

# Implementation of Court Decisions Regarding the Payment of Mut'ah, Iddah, And Madhiyah

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## Abstract

The National Law on Marriage and Compilation of Islamic Law (KHI) has made significant improvements to the implementation of Religious Court judgments on Mut'ah, Iddah, and Madhiyah. This study analyzes legal certainty on the implementation of the Religious Court's decision on these three issues in the Serang and Magelang religious court decisions 0076/Pdt.G/2017/PA.Mgl and legal settlements between the parties regarding maintenance. The research technique is empirical normative legal research on laws and regulations connected to the Serang religious court decision 1570/Pdt.G/2020/PA.Srg and the Magelang religious court decision 0076/Pdt.G/2017/PA.Mgl. Secondary data from court decisions and interviews, scientific journals, and internet media are used in the research data source. The analysis shows that decisions 1570/Pdt.G/2020/PA.Srg and 0076/Pdt.G/2017/PA.Mgl fulfilled the legal certainty requirement of Law Number 16 of 2019 on legal obligations. of Mut' ah, iddah, and madhiyah. However, in completing the implementation of the decision number 1570/Pdt.G/2020/PA.Srg it has not been carried out in its entirety in relation to the payment of living expenses that must be made by the respondent. Alternatives to this are mediation, negotiation, or going through court.

**Keywords:** Court Decision, Mut'ah Revenue, Iddah Revenue, Madhiyah Revenue, Divorce

## INTRODUCTION

As God's creations, humans intend to live together permanently, even through marriage, to ensure their existence.(Dewi et al., 2019). Marriage is one of the religious orders for those who can carry it out immediately. Marriage is essential in human life, individually and in groups (Cantona et al., 2019). Marriage also applies to all creatures, humans, animals, and plants. Marriage is an agreement between husband and wife, which places husband and wife in an equal position, rights, and obligations. It is essential to understand that marriage is an engagement build from the physical and spiritual bond between a man who becomes a husband and a woman who later becomes a wife, which theologically aims to form a harmonious and happy family or household full of love and affection. Marriage is the strongest bond in human

life, between husband and wife and their offspring, and between two families (Makmun & Roji, 2020).

The purpose of marriage is to create a peaceful life between two individuals in various situations and conditions (Sainul, 2018). However, sometimes, in reality, it takes an effort to unite two heads with the ego of each individual (Sabudu, 2018). The failure of the husband and wife's relationship inside the family might lead to recurring problems; therefore, separation may be the best option for both parties. In order for a family to be harmonious and full of love, husband and wife must recognize their respective rights and duties. This obligation must be reciprocally construed, such that the husband's obligation is the wife's right and the wife's obligation is the husband's right, so that the responsibility to meet each other's needs is built into this relationship (Supomo, 2021). A significant number of married couples ultimately decide to divorce, the dissolution of the marriage based on the decision of the husband or wife owing to discord caused by failure to fulfill the rights and responsibilities as husband or wife (Santoso, 2016).

Based on Mulati's research, there has been an increase in divorce-related statistics in the Tangerang City region between 2021 and 2022. Based on 120 samples, the causes for divorce according to the Decision of Religious Courts are unhealthy polygamy, moral crisis, jealousy, marriage by force, economy, loss of responsibility, underage marriage, violation, imprisonment, biological disability, affairs, and disharmony (Madhory et al., 2023).

Muhammad's research indicates that the causes of divorce are not simply a result of low economic situations but also a hedonistic lifestyle (Manna et al., 2021). This has occurred in a number of regions, where several wives file for divorce because their husbands cannot meet their desires and wants. In other instances, the wives file for divorce due to their husbands' indebtedness. Prior to this, the couple established a business and borrowed funds to expand it. However, the business eventually flops, leading to a loss of capital and debt accumulation (Fitri, 2022).

The judge might grant a divorce based on the beneficial effects on both parties, which are likely to protect them from suffering and harm if the marriage is continued (Mupid, 2018). The judge has solid justification for granting the divorce, ensuring that the husband and wife can no longer live together as they should. The parties must consider the legal repercussions of the divorce (Aisyah, 2021).

Based on data from the Serang Religious Court, the talaq divorce case is one of the most frequently filed cases. In 2021, as many as 986 talaq divorce were received, and 1872 judicial divorce cases were sued; in 2022, divorce cases get increase as many as 1356 talaq divorce were received, and for 1673 judicial divorce cases were sued. The Serang Religious Court is a class 1 A court that accepts, handles, and decides the divorce cases. Because the Serang Religious Court is an area where divorce applications are often filed. The highest number of divorce case decision in The Serang Religious Court and the various reason of the divorce case will have an impact of the right and obligation of both parties including the payment of iddah, mut'ah, and madhya. Based on this consideration the Serang Religious Court become the focus area of research. This research will focus on topic of the living payment for iddah, mut'ah, and Madhya base on the cases of the decision number 1570/Pdt.G/2020/PA.Kab.Srg of Serang Religious Court and also the decision number 0076/Pdt.G/2017/PA.Mgl, from the Magelang Religious Court, compares the case study with the exact case material. Based on the initial data

based on pre-research observations, was found that the husband of both cases cannot full fill their obligation based on the could not be implemented because the husband in the first decision was the defendant, and for the second decision, the husband is the plaintiff.

The defendant cannot pay the mut'ah, iddah, and Madhya maintenance, which must be paid based on the judge's decision, which is said based on the first decision that here the wife does not want to be divorced by her husband (Annisa, 2021). However, the husband still insists he still wants a divorce. So, to get a divorce, the wife asks the husband to pay the wife's rights due to the divorce. Legally, to get a rights from the husband, there is a requirement that the wife should not be do *nusyuz* (disobedience). However, the husband cannot pay for his wife's rights because of the husband's financial reasons because the husband's job is only a honorary teacher.

In line on the first case, the second case of the Magelang Religious Court number 0076/Pdt.G/2017/PA.Mgl, it is said that the wife wants to be divorced by her husband, but the husband still insists on not wanting a divorce. So, to get a divorce, the wife asks the husband to pay the wife's rights due to the divorce lawsuit. However, the husband cannot pay his wife's rights because of the husband's financial reasons because the husband's job is as a bus driver.

The two of the religious court decisions have differences. The first case , the divorce was inisiated by the husband who filed for divorce while the second decision is inisiated by the woman. Another The difference of the cases is that the first decision does not have children, while the second decision already has children. In the case of both of these decisions, the husband cannot pay for mut'ah, iddah, and Madhya maintenance because of their work, which cannot pay for the living.

Based on the background above, this artichel will aims on; *first*, how the legal certainty of the implementation of the cout decision about the livelihood payment of Mut'ah, Iddah, and Madhiyah based on Law Number 16 of 2019 concerning Amendments of Law Number 1 of 1974 about Marriage. *Second*, how the law resolution of both parties for the livelihood payment of Mut'ah, Iddah, and Madhiyah based on Law Number 16 of 2019 about the amandements of Law Number 1 of 1974 about Marriage.

## **RESEARCH METHOD**

This research is a type of normative-empirical legal research. Normative-empirical legal research, which can also be called normative-applied legal research (applied law research), is legal research that examines the implementation or implementation of favorable legal provisions (legislation) and contracts in a comprehensive manner. Factual on each specific legal event that occurs in society to achieve predetermined goals (Suyanto, 2023). Normative-empirical legal research always involves a combination of two stages of study, namely the first stage, a survey of normative law (legislation) or applicable contracts, and the second stage, an empirical legal analysis in the form of application (implementation) of legal events in concreto to achieve a predetermined goal. This research uses normative-empirical research because it uses statutory provisions (normative), namely Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law Chapter XVII concerning the Consequences of Dissolution of Marriage.

## **DISCUSS AND ANALYSIS**

The Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law has regulated legal certainty regarding problems in a marriage, such as provisions of living expenses, which the existence of legal certainty can protect the rights of the parties involved in the divorce. The Compilation of Islamic Law has regulated 3 (three) types of maintenance that can be given after the judge decides in a divorce trial at a religious court. The three types of subsistence are Mutah, Iddah, and Madhiyah (Annas, 2017; Heniyatun & Anisah, 2020).

This study examines the implementation of the divorce decisions of the Serang Religious Court No. 1570/Pdt.G/2020/PA.Srg and the Magelang religious court No. 0076/Pdt.G/2017/PA.Mgl. Based on the decision of Serang religious court No. 1570/Pdt.G/2020/PA.Srg, the applicant and defendant's family were initially peaceful and in harmony. However, beginning in November 2019, after three months of marriage, family harmony has been damaged. They frequently engage in disagreements and quarrels. The argument reached its height in January 2020, when it was said that there was no mutual affection and that they had begun to injure each other.

Several factors contribute to the occurrence of conflicts and arguments between the applicant and the defendant, including incompatibility and frequent differences of opinion in building a household, regular major disagreements accompanied by the exchange of hurtful words, and the Defendant's lack of respect for her husband and constant rejection to his desires. In this situation, the family has unsuccessfully attempted to reconcile the Applicant and Defendant.

In the Divorce by Talak case presented to the Serang Religious Court, the Applicant has filed a divorce petition for talak because their marriage is unable to form a *sakinah, mawaddah wa rahmah* family in accordance with the objective of marriage. The applicant argued that the continual disagreements prevented the couple from returning to harmony. In this case, the applicant submitted a Divorce by Talak petition claiming continuous incompatibility, disagreements, and family disharmony. The applicant asked the court to decide on their divorce by divorce. Article 19 letter (f) of Government Regulation no. 9 of 1975 Jo. Article 116 letter (f) of the Compilation of Islamic Law is cited in the Applicant's request for divorce by talak. In this case, the Applicant requested that the Serang Religious Court grant the divorce petition by talak. At the convention, the Applicant asserted that the first argument that the Defendant is the Applicant's wife is factual. However, the Applicant denied the point in number 5 letters b and c, which stated that the Defendant lacked respect for her husband and consistently disregarded his desires.

The second case study of this research is from the decision of the Magelang Religious Court, which tried a divorce lawsuit between a wife and her husband. The decision involves the judge's decision to grant the divorce lawsuit brought by the wife against her husband in the religious court. Even included in the sentence are the legal consequences of the divorce for the both parties and third parties.

The court ordered the defendant to pay the applicant Rp 3,000,000 in iddah support (three million rupiah). Mut'ah is the gift of money or things given by a husband to his wife as a gratitude or consolation for a divorce. The judge ordered Defendant to pay mut'ah in the amount of Rp 5,000,000 to Plaintiff (five million rupiah).

Based on the two religious court decisions described above, the author believes that the decisions of the religious court judges in decision numbers 1570/Pdt.G/2020/PA.Srg. and 0076/Pdt.G/2017/PA.Mgl. have met legal certainty because the judge considers the Marriage Law and KHI. The applicant's wife did not issue a demand for iddah and mut'ah assistance in decision number 0076/Pdt.G/2017/PA.Mgl, as did the applicant in decision number 1570/Pdt.G/2020/PA.Srg. However, the Magelang religious court judge warned that the defendant must pay the applicant with iddah assistance in the amount of Rp. 3,000,000 (three million rupiah) and mut'ah income in the amount of Rp. 5,000,000. The author believes that the judge's decision to issue this warning was correct in this case, as stated in Article 41, letter (c), of Law Number 16 of 2019 Concerning Amendments to Law Number 1 of 1974 Concerning Marriage. "Even if the wife files for divorce and it is not proven that the wife has committed nucleus, then ex officio the husband can be punished to provide iddah support to his ex-wife because "the reason why ex-wives have to go through a period of iddah is for istibra, which also concerns the husband's interests," according to Article 149 letters (a) and (b) of the Compilation of Islamic Law. Furthermore, according to the author, the wife's daily living costs are the obligation of her ex-husband, which also follows the meaning of Article 149 letter (b), Article 151, and Article 152 of the Compilation of Islamic Law.

Mut'ah income and Iddah income are legal responsibilities of ex-husbands to their divorced wives; there are also awards or rewards, albeit insufficient to cure disappointment. Iddah can reduce some of life's burdens during the iddah period and serve as a source of encouragement for a divorced wife. In the Indonesian marital law system, it is appropriate that if a husband wishes to divorce his wife, he must pay a sum of money as a kind of support, as well as the wife's *kiswah*, in recognition of the importance of a wife's ability to survive during her iddah time. This gift is obligatory despite of the wife's request (Nasriah et al., 2021).

Reconvention filed by the wife as the applicant in the divorce case as in decision number 1570/Pdt.G/2020/PA.Srg, the wife, filed a claim for Iddah in the amount of Rp. 200,000 (two hundred thousand rupiah) per day, and the applicant also filed a demand for the return of the dowry, which the respondent had borrowed in the form of 22 (two twenty) carat gold weighing 6 grams; this Article 123 (a-b) of the HIR specifies that a counterclaim may be presented orally or in writing, together with the respondent's response to the first request. The primary point is that the subject of the counterclaim remains within the religious courts' jurisdiction. Before deciding on the main case, the judge decides the monthly amount of mut'ah and iddah assistance that the husband must give to the wife. A judge can provide such a decision prior to the main case decision, and it will be binding on both parties until the main case decision has final legal force. This ensures that the husband must provide mut'ah payments and iddah living expenses.

Implementation of court decisions regarding payment of mut'ah, iddah, and *Madhya* in accordance with Law No. 16 of 2019 regarding Amendments to Law No. 1 of 1974, which contains clear provisions regarding the implementation of court decisions regarding payment of mut'ah, iddah, and *Madhya*. The court's decision in this matter is legally binding and must be carried out by the parties concerned (Husni, 2018).

For this study, primary data were gathered through interviews with the Head of Planning and Reporting of the Serang Banten Religious Court, Serang Religious Court Judges, and the legal counsel for the respondents in judgment number 1570/Pdt.G/2020 PA-Srg.

According to the Head of Planning and Reporting for the Serang Religious Court, the resolution of a case before the Religious Court is the implementation of the decision. There is no exemption for instances involving mut'ah and living for 'iddah, whose parties equally demand justice, as divorce is the result of a separation between a husband and a wife. In accordance with the provisions of Article 41 (c) of Law No. 1 of 1974 relating to marriage, the court may order the ex-husband to provide living expenses and decide the former husband's to his ex-wife; this is because all people require living expenses, including the wife who is undergoing the iddah period, so that the need for life must be guaranteed.

The findings of field interviews with one of the Panel Judges, Ahmad, as the Judge in the trial, which was decided with number 1570/Pdt.G/2020/PA.Srg . The Judge granted the counterclaim (reconvention) made by the wife (Defendant of the Counterclaim) against her husband (Applicant of the Counterclaim) in the religious court judgment with Decision number 0076/Pdt.G/2017/PA Mgl. The Judge decides the husband's obligations to his wife as a result of the divorce, which includes paying mut'ah, providing iddah support, and returning the dowry in gold jewelry. Aside from that, the Judge decides how much Madhya maintenance the husband must give his wife.

Payment of mut'ah: A court can order the husband to pay mut'ah to his ex-wife following the dissolution of the marriage. Husbands who are ordered by the court to pay mut'ah must comply with this obligation. In such a circumstance, the person entitled to mut'ah may ask the court for the execution of the decision to assure its implementation. Iddah can also be regulated by court decisions. Iddah is the waiting period for a woman following the separation of her marriage or the death of her husband. In this instance, the court has the authority to require the husband to pay iddah to the ex-wife. The husband must carry out the implementation of the decision following the provisions indicated in the court decision.

In addition, Madhiyah payments are regulated by Law No. 16 of 2019. Madhiyah refers to the amount of alimony owed to a wife who had sexual relations with her husband during the iddah period following divorce. A court can order a husband to pay madhiyah to his ex-wife as a result of a judicial judgment. Following the court's decision, husbands obligated to pay madhiyah must satisfy their financial commitments.

The implementation of court decisions involving the payment of living expenses for mut'ah, iddah, and madhiyah based on Law No. 16 of 2019 shall adhere to the court decision's terms. The parties concerned in this matter must adhere to the decision of the court, which has binding legal force. In such a circumstance, the parties entitled to receive the livelihood can ask the court for execution of the decision to ensure that the decision is carried out.

The notion of legal certainty includes safeguarding the interests of the parties in a divorce case. This encompasses the rights of divorced women, husbands, and children. These rights include the right to a living, custody of one's children, inheritance, and other rights recognized by the law.

In Islamic law, a principle of legal certainty relates to the husband's obligation to provide mut'ah, iddah, and Madhya maintenance to his wife, who is in a certain period or after a divorce. The principle of legal certainty refers to the belief that the law must be clear, understandable, and can be applied with consistency.

In the context of the husband's obligation to provide mut'ah, iddah, and madhiyah support, the principle of legal certainty covers several aspects, including:

1. *Clear Legal Provisions:* The husband is required by Islamic law to provide his wife with mut'ah, iddah, and madhiyah assistance. These legal provisions can be found in the Al-Qur'an, Hadith, and other Islamic legal sources. The notion of legal certainty necessitates that these legal principles be clear and comprehensible to all parties.
2. *Consistency and Uniformity:* Legal certainty in the application of Islamic law needs consistency and uniformity in the provision of mut'ah, iddah, and madhiyah livin. This means that every husband must fulfill this responsibility equitably and proportionally, without discrimination or exceptions that are unclear.
3. *Protection of the Wife's Rights:* The principle of legal certainty includes the protection of the rights of the wife. After a divorce or while she is in Iddah, the husband is obligated to pay mut'ah assistance to his wife for a period of time. The husband must additionally compensate his wife with madhiyah (money or property) or make an effort to fulfill his support responsibilities.
4. *Law Enforcement:* The idea of legal certainty demands efficient law enforcement to ensure that the husband's obligation to pay mut'ah, iddah, and madhiyah is executed equally. Courts and legal authorities play a crucial role in upholding the law and protecting the rights of wives.

In relation to the principle of legal certainty, according to Sudikno Mertokusumo, legal certainty is an assurance that the law must be implemented appropriately. Legal certainty demands efforts to regulate law in statutory regulations by authorized and competent entities so that these rules have a legal dimension that can ensure certainty that the law functions as an enforceable norm.

This legal certainty is interpreted as a situation in which the law is specific due to the existence of concrete power for the law in question, and its existence is a form of protection for justice-seekers (justice seekers) against arbitrary actions, meaning that someone will and can receive something that is expected under specific conditions. According to Satjipto Rahardjo, legal protection protects the human rights violated by others. This protection is extended to the community so that they may enjoy all legal rights.

It is vital to complete the law surrounding the payment of mut'ah, iddah, and madhiyah in order to ensure a fair procedure, mutual respect of each party's rights, and compliance with applicable legal regulations. In this situation, it is advisable to seek the advice of a family law attorney or mediator to guarantee a proper and equitable resolution.

The blood tie between parents and their child is not severed by divorce. Neither does it absolve parents of their responsibilities, particularly the father's obligation to give financial assistance. The need to give maintenance persists during marriage and after its dissolution by divorce. In verse 233 of Q.S. al-Baqarah (2) of the Qur'an, the responsibility of a father towards his wife and children in the event of a divorce is emphasized: "...And the father's obligation to provide for their living and clothing, as is suitable..." Consequently, child support after divorce remains the father's duty as long as he is able to work, and the terms are the same as when the parents were married.

Fathers have no excuse in Islamic law for failing to provide for their children. There is no reason for him not to provide for his child if he can work hard and is physically and psychologically sound, regardless of whether he is unemployed, has an unstable job, or lives in poverty. This does not imply that a father who refuses to try may abdicate his obligations. This is why it is difficult to find a work, which is frequently used as an excuse by dads and spouses to not provide for their children. However, Islamic law cannot accept this explanation. Regardless of the circumstances, the father is obligated to provide assistance unless he is physically incapable of working.

Divorce has legal implications, such as the requirement that divorced parents continue to provide for their children. Article 149 letter (d) of the Compilation of Islamic Law states, "When a marriage dissolves due to divorce, the ex-husband is required to cover the Hadhanah expenses for the children." Children who have not yet attained 21 years of age." So that the father is responsible for all of the costs associated with raising children and all of their needs. In relation to this, the judge sets the minimum amount required for the child's maintenance and education. The sum is also modified based on the father's financial resources and other obligations put on the father.

Article 45 paragraphs (1) and (2) of Law no. 1 of 1974 concerning Marriage outlines the obligations of both parents: Both parents are required to provide optimal care and education for their children. The duties of parents referred to in paragraph (1) of this Article remain valid until the kid marries or is able to support himself; the debts remain valid even if the Marriage between the parents dissolves. The rights of a child are included in Law Number 4 of 1979 as an effort to ensure the realization of child welfare, that is, a system of life and livelihood for children that can guarantee their average spiritual, physical, and social growth and development, as well as the satisfaction of basic needs. Child. Article 14 of Law No. 35 of 2014 on Kid Protection provides that every child has the right to be raised by his or her parents unless there are valid reasons and legal restrictions indicating that separation is in the child's best interests and a final consideration.

The Hanafiyah philosophy and the jurists state that the kid's support is lost due to the passage of time and cannot be considered a debt, as the father's obligation to provide for the child is to meet needs. The income has decreased if the market no longer exists. In the meantime, according to Syafi'iyah philosophy, child support is not an obligation owed by the father, and the payment is invalid if it has expired. Nonetheless, this income can become a debt if the judge's decisions are followed, as the father was absent from the home and intentionally did not support the family.

In accordance with the religious court's decision number 1570/Pdt.G/2020/PA.Srg, the parties involved in resolving their cases in court must finalize their divorce with a court decision. However, even receiving a court decision does not indicate that their problem has been completely handled; this is only relevant if the decision has been carried out. As a result of the author's discussion with the defendant's lawyer, it was determined that the defendant had not carried out his obligation to provide maintenance payments as specified in the judge's decision in decision number 1570/Pdt.G/2020/PA.Srg. This is due to the fact that the defendant is in poor financial situation, as an honorary teacher with a modest income. Accordingly, the defendant need more funds to pay a living wage as determined by the court judge. He continued by stating that the defendant's attorney stated that the defendant did not intend to pay alimony; rather, the defendant postponed the maintenance payment period until he could afford to pay it in full. In accordance with the religious court's decision number 1570/Pdt.G/2020/PA.Srg, the parties involved in resolving their cases in court must finalize their divorce with a court decision. However, even receiving a court decision does not indicate that their problem has been completely handled; this is only relevant if the decision has been carried out. As a result of the author's discussion with the defendant's lawyer, it was determined that the defendant had not carried out his obligation to provide maintenance payments as specified in the judge's decision in decision number 1570/Pdt.G/2020/PA.Srg. This is due to the fact that the defendant is in poor financial situation, as an honorary teacher with a modest income. Accordingly, the defendant need more funds to pay a living wage as determined by the court judge. He continued by stating that the defendant's attorney stated that the defendant did not intend to pay alimony; rather, the defendant postponed the maintenance payment period until he could afford to pay it in full.

Based on the above-mentioned problems, the defendant failed to comply with the judge's decision 1570/Pdt.G/2020/PA-Srg. This contradicts the terms of Article 41 letter c of Law No. 1 of 1974, which states: "(c) The court may order the ex-husband to pay for the former wife's expenses or establish her obligations." The husband has the following responsibilities towards his former wife and children: First, *Madhiyah*, which is not usually associated with divorce cases; in such circumstances, the wife may file a claim for *Madhiyah* when her husband files for divorce. Reconcile divorce case by launching a lawsuit. Second, the *iddah* is the basis for the idea that, in prolonged divorce situations, the former wife attends an *iddah* mass following the decision. Accordingly, the notion of *iddah* is the same *illat* in divorce cases, as taught in the Qur'an. *Iddah* support is the husband's salary, which must be paid to the wife during the *iddah* time to cover her basic necessities. Third, *mut'ah* subsistence *Mut'ah* is a form of clothes or property given by the husband to the wife he is divorcing in order to comfort the wife's heart and alleviate her feelings of anguish caused by separation. Wives whose ex-husbands have divorced are provided with *Nut'ah* help to alleviate their anguish and suffering. As a result, ex-husbands must pay *mut'ah* maintenance as a form of bereavement alleviation. However, according to some perspectives, *mut'ah* maintenance is deemed nonexistent if the applicant is the wife, specifically in a contentious divorce case where the wife did not suffer. Fourth is the child's means of subsistence, i.e., the money provided for the child's requirements; this income is, of course, awarded following the divorce. Where this does not preclude the possibility of filing a claim for child support in a divorce proceeding, it is legal to do so.

Article 80, paragraph 4, letter an explains that the husband is responsible for maintenance based on his salary. This article illustrates that despite the fact that the husband provides care depending on his abilities, he still owes maintenance to his wife and children, which must be handled. On the other hand, Article 80, paragraph (6) specifies that a wife may relieve her husband of his responsibilities regarding his living, housing, household expenses, and the care or treatment of his wife and children. This demonstrates that a wife has the right to release her husband from his commitment to provide maintenance for her; even if the wife does not exercise this right, the husband is still obligated to give the required maintenance for his wife.

A husband must support *Madhiyah*, namely previous income or previous income, which is the husband's obligation to his wife when married. The husband has not paid this support for three months or more, and it can be used as alimony owed. Nuriel Amiriyyah explained that *Madhiyah*'s livelihood is living that has yet to be fulfilled by a husband as his wife's head of the household. Therefore, the wife has the right to file a lawsuit against her husband to the Religious Court for a case for *madhiyah* maintenance that the husband has not completed for more than three consecutive months, as stated in the *Shigat Thalaq*. However, the Compilation of Islamic Law needs to explain explicitly whether or not it is permissible to claim past income that has been deliberately neglected. However, the author believes that the father bears child support and child care (*Hashanah*), which is his responsibility.

Child support is provided based on the child's ability until he is an adult or reaches the age of 21, at which point he can take care of himself or he can get married; therefore, if a child still requires financial support from his parents, especially his father, he must not intentionally shirk his responsibilities. Article 156 letter (d) of the Compilation of Islamic Law stipulates that "all costs of the child's *hadhanah* and child maintenance are the father's duty according to his ability, at least until the child is an independent adult (21 years)"

Legislative regulations pertaining to livelihoods that have been regulated in Presidential Instruction no. 1 of 1991 concerning the Compilation of Islamic Law and also confirmed in Law no. 1 of 1974 concerning Marriage, also explained in Supreme Court Circular Letter No. 3 of 2018 Results of the Religious Plenary in point 2 which states that: "*madhiyah*, *iddah*, *mut'ah*, and child support complete the formulation of the Religious Chamber in supreme court circular No. 7 of 2005: "The judge in determining *madhiyah*, *iddah*, *mut'ah* and child support,

must consider the sense of justice and propriety by exploring the facts of the husband's economic capacity and the facts of the basic living needs of the wife or children"

Implementation of point 3 of Circular No. 03 of 2018 issued by the Supreme Court In cases of contentious divorce, wives who are not nusyuz are eligible for madhiyah, alimony, iddah, mut'ah, and child support, as determined by the Religious Chamber Plenary. Therefore, based on this Perma, specifically in divorce cases, it does not exclude the possibility that the Plaintiff or, in this example, the wife, has the right to file a claim for madhiyah, iddah, mut'ah, and child support so long as the wife does not act nushuz. It should also be mentioned that in divorce cases, it is possible to submit maintenance claims, but the Panel of Judges must be cautious while investigating the events and determining the legal realities.

Article 8 number (3) letter (c) of Supreme Court Regulation No. 3 of 2017 regarding Guidelines for Adjudicating Women's Cases in Conflict with the Law states, "(3) In terms of recovering victims or injured parties, the judge must: (c) consider the situation and interests of the victim from disproportionate losses due to gender inequality. In this manner, the Panel of Judges ordered that the mut'ah money and iddah money be paid at the same time as the applicant's talak vow, such that the applicant could not revoke his talak vow if he had not met his obligations as indicated in the decision.

The payment of iddah and mut'ah, which was fulfilled prior to the divorce pledge, was based on Perma No. 3 of 2017 in number 1, which states: "In the context of implementing Supreme Court Regulation No. 3 of 2017 concerning guidelines for adjudicating women's cases in conflict with the law to provide legal protection for women's rights after divorce, payment of obligations resulting from divorce, especially iddah living, must 'ah, madhi If the woman does not object to the husband for not fulfilling the obligation at that time, the divorce can be finalized.

Circular No. 3 of 2018 of the Supreme Court regarding the content of Article 149 letter b of the Compilation of Islamic Law: If a marriage dissolves due to divorce, the ex-husband must provide the ex-wife with food and kiswah during the iddah, unless she had been given talak ba'in or nusyuz and was not pregnant. Likewise, other legal A husband is expected to provide for his wife, Madhiyah, with his prior or previous salary. This is the husband's duty upon marriage to his wife. If the husband has not paid alimony for at least three months, it may be overdue. Nuriel Amiriyyah stressed that Madhiyah's livelihood is something that a husband as his wife's family head has yet to accomplish. According to the Shigat Thalaq, if the husband fails to pay madhiyah for more than three consecutive months, the wife has the right to file a case against him before the Religious Court. Nonetheless, the Compilation of Islamic Law must specify whether it is permissible to claim purposefully disregarded earlier revenue.

However, the author believes that the father is liable for child support and care (Hashanah). Article 80, paragraph 2 of the Compilation of Islamic Law outlines the foundation for maintenance: The husband is obligated to safeguard his wife and supply all the essentials of domestic life according to his means. Aden Rosadi noted that the granting of mut'ah maintenance by a husband to his ex-wife must be decided by the local Religious Court in both talak and contentious divorce situations. Providing mut'ah money has further ramifications for the continuation of fulfilling commitments to care for and nurture children. Because children will never be familiar with the terms ex-father and ex-mother. Meanwhile, spouses are familiar with the phrases former husband and former wife.

Based on the above explanation, legal settlement between the parties about payment for mut'ah, iddah, and madhiyah in accordance with Law No. 16 of 2019 regarding Amendments to Law No. 1 of 1974 Concerning Marriage can be accomplished in a number of ways. By the ex-wife who does not receive spousal support following the divorce. The following are some potential legal remedies:

1. *Mediation*: The parties may consider using mediation to reach an agreement. Mediation is an out-of-court dispute settlement technique in which contending parties collaborate with a neutral mediator to reach a mutually beneficial agreement. In the context of mut'ah, iddah, and madhiyah payments, mediation can assist the parties in reaching a fair and adequate agreement regarding the amount, duration, and mode of payment.
2. *Negotiation*: The parties may also attempt to settle this conflict through direct negotiations or with the aid of attorneys or mediators. By discussing and negotiating, parties attempt to create mutually beneficial agreements during the negotiation process. Regarding mut'ah, iddah, and madhiyah payments, the parties can negotiate the amount to be paid, the payment duration, and the agreed-upon payment mechanism.
3. *Court*: In the situation that negotiations and mediation fail to produce a resolution, the parties may bring a case to the court for resolution. To enforce their rights, parties entitled to mut'ah, iddah, and madhiyah may initiate a lawsuit or request the court's implementation of a decision. After analyzing the evidence and arguments submitted by both parties, the court will deliver a binding decision.

According to the above research, there are various instances in which a child's financial support can be regarded an obligation to the father, including:

- a. Father can work, physically fit, and has financial stability.
- b. The father abandoned his son and abandoned the home.
- c. The father must support the child to meet his daily necessities.
- d. The mother cannot provide for her child since she is unable to work due to illness or a physical condition.

Even if divorced parents are still obligated to pay for their children, and even if the child is left with the mother, the father must still support himself. Parents should continue to teach and care for their children till they comprehend their rewards. Hilman Hadikusuma explained in Muhammad Syarifuddin et al. that every immature or mature (baligh) child whose life circumstances is impoverished and who has no possessions has the right to make a living from parents who can afford it. In connection with this, a child who is immature and yet seeking knowledge is obligated to work for his father. Even if she is an adult, unmarried, and unable to support herself, a daughter has the right to accept support from her financially capable parents. When the father is in fact unable to fulfill his commitment to provide for the child's maintenance and education, the court may rule that the mother shares financial responsibility for the child's care and education.

According to the provisions of Article 26 paragraph (1) of Law No. 23 of 2002 as revised by Law No. 35 of 2014 on Child Protection, there are no loopholes, exceptions, or justifications for evading parental obligations and responsibilities. Article 26 That parents are obligated and accountable for caring for, nurturing, educating, and safeguarding their children, fostering their development in accordance with their abilities, talents, and interests, and preventing child marriage.

The provisions of the preceding article are identical to the provisions of Article 41, one of the guiding principles of Marriage Law No. 1 of 1974, which explains the consequences of dissolving a marriage due to divorce when the marriage has ramifications for the children or offspring of the marriage. The aforementioned provisions of Law No. 1 of 1974 pertaining to Marriage demonstrate that a father's obligation to his kid is unaffected by divorce or remarriage. Then, it can also be understood that when the child is still immature, the mother has the right to care for the child, but the father is responsible for the costs. Therefore, even though the child

is still a minor and his maintenance falls under the mother's jurisdiction, the father is solely responsible for all costs.

A comparative study for a father who does not carry out the obligation to support his child after divorce is as follows:

1. In Islamic law, it is primarily the father's responsibility to support his child, and the mother is not required to do so. This is consistent with the Shafe'i, Hanafi, and Hambali viewpoints; if the father is unable to provide for his child, the child's closest relative can replace the father's position. In addition, the opinion of the Hanafi philosophy holds that the child's past support becomes the father's obligation even though he is in a low condition so that when he is able, the father is obliged to repay it. If the father is able but refuses to contribute child support, the judge must compel him to do so. The Syafe'i, Hambali, and Maliki viewpoints believe that the child's care has passed unless a judge makes a decision.
2. In positive law, the father's obligation to the child after the divorce is more borne by the father, but if the father is in fact incapacitated, then the mother will also bear the costs. As for civil sanctions for fathers who do not carry out their obligations to provide a living, they can be sued in court to replace the child's maintenance costs that are not given to the child and a person can have custody of his child revoked because he neglected his obligation to provide for the child's maintenance. As for the sanctions, imprisonment is a maximum of 5 (five) years and/or a fine of a maximum of Rp. 100,000,000,- (one hundred million rupiah), as stated in Article 77 B of Law Number 35 of 2014 concerning Child Protection. A maximum imprisonment of 3 (three) years or a maximum fine of Rp. 15,000,000 (fifteen million rupiah), as stated in Article 49 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

In Islamic law, *maslahah*, or "benefit," is a philosophy pertaining to the pursuit of good, welfare, and benefit for individuals and society. In terms of *mut'ah*, *iddah*, and *madhiyah* upkeep, the *mashallah* theory specifies the applicable principles and rules.

Based on the *maslahah* idea presented in this study, the *Mut'ah* pays the temporary maintenance provided by the husband to the wife. In this instance, the *mashallah* doctrine seeks to maintain financial equity and fairness in the husband-wife relationship. *Mut'ah* salaries safeguard the wife to satisfy economic demands and provide security and certainty in this brief marital partnership. The notion of *mashallah* emphasizes the significance of maintaining financial justice between husband and wife, hence *mut'ah* maintenance is regulated to attain this objective.

*Iddah* is the waiting period required for a woman to remarry after a divorce or the death of her spouse. In *Iddah*, the *mashallah* doctrine seeks to preserve the interests and honor of women undergoing a change in marital status. *Iddah* affords the wife time to analyze her emotions, reassess her marital connection, and take precautions against conception. This helps prevent hasty remarriages following divorce or death.

*Madhiyah* In general, past maintenance, also known as *madhiyah* maintenance, refers to the last maintenance that was neglected or not paid by the husband to the wife when they were legally married. Support might become a husband's debt if he fails to pay or fulfill it. The *madhiyah* theory of *Maslahah*. *Maslahah* theory can play a role in the context of *madhiyah* livelihood when there is a scenario or problem that is not specifically regulated in the sources of Islamic law. Muslim scholars and scholars can utilize the *Maslahah* theory to understand and apply the principles of *madhiyah* livelihood properly and to adhere to the public interest and societal aims. Consider, for instance, that important social or economic situations can impact the relationship between a husband and wife. In such a circumstance, Muslim scholars can utilize *Maslahah* theory to identify new approaches or adaptations of the concept of *madhiyah* living so that it remains consistent with the society's benefit and fairness.

Nonetheless, it is vital to keep in mind that the application of Maslahah theory in Islamic law is always predicated on religious principles and the ultimate objective of achieving justice and public welfare.

## **CONCLUSION**

The decisions numbered 1570/Pdt.G/2020/PA.Srg and 0076/Pdt.G/2017/PA.Mgl adhere to the criteria of legal certainty and judicial balance, as decided by the court in relation to Law 16 of 2019, which governs amendments to Marriage Law No. 1 of 1974. Furthermore, the Magelang Religious Court Judge's Decision No. 0076/Pdt.G/2017 PA.Mgl was correct in compelling the ex-husband to make Iddah and Mut'ah payments in the absence of unambiguous requirements from the previous applicant. Income benefits for Mut'ah, Iddah, and Madhiyah must be administered in compliance with court orders and legislative rules. The decision of the Serang Religious Court Number 1570/Pdt.G/2020/PA.Srg has not been finalized on the payment of living expenses as required by the judge in the decision. This relates to the Defendant's salary as an honorary teacher, who is unable to support himself. On this basis, both parties may take the following actions: 1. mediation Regarding the payment of living expenses, mut'ah, iddah, and madhiyah, mediation can assist the parties in reaching an agreement on the acceptable payment amount, period, and method. acceptable and adequate. 2. Negotiation, Parties can negotiate the amount to be paid, the payment duration, and the agreed-upon payment mechanism. Courts: If negotiations and mediation fail to produce a resolution, the parties may bring the dispute before a court. To safeguard their rights, parties entitled to benefits, mut'ah, iddah, and madhiyah may launch a lawsuit or request enforcement of a ruling. The court evaluates the evidence and arguments given by both sides, and then renders a legally enforceable decision.

## **RECOMMENDATION**

The Society must comprehend the legal provisions associated with mut'ah, iddaa, and madhiyah, particularly the husband's duty to provide for his wife and children. When determining alimony, both the husband and wife must appreciate the need of a fair approach. The husband must evaluate his ability to meet his financial duties, while the wife must be forthright about her demands and financial condition. Judges must consider the passage of time when determining the obligation to provide care for dependents. Ensure that the decisions made will permit the individual to consistently meet his responsibilities within a suitable time frame. In the event that a couple's financial circumstances alter in the future, concessions or review processes must be in place to allow for the necessary modifications. In addition, judges must investigate and decide instances regarding the payment of living expenses with objectivity and impartiality. They must examine the evidence and arguments given by both sides without taking a position. The focus on justice helps to sustain public confidence in religious courts.

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