time for the male-dominated character of the law to shift toward genuine equality between men and women (Anwar, 2021). Therefore, the presence of progressive judges becomes essential in realizing public welfare (*maslahah*).

There are several forms of *maslahah* (public welfare) (Al-Zuhaili, 2011) the forms of *maslahah* (public welfare) implemented by judges to realize gender equality include the following:

1. Preservation of religion (*hifdzu al-din*): Implementing religious provisions aimed at avoiding hardship falls within the level of *hajiyyat* (necessities). For example, when a judge determines the husband's obligation to provide financial support to his former wife after divorce, such a ruling protects the ex-wife from economic difficulties following the dissolution of marriage.

2. Preservation of life (*hifdzu al-nafs*): The judge has the authority to impose the husband's obligation toward his divorced wife. Normatively, it is the husband's duty to provide financial support to his wife. However, if this obligation is not fulfilled, it would harm the welfare (*maslahah*) of the wife whose rights are neglected.
3. Preservation of intellect (*hifdzu al-'aql*): This is achieved by protecting the mental and emotional well-being of the wife through the judge's decision, thereby promoting the wife's overall welfare.
4. Preservation of property (*hifdzu al-mal*): This relates to the *dharuriyyat* (essential) level, in which the judge assigns the husband financial obligations toward his ex-wife after divorce. This measure aims to preserve property within the framework of contemporary *maqasid al-shari'ah* (objectives of Islamic law) by ensuring economic stability as a means of achieving social welfare.
5. Preservation of lineage (*hifdzu al-nasl*): The judge's decision to require the husband to provide financial support for the ex-wife and child, including education expenses until the child reaches the age of 21, reflects an effort to preserve welfare by safeguarding the well-being and future of the offspring resulting from the marriage.

In general, the considerations or guiding principles used by judges in deciding claims for *iddah* and *mut'ah* maintenance are reasonableness, propriety, and financial capability. The determination of *mut'ah* maintenance is typically influenced by the length of the marriage and the number of children. There is usually a distinction between long-term and newly established marriages. In cases of longer marriages, the amount of *mut'ah* awarded tends to be higher than in shorter ones, except when the husband possesses greater financial capacity (Heriansyah, 2023). According to Supreme Court Circular Letter (SEMA) Number 3 of 2018, even when the wife files for divorce (*cerai gugat*), she may still claim *iddah* and *mut'ah* maintenance, provided that she is not proven to be *nusyuz* (disobedient) and the divorce arises purely from irreconcilable differences. As a matter of policy, the Supreme Court; particularly through the Religious Chamber; has shown significant concern for gender-related interests. However, in practice, implementation remains challenging, especially in *verstek* (default) cases.

In divorce cases initiated by the husband (*cerai talak*), the husband must pronounce the divorce declaration (*ikrar talak*), and before doing so, he is required to fulfill his financial obligations. The maintenance for the ex-wife in *cerai talak* cases is relatively enforceable or executable when the husband (petitioner) explicitly states or agrees to provide post-divorce financial support to his ex-wife (respondent) in his petition. In contrast, for *cerai gugat* cases, although the legal foundation already exists, practical enforcement remains difficult to achieve.

In relation to this matter, Alfiani Sauqi Anwar provides a more detailed explanation (Anwar, 2021) that the considerations of the panel of judges in imposing post-divorce obligations on the husband toward his divorced wife are as follows:

1. Husband's monthly income: In determining the amount of *mut'ah* and *iddah* maintenance, the panel of judges considers the husband's monthly financial income and his overall ability, provided that the wife has not committed *nusyuz* (disobedience). If the wife demands *iddah* maintenance exceeding the husband's financial capacity, the panel of judges may reject the request to avoid

imposing an excessive burden on the husband. A high income does not automatically lead to the determination of a large iddah or mut'ah obligation, and conversely, a low income does not necessarily result in a minimal amount being set by the panel of judges.

2. Mutual agreement between both parties: If the husband and wife have previously reached an agreement regarding the amount of mut'ah and iddah maintenance, the panel of judges is bound to issue a ruling in accordance with that agreement. However, if no such agreement exists, the panel of judges holds the authority to determine the amount of mut'ah and iddah maintenance to be paid by the husband, based on his financial capability. If the wife willingly forgives her husband and waives her right to claim mut'ah and iddah maintenance, the husband's obligation is thereby nullified.
3. Duration of marriage: The length of the marriage is one of the factors influencing the amount of iddah and mut'ah maintenance that the husband is required to pay. The longer the duration of the marriage, the greater the amount of maintenance imposed on the husband. This consideration aims to mitigate the psychological impact that the wife may experience as a result of the divorce.
4. Amount of dowry (*mahr*): The amount of dowry agreed upon at the time of the marriage contract serves as a determining factor in assessing the mut'ah payment the husband must provide. Although the mut'ah payment may exceed the agreed-upon dowry, it should not be set at an amount significantly lower than the *mahr*. However, this consideration does not apply to the determination of iddah maintenance.
5. Number of children: If the couple has children, the amount of maintenance is adjusted to meet the wife's needs in caring for them. The panel of judges will also inquire about the number of children, particularly when they live with their mother, to ensure that both the wife and the children's welfare are adequately protected.

From this, it can be seen that the Religious Court has the authority to determine that a former husband must provide financial support to his former wife during the iddah period. However, if a dispute arises between the husband and wife regarding the amount of maintenance to be provided, the Religious Court assists in determining the amount and type of *iddah* maintenance that should be given to the wife. This determination is made in accordance with the husband's financial capacity so as not to impose an excessive burden. The judge's decision in setting the amount of maintenance is based on fair and reasonable considerations. This demonstrates that, in practice, judges have prioritized the protection of women's rights after divorce through careful and well-considered deliberation.

### **C. Efforts of the Panel of Judges of the Religious Court of Purwakarta to Ensure the Fulfillment of Women's Rights After Divorce**

In practice, the judges of the Religious Court of Purwakarta have implemented measures to protect women's rights after divorce (Purwakarta, 2023). The judges exercise their authority to impose obligations on the husband toward his divorced wife, such as providing iddah, mut'ah, and *madhiyah* maintenance. This is carried out through two main approaches (Republic of Indonesia, 2017). *First*, the ex-officio authority exercised by the judges allows them to determine the husband's obligation to provide mut'ah and iddah maintenance to his wife, as long as the wife is not proven to be *nusyuz* (disobedient), in accordance with Article 41(c) of Law Number 1 of 1974 in conjunction with Article 149(a) and (b) of the Compilation of Islamic



Law (KHI). The ex-officio authority of judges refers to their ability, discretion, and responsibility to take necessary measures during court proceedings without waiting for a formal request from either party. *Second*, the judges may issue such determinations based on a counterclaim (reconvention) filed by the wife.

In the Circular Letter of the Directorate General of the Religious Courts Number 1669/DjA/HK.00/5/2021 concerning the Guarantee of the Fulfillment of Women's and Children's Rights After Divorce (Republic of Indonesia D. G., 2021) the rights of women and children after divorce are stated as follows:

1. Divorce by Talak (Husband-Initiated Divorce)

A divorce that occurs as a result of the husband's petition for divorce against his wife. If the court grants the husband's talak petition, then, in accordance with Article 149 of the Compilation of Islamic Law (KHI), the wife is entitled to the following rights:

- a. Appropriate mut'ah from her former husband, which may be in the form of money or goods, except in cases where the wife has not yet had marital relations (*qabla al-dukhul*);
- b. Nafkah *kiswah* (clothing allowance) and *maskan* (housing allowance) from her former husband during the iddah period, except if the divorce is ba'in (irrevocable), the wife is *nusyuz* (disobedient), or she is not pregnant;
- c. Full payment of the dowry (*mahr*) if it remains unpaid, or half of it if the divorce occurs before consummation (*qabla al-dukhul*);
- d. Nafkah *hadhanah* (child support) for children under the age of 21;
- e. The right to receive arrears of maintenance if, during the marriage, the husband failed to provide for her;
- f. The right to a share of the marital property (*harta bersama*), the division of which shall be in accordance with Articles 96 and 97 of the Compilation of Islamic Law;
- g. The right to child custody (*hadhanah*) for children who have not yet reached 12 years of age.

2. Divorce by Petition (Cerai Gugat):

A divorce that occurs as a result of the wife filing a lawsuit against her husband in the Religious Court. If the Religious Court grants the petition for divorce, the wife is entitled to the following rights:

- a. The right to receive arrears of maintenance if, during the marriage, the husband failed to provide financial support;
- b. The right to a share of the marital property (*harta bersama*), the division of which shall be carried out in accordance with Articles 96 and 97 of the Compilation of Islamic Law;
- c. The right to child custody (*hadhanah*) for children who have not yet reached 12 years of age.

Children's Rights as a Result of Parental Divorce:

- a. The right to health, education, care, housing, and a nurturing environment that ensures both physical and emotional well-being, including affection and love;
- b. All the child's needs remain the joint responsibility of both parents; the father and the mother;
- c. After the parents' divorce, the child retains the right to maintain contact and meet with both parents.

Basically, there are two forms of enforcement of court decisions related to

women's rights after divorce within the framework of the Procedural Law of the Religious Courts and the Civil Procedural Law (Republic of Indonesia, 2017), namely:

- a. Voluntary compliance: The enforcement of a court decision is carried out voluntarily or without coercion when the husband willingly accepts the obligation to pay iddah maintenance.
- b. Execution (enforcement): This relates to the payment of monetary claims concerning women's rights after divorce. The legal basis for such execution is stipulated in Articles 197–200 of the *Herzien Indonesisch Reglement (HIR)* and Articles 208–218 of the *Reglement Buitengewesten (R.Bg)*. When the operative part of a court ruling includes an order to pay a sum of money, the defendant (husband) is compelled to fulfill the payment to the plaintiff (wife), which may be enforced through the sale of the husband's assets.

The weakness in the implementation of women's rights after divorce lies in the fact that victories in court often remain merely on paper. In practice, the plaintiff does not always obtain what has been claimed, due to reasons such as *verstek* (default) judgments or the absence of the defendant during the trial. Even when the defendant is present, there is no guarantee that he will comply with the court's orders unless coercive measures are applied through the execution process.

In cases of *ceraai talak* (husband-initiated divorce), when the husband is obligated to pay iddah or *mut'ah* maintenance before the pronouncement of *ikrar talak* (divorce declaration), he often refuses to do so on the grounds of financial incapacity. As a result, when the husband is unable to fulfill his obligations, the wife is typically compelled to agree to the withdrawal of the claim. However, if the wife refuses to withdraw her claim and chooses to wait until the husband is able to pay, a time limit of six months from the pronouncement of *ikrar talak* is imposed. If, within that period, the husband remains unable to make the payment, the divorce ruling becomes null and void, and the proceedings revert to the initial stage.

In relation to this matter, the panel of judges at the Religious Court of Purwakarta has undertaken measures to ensure the fulfillment of women's (wives') rights concerning the provision of iddah maintenance, *mut'ah*, and child support after divorce. The efforts made by the Religious Court of Purwakarta include the following (Iswanto, 2023) include:

- a. The Religious Court of Purwakarta has taken an initial step by requiring the parties to include claims for *mut'ah*, iddah, and child support in the divorce petition. This policy aims to ensure the fulfillment of women's and children's rights after the dissolution of marriage. However, in practice, the implementation often remains formalistic without effective realization. Many plaintiffs do not receive their rights as stipulated in the court's decision, and most former husbands neglect their financial obligations. The execution process is also frequently hindered by high costs, which are disproportionate to the value of the maintenance itself.
- b. As a solution, the court has explored cooperation with the institutions or workplaces of the husbands to implement direct salary deductions. This measure is expected to provide greater certainty in ensuring the rights of wives and children. Nonetheless, its implementation remains limited due to procedural and administrative obstacles.

Based on the above explanation, the author identifies three key aspects, namely:

a. Legal Aspect

The measures undertaken by the Religious Court of Purwakarta represent the implementation of the principle of substantive justice within Islamic family law. By encouraging the parties to include claims for mut'ah, iddah, and child support at the initial stage of the divorce petition, the court demonstrates a progressive and preventive stance toward the potential violation of post-divorce rights.

However, the challenges encountered during the execution stage reveal that court decisions still lack fully effective executorial power in the context of post-divorce maintenance. This reflects a persistent weakness in law enforcement within the sphere of family civil law, particularly in ensuring the compliance of former husbands with judicial rulings.

The initiative to establish cooperation with the husband's workplace for direct salary deductions constitutes an appropriate and constructive solution, consistent with the spirit of justice enforcement. This mechanism aligns with practices adopted in several other countries; such as Malaysia and Singapore; which have implemented an automatic deduction system to secure the rights of women and children after divorce. Furthermore, several Religious Courts across Indonesia have begun to apply this system as well.

b. Social Aspect

This policy reflects an awareness that the economic rights of women and children are often neglected after the dissolution of marriage, not merely due to the husband's unwillingness but also as a result of socio-economic factors such as limited legal awareness and financial dependency. Therefore, the policy implemented by the Religious Court of Purwakarta demonstrates social empathy toward vulnerable groups while also supporting the national agenda for inclusive access to justice.

However, the fact that implementation remains limited indicates a gap between policy formulation and practical realization. Cross-sectoral collaboration is still required; among local government agencies, financial institutions, and the Ministry of Manpower; to ensure that the direct salary deduction mechanism can function effectively and sustainably.

c. Institutional and Judicial Reform Aspect

This initiative also reflects the spirit of bureaucratic reform within the Religious Court system, where the judiciary not only performs its judicial function but also plays an active role in social protection and the fulfillment of family human rights.

The procedural and administrative challenges that persist highlight the need for:

- a. An integrated system linking the courts, workplaces, and banking institutions;
- b. Specific implementing regulations that strengthen the legal basis for salary deductions;
- c. Regular monitoring and evaluation of the effectiveness of maintenance enforcement.

Overall, the policy adopted by the Religious Court of Purwakarta represents a progressive and commendable step toward ensuring justice for women and children after divorce. Although it still faces various technical and administrative obstacles, the direction of this policy is appropriate. Moving forward, legal harmonization, institutional support, and the enhancement of digital systems are required to ensure that the enforcement of maintenance decisions can be carried

out effectively, efficiently, and equitably.

## CONCLUSION

The findings of this study indicate that the legal foundations used by the panel of judges of the Religious Court of Purwakarta in determining claims related to women's rights after divorce encompass various statutory provisions. These legal bases include Law Number 1 of 1974 on Marriage, Article 41 paragraph (c); Supreme Court Circular Letter (SEMA) Number 7 of 2012; SEMA Number 3 of 2018, Religious Chamber Formulation III.A-2; SEMA Number 2 of 2019, Religious Chamber Formulation C.1.b; Article 105 of the Compilation of Islamic Law (KHI); and Supreme Court Regulation Number 3 of 2017.

Furthermore, the judges' considerations in determining the amount of post-divorce entitlements for women are based on several factors, including the husband's monthly income, mutual agreement between the husband and wife, the duration of the marriage, the amount of dowry, and the number of dependent children.

To ensure the fulfillment of women's rights after divorce, the Religious Court of Purwakarta has taken strategic measures by instructing the parties to include claims for mut'ah, iddah, and child maintenance in their divorce petitions. This initiative has been implemented over the past two years. In addition, the court has also sought to establish cooperation with the institutions where the husbands are employed, enabling direct deductions from their salaries as a mechanism to enforce court rulings. However, the full implementation of this policy remains constrained due to existing administrative and procedural challenges.

The findings of this research are expected to make a significant contribution to the development of Islamic Family Law in Indonesia, particularly in the context of protecting women's rights after marriage dissolution. Moreover, the results are also intended to serve as an academic reference for future research employing different approaches and as enrichment material for the development of courses in Islamic Civil Law and the Practice of Religious Courts in Indonesia. Indonesia.

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