

THE POSITION OF IDDAH NAFKAH AS A WIFE'S RIGHT AS A RESULT OF DIVORCE REVIEWED FROM CIVIL LAW

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Abstract

Divorce has legal consequences for economic rights, one of which is the iddah maintenance. This study aims to analyze the legal status of iddah maintenance as a wife's right, evaluate its regulation and implementation, and identify its legal implications from a civil law perspective. Using a normative legal research method with a statute approach, this study found that civil law views iddah maintenance as an obligation arising from law. However, the effectiveness of its fulfillment is still hampered by weak enforcement mechanisms and low legal awareness of ex-husbands. The results of the study suggest protecting the subjective rights of wives through stronger civil law instruments, such as collateral seizure, in order to achieve distributive justice.

Keywords: *Iddah Maintenance, Wife's Rights, Divorce, Civil Law*

INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the goal of forming a happy and eternal family based on the One Almighty God. This legal relationship creates reciprocal rights and obligations that must be fulfilled by both parties to maintain household harmony, as mandated by Law Number 1 of 1974. However, the reality on the ground shows that many marriages end up in court due to irreconcilable disputes. Divorce is not merely the severing of the emotional bond; it also triggers a variety of complex legal consequences for both husband and wife. Hilman Hadikusuma (2022) explains that one of the most crucial legal consequences following a divorce is the fulfillment of the financial rights of the ex-wife. Protecting the wife's rights must be a top priority to prevent social injustice following the dissolution of the marriage. Law Number 1 of 1974 concerning Marriage clearly regulates the obligations of a former husband to his former wife after a formal divorce. Article 41 (c) states that the court may require a former husband to provide living expenses or maintenance to his former wife. Iddah maintenance is a form of financial compensation that must be provided during a certain waiting period in accordance with applicable law. This maintenance serves as a guarantee of survival for women so they do not immediately lose their primary source of income upon separation. Edi Setiadi (2021) argues that positive law in Indonesia seeks to ensure that women's rights remain protected even after their marriage has ended. This principle of legal protection aligns with the state's efforts to uphold human rights, particularly in the domestic sphere.

From a civil law perspective, the obligation to provide iddah maintenance is a form of obligation arising from a specific statutory mandate. The civil relationship between the former husband and his former wife continues in the form of debts that must be duly repaid. The wife has the subjective right to demand payment in the form of maintenance as compensation for the legal termination of the marriage. The husband acts as a debtor who bears legal responsibility for fulfilling this obligation, including for his former wife. Siahaan (2021) emphasized that this strong legal standing should guarantee that wives will not be economically neglected after divorce. Understanding this civil aspect is crucial for strengthening women's bargaining power in fighting for their rights in court. Problems arise when many ex-husbands deliberately ignore court rulings regarding the payment of iddah maintenance. Low legal awareness and good faith on the part of men are the main factors hindering the fair fulfillment of women's rights. Putri and Wahyuni (2021) stated that many women find it difficult to enforce judges' decisions due to perceived complex legal mechanisms. This results in court rulings often becoming mere formalities with no concrete implementation in daily life. This non-compliance indicates a gap in civil law enforcement that legal practitioners urgently need to find practical solutions for. Firmness in the enforcement process is essential to ensure that the obligation to maintain maintenance is not overlooked by the wider Indonesian public.

This research focuses on the status of iddah maintenance as a wife's right, which should be viewed as a coercive debt burden. An in-depth analysis of the synchronization of the provisions of the Marriage Law with general civil law principles will be the main topic of this paper. Pambudi and Handayani (2023) stated the need for a stronger legal framework to provide wives with effective protection in claiming their rights. The authors feel the need to specifically examine the effectiveness of civil law instruments in ensuring the smooth and consistent payment of alimony. Finding solutions to obstacles to execution is expected to make a positive contribution to the development of equitable family law in Indonesia. Through this paper, it is hoped that the legal position of wives after a divorce can be further strengthened to achieve the benefit of all parties involved.

METHOD

This study employs a normative legal research method focused on the study of positive legal norms and relevant legal principles. The research method employed is descriptive analysis to illustrate the status of joint property and maintenance resulting from divorce according to applicable regulations. The research approach employed encompasses a statutory approach to review regulations related to the topic. The research data sources rely entirely on secondary data, consisting of primary, secondary, and tertiary legal materials. The researcher acts as a key instrument in planning, collecting, and interpreting all available legal materials. In-depth knowledge of legal theory and norms is essential for systematizing legal materials as a credible legal researcher. The data collection process was conducted through documentation studies, which serve to record and classify legal materials using data cards. Data analysis techniques adopted qualitative methods tailored to the systematic analysis of legal documents. Content analysis was applied to all primary legal materials, such as laws and jurisprudence, to identify legal themes and concepts. Legal interpretation was conducted grammatically and systematically to understand the original intent of the legislators. Legal construction was then carried out to develop a coherent legal framework to fill legal gaps. Conclusions are drawn inductively from specific findings in legal texts towards general answers to the research problem formulation.

RESULTS AND DISCUSSION

Research data shows that the status of iddah maintenance in the Indonesian legal system stems from Article 41 (c) of Law Number 1 of 1974. This provision authorizes judges to impose maintenance costs on ex-husbands to protect their ex-wives' economic interests. Researchers found that this norm overlaps with the principle of obligation in Article 1352 of the Civil Code, which regulates statutory obligations. A wife's right to maintenance constitutes a legal debt arising as a direct legal consequence of the dissolution of the marriage bond. This legal status provides women with bargaining power to demand the fulfillment of basic needs during the waiting period. The legal documents analyzed confirm that iddah maintenance serves as short-term social security for wives after a divorce. The application of iddah maintenance in court is highly dependent on the judge's discretion in assessing the husband's financial capacity and the wife's needs. The criteria for determining the maintenance amount are based on principles of justice and proportional fairness for both parties. Supreme Court jurisprudence serves as the primary guideline for first-instance judges in deciding women's economic rights cases. Observations of judicial practice indicate efforts to protect wives' subjective rights through clear rulings. However, the reality on the ground is that many ex-husbands still deliberately conceal their assets. This lack of transparency in financial information is a major obstacle for judges in determining a truly adequate maintenance amount.

A. Legal Status of Iddah Maintenance in Civil Law

A wife's right to iddah maintenance is viewed as a right of claim arising from applicable civil law provisions. The relationship between ex-husband and ex-wife transforms into a debtor-creditor relationship regarding the fulfillment of financial obligations. This right is inherent in the wife as long as she does not commit any act that would invalidate this right under the law. The civil perspective provides the basis that any need arising from legal actions must be appropriately compensated. This strengthens the wife's position as a legal subject with bargaining power to formally assert her economic rights in court. The clarity of the status of maintenance as a civil right facilitates the process of proving the amount owed. The Civil Code regulates obligations arising from law as the basis for bringing these obligations into the scope of civil liability. Article 1352 of the Civil Code allows for certain obligations to arise without the need for a prior written agreement between the two parties. This provision explains why an ex-husband retains financial obligations even after the marriage has been officially declared dissolved. Civil legal protection ensures that an individual's economic interests are safeguarded despite significant changes in family status. The implementation of this right intersects with the principle of legal protection for women who are vulnerable

to post-divorce injustice. The provisions in positive law are intended to close the gap between the occurrence of economic neglect for wives who lose access to their husbands' income. The right to iddah maintenance is viewed as a special debt whose fulfillment must be prioritized for the sake of human survival with dignity. Dewa (2024) notes that court proceedings often demonstrate differing views among judges in determining the burden of iddah maintenance. A thorough understanding of this civil aspect will provide stronger protection for women's economic rights in the future. The dissolution of a marriage does not automatically remove all legal responsibilities between the legal entities involved in the relationship. The obligation to provide iddah maintenance is placed as a legal burden that must be borne by the party deemed capable of supporting the other party. Civil law norms prioritize the principle of balancing burdens to prevent extreme economic inequality after the divorce process is finalized.

B. Regulation and Implementation of Iddah Maintenance

The regulation of iddah maintenance as a wife's right after divorce is clearly stated in Indonesia's positive legal framework. The Marriage Law grants judges full authority to determine the amount of iddah maintenance proportionally for the ex-wife. The determination of this amount must take into account the ex-husband's financial capabilities and the woman's adequate living needs. The principle of justice is crucial to ensure that the burden imposed on the husband does not exceed his capabilities but remains sufficient for the wife. Judicial practice shows that judges have broad discretion in determining the amount of iddah maintenance. What is considered fair for the parties? Supreme Court jurisprudence is often the primary reference for judges in deciding cases concerning women's rights after divorce.

The application of the principle of justice requires judges to consider the real contributions of both parties during the marriage. Trials often demonstrate differing views in determining the burden of support, reflecting the legal protection provided. Regulations in positive law are intended to close the gap for economic neglect of the wife after the relationship ends. The reality on the ground shows that many divorce cases are accompanied by inconsistent fulfillment of support obligations by the ex-husband. Husbands' non-compliance in paying is often caused by low legal awareness and weak oversight of the enforcement process. Wives in economically disadvantaged positions often find it difficult to pursue further legal action to assert their rights.

Weak enforcement of decisions often results in wives' rights remaining merely a series of sentences on paper with no real impact. The problem becomes more complex when the ex-husband intentionally conceals his financial capabilities to avoid the obligation to pay support. Wives face numerous administrative and financial obstacles when seeking to enforce their rights. This situation often means that the legal certainty of a court decision is not directly felt by women. The effectiveness of enforcement remains a major challenge in enforcing civil law in family disputes in Indonesia. Regulatory strengthening is needed to simplify the process of collecting alimony and to ensure a more coercive approach.

C. Legal Implications of Iddah Maintenance

A court ruling regarding iddah maintenance carries executory implications that must be complied with by the ex-husband without exception. If the obligation is not fulfilled voluntarily, civil law provides a coercive instrument as a legal consequence that must be accepted. The primary step is to request an execution order from the chief justice of the court that ruled on the case. This mechanism ensures that each point of the ruling is binding and not merely a legal symbol. Civil law allows for the seizure of the ex-husband's property as collateral for the repayment of the maintenance debt. The use of collateral seizure is highly effective in securing assets to meet deferred payments.

This legal remedy is intended to provide a sense of justice and certainty for the wife, who is heavily dependent on the maintenance. This protection is crucial when dealing with ex-husbands who tend to divert their assets to avoid paying their ex-wives. A wife has the right to be assured that the decision will be implemented effectively and not merely a mere ostensible victory. Failure to comply with alimony payments will also impact the former husband's personal legal credibility in the eyes of the judiciary. A husband proven to have intentionally neglected his obligations may be subject to additional legal action within the judge's authority. A responsive enforcement system exerts psychological and legal pressure on the husband to promptly repay his alimony debt.

An effective alimony payment mechanism positively impacts the family's economic stability after a divorce. A wife who receives her rights in a timely manner can focus more on planning her economic future and raising her children. Integration of substantive and formal law will create a comprehensive protection system for divorce victims in Indonesia. Simple, fast, and low-cost procedures must be the primary principles in serving women's legal interests. Civil law must continue to adapt to social developments to address various methods of avoiding alimony obligations

by husbands. A clear analysis of the legal standing of wives' financial rights is key to achieving comprehensive distributive justice.

CONCLUSION

The iddah maintenance (naqkah iddah) has a strong legal standing as a subjective right of the wife, arising from statutory mandates within the civil law realm. This obligation transforms into a debt burden, placing the ex-husband as a debtor obligated to fulfill financial obligations to his ex-wife. Although regulations in the Marriage Law provide a basis for judges, the effective fulfillment of this right is still hampered by low levels of voluntary compliance on the part of the husband. The use of civil legal instruments such as collateral seizure is a crucial legal solution to ensure that court decisions have real coercive force. Legal protection for women after divorce must be continuously strengthened through simpler, faster, and more cost-effective enforcement mechanisms for justice seekers. Enforcing this financial right is key to realizing distributive justice and ensuring the wife's economic well-being after the end of the marriage.

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