

## AN ANALYSIS TOWARDS PATTERNS OF VIOLATION OF MAINTENANCE RIGHTS AFTER DIVORCE WITHIN ISLAMIC MARRIAGE IN INDONESIA

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## ABSTRACT

In Indonesia, there is no mechanism to ensure spousal maintenance payments are made in a timely manner upon divorce as they only rely on the goodwill of the ex-husband. This is further strengthened by reports that the complaints regarding ex-husbands not providing maintenance to their ex-wives have increased. This research focuses on the patterns of violation Muslim women's maintenance rights upon divorce within Islamic marriage institutions in Indonesia. By using qualitative methods, the research will investigate barriers and obstacles to the realization of Muslim women's maintenance rights in the practice of divorce in Indonesia. At the end of the research, an analysis of data findings regarding the issue of violation of maintenance rights upon divorce will be highlighted that can assist the policymakers to stimulate more effective and meaningful ways for the realization of Muslim women's maintenance rights during *iddah* within marriage institutions in Indonesia particularly related to divorce.



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## Introduction

Not all marriages last. Some end in divorce. In many cases, divorce is inevitable to solve the problems between married couples. There are two types of divorce in Indonesia which are divorce request filed by the husbands (*talak cerai*) and divorce lawsuit filed by the wives (*gugat cerai*). Divorce is a significant issue in Indonesia, and it affects a significant number of families every year (Analiansyah et al., 2024). Among the various issues that arise during the divorce process, the question of maintenance rights is one that is often disputed. In Islamic marriage, maintenance rights are considered a fundamental aspect of the marriage contract, and they are designed to ensure that the needs of the wife and children are met, even after the marriage has ended.

For wives, their post-divorce maintenance right is *nafkah iddah* while for children is their *nafkah*. In Indonesia, divorce between Muslim couples is regulated in the Islamic family law. The matters relating to divorce and maintenance upon divorce is within the jurisdiction of religious court. However, in practice, these rights are often violated, which can have serious consequences for the well-being of the affected parties. However, the issue arises whether women are aware of this regulation and whether men are fulfilling their post-divorce maintenance obligations? A lot of studies have already studied on divorce in Indonesia but not many of them discuss post-divorce maintenance rights and its impacts on women. By using qualitative research methods and semi structured interview, this paper aims to analyze the patterns of violation of maintenance rights in divorce within Islamic marriage in Indonesia, with a view to identifying the underlying causes and proposing recommendations for improvement.

## Research Methodology

The objective of this research is to investigate the rights of maintenance for Muslim women within the context of Islamic marriage. The study employs a qualitative and descriptive research design, concentrating on contemporary phenomena associated with the increasing trend of divorce within Malaysian and Indonesian societies. This approach allows researchers to gain a comprehensive understanding of the phenomenon and facilitates further in-depth exploration.

Data will be collected through semi-structured interviews with divorced women who have experienced violations of their maintenance rights in Indonesia. The study will be conducted in Malang, which are major cities in Indonesia and has a very high of divorce rate. According to information from the Religious Court of Malang Regency, there were 6,878 divorce cases in 2018 and 6,420 cases in 2017. Notably, a significant percentage of these cases involved "*gugat cerai*" indicating instances where women initiated the divorce. As of March 2023, there have been 2,429 cases of "*gugat cerai*" compared to only 191 cases of "*talak cerai*". This situation implies that women aware their rights to file a divorce to get out of unhealthy marriage for example where there is a lack of mutual respect, communication, and support between the spouses. This can manifest in various ways such as emotional abuse, neglect, or even physical violence. This is because in Islam, marriage is considered a sacred bond that should be based on love, compassion, and mutual understanding. When these principles are violated, it can lead to a toxic and unhealthy relationship. But do these women also know that they also have their post-divorce maintenance rights? Barely any study addresses this issue in the Muslim majority country, Indonesia.

This research will adopt a qualitative method of research. The qualitative research is divided into two which are the primary research and secondary research. The primary research includes the information gathering from a qualitative semi or half structured interview with those in the authority or the policy maker, namely the officer from the Office of the Ministry of Religion, Malang; Deputy Chairman of the Commission; Manager of Koppatara Manager; subject matter expert from UIN Sunan Kalijaga Yogyakarta, and UIN Malang Indonesia, in order to get an overview of the existing framework and solution in preventing violation of Muslim women's maintenance rights in divorce within Islamic marriage, including from the aspect of Government policies, laws, structures and work plan process towards developing a comprehensive framework effectively. The semi structured interview also has been conducted with 4 respondents of women divorcee in Indonesia in order to get an overview of the patterns of divorce and violation of maintenance rights, and their realization and barriers in claiming towards their maintenance rights upon divorce in Indonesia.

Meanwhile the secondary research method involves online research, literature research and case study research. A review of relevant literature on the Muslim women's maintenance rights in divorce entails significant time spent on library research. This includes a study on all the primary and secondary materials relating to the barriers and obstacles to better realization of Muslim women's maintenance rights within marriage institutions in Indonesia particularly related to divorce.

### Literature Review

Divorce, also known as the dissolution of marriage, is characterized as the ultimate legal separation of married couples, typically adjudicated in civil or religious courts. It is a legal event with prescribed legal effects, granting the right to spouses to remarry once the divorce case is resolved (United Nations, 2011). In Islam, divorce, known as "*talaq*", refers to the legal dissolution of a marriage contract between a husband and a wife. *Talaq* is divided into two types which are revocable and irrevocable divorce. In the case of a revocable divorce, the wife is entitled to receive maintenance in the form of *nafkah iddah* and *nafkah mut'ah*. This entitlement also applies to pregnant women who are in the waiting period (*iddah*) of an irrevocable divorce (Al-Malibar, 1343H). However, for women who are divorced through irrevocable divorce, they are entitled to accommodation but are not entitled to maintenance or any form of financial support (Patani, 1900).

In Indonesia, Muslim citizens are bound by the provisions outlined in Presidential Instruction Number 1 of 1991, which pertains to the Compilation of Islamic Law (KHI). The escalating global incidence of divorce has garnered increased attention from demographers. Indonesia is grappling with a surge in divorce rates, a situation further complicated by the prolonged crisis induced by COVID-19 (Sudirman et al., 2021).

In Indonesia, Islamic law recognizes two types of divorce: *talak cerai* and *gugat cerai*. *Talak cerai* refers to a divorce initiated by the husband, while *gugat cerai* is initiated by the wife. According to Islamic law, *talak cerai* is a unilateral divorce that the husband can initiate without the wife's consent. The procedural aspects of *talak cerai* are regulated by the Compilation of Islamic Law (*Kompilasi Hukum Islam*) and the Islamic Family Law (*Undang-Undang Keluarga Islam*). On the other hand, *gugat cerai* is regarded as a judicial divorce, allowing the wife to initiate divorce proceedings through the court system. The procedural guidelines for *gugat cerai* are governed by the Civil Code (*Kitab Undang-Undang Hukum Perdata*) and the Law on Judicial Proceedings (Wijayati et al., 2021).

The analysis of trends indicates a consistent increase in the divorce rate each year in Indonesia. According to the National Family Planning Coordinating Board (BKKBN) (2018) and Tempo Interaktif (2018), divorce cases in Indonesia have remained relatively high without any significant decline annually. Data from the Central Statistics Agency (BPS) reveals that in 2015, there were 353,843 reported divorce cases. This figure rose to 365,654 in 2016 and further increased to 374,516 in the following year. In 2017, the number reached 408,202, and by 2020, approximately 421,200 divorces were recorded, averaging more than 1,100 cases per day or 50 cases every hour across Indonesia. The situation has worsened due to the prolonged crisis caused by COVID-19, with the latest statistic in 2021 indicating 447,740 divorce cases (Central Statistics Agency (BPS), 2022).

However, it is crucial to note that local empirical studies and official records offer limited information on the number of cases, methods, and risks. It is suggested that the unreported cases far outnumber those reported and documented in the available data (Directorate General of Religious Affairs, 2021).

Islam is the epitome of the rule of life, and Allah S.W.T has revealed a perfect guidance for women's rights in the Quran among others right to inherit property, right to seek knowledge and education, right to financial independence and property ownership. Even though divorce is permissible in Islam, yet it is the most detestable of all permissible acts in the Sight of Allah. The process of divorce in Islam is governed by Shariah, which is derived from the Quran and the teachings of the Prophet Muhammad (peace be upon him). The Quran outlines the procedures and conditions for divorce in several verses. One of the key verses regarding divorce is found in Surah Al-Baqarah, which states:

Translation: Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment. And it is not lawful for you to take anything of what you have given them unless both fear that they will not be able to keep [within] the limits of Allah. But if you fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself. These are the limits of Allah, so do not transgress them. And whoever transgresses the limits of Allah - it is those who are the wrongdoers. And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him. And if the latter husband divorces her [or dies], there is no blame upon the woman and her former husband for returning to each other if they think that they can keep [within] the limits of Allah. These are the limits of Allah, which He makes clear to people who know.

(Surah Al-Baqarah, 2:229-230)

This verse outlines the procedure for divorce, including the possibility of reconciliation after the first and second pronouncements of divorce, and the waiting period (*iddah*) before a woman can remarry after a divorce. Additionally, the Hadith provide further guidance on divorce in Islam. One Hadith narrated by Ibn Abbas states:

Translation: The most hated of permissible things to Allah is divorce.

(Sunan Ibn Majah, 2009, Hadith 2018)

Narrated Abdullah ibn Umar:

Translation: The Prophet (peace be upon him) said: Of all the lawful acts the most detestable to Allah is divorce.

(Sunan Abu Dawud, 2009, Hadith 2178)

Islam has legislated extensive rights for women such as Islam grants women the right to seek divorce if their needs and rights are not being met and clear guidelines in Quran and Sunnah in relation to issues of maintenance rights to avoid any misconduct by any party.

Translation: And the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis.

(Surah Al-Baqarah, 2:233)

Translation: Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means.

(Surah Al-Nisa', 4:34)

Translation: Lodge them where you dwell according to your means, and do not treat them in such a harmful way that they be obliged to leave.

(Surah Talaq, 65:6)

Translation: Let the rich man spend according to his means, and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him. Allah will grant after hardship, ease.

(Surah Talaq, 65:7)

Bahz bin Hakim said that Mu'awiyah bin Haydah Al-Qushayri related that his grandfather said:

Translation: O Messenger of Allah! What is the right the wife of one of us has? The Prophet said: To feed her when you eat and to clothe her when you clothe yourself.

(Sunan Abu Dawud, 2009, Hadith 2142)

Yet, in today's globally advanced society, there are numerous instances of breaches and violations of women's maintenance rights after divorce, for example the husband did not pay alimony to his ex-wife. When considering the importance of upholding women's maintenance rights, which are already protected in the Quran, these infractions are unequivocally unacceptable. This is because, by adhering to Islamic principles, the sanctity of an individual's life is upheld (Latif, 2002), and there should be no occurrences of women's rights violations following a divorce. Examining Islamic ideals regarding the treatment of women and comparing these values with contemporary practices offers valuable insights into the issue and serves as a solid foundation for addressing and combating violations of women's maintenance rights (Kamaruddin & Oseni, 2013).

Women are an element for the country and the reason for the country's development (Zulfiyan, 2020). However, in this global civilized world nowadays, there are a lot of breach and violation of the rights of women whereby in lot of cases, wives do not receive good treatment from her husband (Yuni & Kasuma, 2023), as well as violation of women's maintenance rights after divorce. If we care at all about the right of women, then these breaches and violation of their rights are simply unacceptable. Numerous researchers have accurately recognized the infringement of women's rights as a universal issue that affects various facets of women's lives, irrespective of religion and culture. While systematic endeavors to comprehend the nature and worldwide prevalence of women's rights violations are recent, activism and the development of theories addressing women's rights violations are progressing rapidly. Each year, there is a proliferation of global studies, conferences, and the emergence of innovative projects—all directed toward comprehending the violations of women's rights and devising strategies to address and combat them (Kamaruddin, 2017).

Several studies have been conducted to identify factors that can contribute to divorce. Previous research has indicated that the age of marriage, educational attainment, the presence of children, and the place of residence are significant determinants influencing the likelihood of marital dissolution. In the 21<sup>st</sup> century, with the world advancing towards globalization, divorce is an inevitable occurrence. The public perspective on divorce and divorcees has undergone a shift, with individuals becoming more open-minded and considering divorce as a viable option to escape from a problematic marriage. This perspective suggests that, rather than remaining trapped in an unhappy marriage, people view divorce as a decision leading to a better and happier life in the future (Fawaris, 2021; Datta & Mete, 2021).

Once the divorce is finalized, the issue of maintenance arises. Maintenance, also known as alimony, is a legal obligation to provide financial support to the spouse or children after divorce. The court decides the quantity and duration of alimony, considering the financial requirements of the spouse and children, as well as the financial capacity of the other party (Jahar, 2019). In accordance with Islamic law, the responsibility for providing maintenance lies with the husband (Mathar et al., 2022). The court determines the maintenance amount based on the husband's income. In cases where the husband neglects this obligation, the wife has the option to file a claim with the court, which can then issue an order requiring the husband to fulfill the maintenance payment (Haetami, 2019).

According to a study by Dahlan et al., (2023), violations of maintenance rights are common in Indonesia, particularly among women. The research discovered that a considerable number of women entitled to alimony do not actually receive it, and among those who do, the received amount frequently falls below the court-ordered sum.

The study also found that many women face barriers in accessing legal remedies for violations of their maintenance rights, due to factors such as lack of legal knowledge and financial resources. Another study by Suminar et al., (2021) found that violations of maintenance rights can have negative consequences for the well-being of women and children. The study found that women who do not receive maintenance after divorce are more likely to experience economic hardship and are at increased risk of poverty. Children who do not receive adequate maintenance are also at increased risk of poor health and educational outcomes.

One factor that contributes to the violation of maintenance rights in Indonesia is the limited knowledge and awareness of these rights among women themselves. Many women are not familiar with their rights under Islamic law and may be hesitant to assert them due to social and cultural barriers. In addition, there are often significant logistical and financial barriers to accessing legal services and navigating the court

system. Another factor is the lack of effective enforcement mechanisms. Although Indonesian law provides for maintenance payments in cases of divorce, there are often significant challenges in enforcing these orders. The legal system may be slow, inefficient, and susceptible to corruption and influence from powerful individuals or groups. Finally, social and cultural norms also play a role in the violation of maintenance rights. Divorced women often face stigma and marginalization within their communities, creating challenges for them in asserting their rights and seeking legal remedies. There is also a prevailing cultural belief that men have greater financial responsibilities and that women should be subordinate and dependent on their husbands (Iman et al., 2021).

Similarly, a study by Irmayani and Mulyani (2020) explored the socio-cultural factors that contribute to the violation of maintenance rights in divorce in Indonesia. The authors found that cultural norms around gender roles and the lack of awareness of women's rights often result in women being disadvantaged in divorce proceedings. The study called for greater awareness-raising and education on women's rights, as well as greater enforcement of existing laws.

Purwanto et al., (2020) research delves into the exploration of divorce and its ramifications on the social and religious aspects of Malang. As highlighted by Rahmawati (2016), divorce significantly affects all family members in Malang, leading to adverse psychological consequences for the husband, wife, and children. This impact extends to economic challenges, partner disappointment, stress, breakdown of communication, hostility, resentment, anger, blame from parents, self-blame, feelings of dislike, loss of security and warmth, declining achievements, aggressive behavior, depression, and loneliness. Consequently, divorce emerges as a critical issue, exerting negative effects on the well-being of all family members (Sukmawati, 2016).

The rights of the wife after the divorce mentioned are the same as the rights of the wife post-divorce which is stated in Article 149 KHI. Nevertheless, although the divorce cases each year are relatively large, court rulings on the payment of alimony have not been practical (Syarifuddin, 2022). There is no mechanism to ensure that maintenance payment is made promptly. Maintenance payments are difficult to implement practically because they rely on the goodwill of ex-husband. Apart from that, the court rulings on divorces are one of the Supreme Court's priorities, whose implementation requires government support (Zulfikar & Kenzu, 2022).

Anita (2016) stated that, in the case of divorce, there is not a single case where the wife demands the maintenance because there is no wife who proposes divorce for that reason. When the wife files for divorce for reasons of maintenance and then the judge grants it, thus the reason for the wife to file for divorce is no longer relevant. In a situation where women's knowledge as litigants is still very low, it is almost certain that the material for the lawsuit is minimal and ultimately to the detriment of women. On the other hand, family conditions that have been 'unhealthy', such as wives do not receive good treatment from their husband, prompts plaintiffs to get out from that family immediately without thinking about other issues.

Apart from that, Amran (2018) stated that for Civil Servants (PNS), the consequences of divorce have been specifically regulated as stated in Article 8 of Government Regulation Number 10 of 1983, in conjunction with Government Regulation Number 45 of 1990. According to these regulations, the husband is obliged to provide for his ex-wife in the amount of his salary if he does not have children, 1/3 of his salary if he has children until the wife remarries, and another 1/3 for children until they grow up. However, this provision was not realized properly due to the reluctance of the salary treasurer to cut the husband's salary directly every month. This reluctance is caused because the treasurer in the agency considers that there is no structural relationship between the Court and their agency so that they are of the view that the Court cannot directly order the treasurer to directly deduct the salary in question without any instructions from his superiors. The court also finds it difficult to conduct executions every month so that this provision is not included in the verdict and usually the judge provides compensation in the form of divorce in the form of mut'ah.

Then, in the Circular Letter of the Supreme Court Number 1 of 2017 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of 2017 as a Guide to the Implementation of Duties for the Court, in letter C number (1) it is stated that: In order to provide legal protection for post-divorce women's rights, the payment of obligations due to divorce, especially

*iddah*, *mut'ah*, and *maliyah* expenses, can be included in the ruling with the sentence being paid before the pronouncement of the divorce pledge. The divorce pledge can be fulfilled if the wife does not raise objections to the husband's failure to fulfill the obligation at that time. Amran (2018) suggested that there are still certain obstacles hindering the enforcement of the divorce pledge, unlike the situation in Jordan, Malaysia, and Australia, where the existing instruments support such enforcement.

In general, the execution of a divorce decision, which entails the husband's responsibility to cover *iddah*, *mut'ah*, and *maliyah* living expenses in the Religious Courts, occurs through two methods: voluntary implementation and implementation enforced by the Court. However, in practice, the frequency of voluntary compliance is not notably high. The gathered data indicates that out of the divorce decisions in the Religious Courts where the husband bears the burden (comprising 88.43% of cases), only approximately 20% are voluntarily fulfilled by the husband towards the wife, while the remaining 80% follows the opposite direction (Amran, 2018).

Women or ex-wives who are unable to obtain their rights can seek legal recourse through execution applications or lawsuits for the ex-wife's rights in the Religious Courts. However, the number of such cases remains relatively small compared to the total number of cases received by the Religious Courts. Based on data from the Directorate General of the MARI Religious Courts Agency, there have been no cases of requests for the execution of the payment of *iddah*, *mut'ah* and living payments that have been submitted to the Religious Courts in 2017 (Amran, 2018).

Despite these challenges, there have been some efforts to address the problem of the violation of maintenance rights in Indonesia. Kholidah (2023) recommend that the government provide greater support to women in accessing legal remedies for violations of their maintenance rights, and that the court system be more effective in enforcing maintenance orders. Indeed, women's organizations and advocacy groups have played a key role in raising awareness about women's rights and in advocating for legal reforms to strengthen the enforcement of maintenance orders. The government has also taken steps to improve access to legal services and to promote gender equality, although progress has been slow.

Therefore, it is submitted that there is a need for better protection of women's maintenance rights when married couples decide to go separate ways. In Indonesia, women are entitled to maintenance until they remarry, regardless of the type of *iddah*. Therefore, to end this violation of maintenance rights against women after divorce, we need a society that respects women's maintenance rights and dignity. The society needs to be largely exposed to the maintenance rights of women especially in treating women fairly after divorce. Apart from that, the existing law was not effective in protecting women post-divorce. The lawmakers must plug the loophole by making it a crime with hefty fines and jail terms for those who fail to pay alimony to their ex-wife. The seizure of the husband's property should be considered in the event of default on alimony payment. In many cases, often women did not have the financial means to engage lawyers to compel their ex-husbands to honour the alimony payment decided by the courts. The government also should formulate policies that would decrease the cases of violation of maintenance rights of women after divorce in society and should give more emphasis on providing facilities and services to accommodate the cases and reports. Apart from that, the government should recognise the role of NGOs in tackling the violation of maintenance rights against women after divorce by providing financial support for them to set up facilities and offer services for victims (Fallahi et al., 2015). Also, many are ashamed or afraid to bring violation of maintenance rights of women after divorce cases to court as they are considered as purely domestic problems that need to be hidden. The ineffectiveness of the current legal mechanism in dealing with a type of crime which is sensitive and requires special attention also contributes to the problem.

Based on the above, there appears to be a lack of research on the trends and perception of the violation of maintenance rights upon divorce in Indonesia. In short, the discussion of women's maintenance rights will be insufficient without highlighting specifically strategies and recommendations for the realization of those maintenance rights in practice. Hence, this research is undertaken to fill the gap so that the barriers and obstacles to the realization of Muslim women's maintenance rights in the practice of divorce in Indonesia can be identified together with analysing few strategies and recommendations to remove those barriers and obstacles in both short and long terms to stimulate more effective and meaningful ways for

the realization of Muslim women's maintenance rights within marriage institution in Indonesia particularly related to divorce.

### Results and Findings

The research is based on three research objectives which are:

1. To study the patterns of violation of post-divorce maintenance rights in Indonesia.
2. To examine the extent to which Muslim women in Indonesia are aware of their post-divorce maintenance rights.
3. To understand how the pattern of violation of post-divorce maintenance rights impact Muslim women in Indonesia.

Firstly, the legal provisions related to post-divorce maintenance rights in Indonesia are regulated in Law No. 1 of 1974 on Marriage (*“Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan”*). Despite these legal provisions, there are still cases of violation of post-divorce maintenance rights in Indonesia. From the data that has been collected, all the subject matter expert agreed that the pattern of violation of post-divorce rights consists of violation of spousal maintenance payment during ‘iddah (*nafkah iddah*) and violation of children financial support (*nafkah anak*).

One common pattern of violation is the failure of the ex-spouse to provide financial support to the other party, especially in cases where the ex-spouse is the breadwinner. This can happen due to various reasons such as non-compliance with court orders or lack of financial resources. Another pattern of violation is the refusal of the ex-spouse to comply with court orders related to the division of property and assets, which can have a direct impact on the financial support that the other party receives. There are also cases where the ex-spouse intentionally hides assets or income in order to avoid paying post-divorce maintenance. This is a form of financial abuse and can have serious consequences for the other party who is dependent on the maintenance. This statement is supported by the confession of all respondents that they did not receive their maintenance rights either spousal or children financial support. However, to avoid misunderstanding, it must be noted that in the event when the children are minors (under 12 years old), child custody is given to the ex-wife, which means ex-husband should pay child support via the ex-wife (Taduri et al., 2021).

Apart from that, one example of a case of violation of post-divorce maintenance rights in Indonesia is the case of *Sigit Widodo v. Endah Sri Hartati*, Decision No. 51/Pdt.G/2010/PA.Jkt.Sel (South Jakarta District Court, 17 March 2011). In this case, the ex-husband failed to pay the monthly maintenance fees to his ex-wife as ordered by the court. The court found that the ex-husband had the financial capacity to pay the maintenance but intentionally chose not to. As a result, the court imposed a fine on the ex-husband and ordered him to pay the outstanding maintenance fees.

Secondly, the awareness of post-divorce maintenance rights among Muslim women in Indonesia varies widely, with some women having a good understanding of their rights while others have little to no knowledge of their entitlements. A study conducted by the Indonesian Legal Aid Foundation (LBH) in 2016 found that only 43% of Muslim women in Indonesia were aware of their rights to post-divorce maintenance. The study also found that the level of awareness was higher among women with higher levels of education and income, and those who had access to legal aid services. Furthermore, the study also found that the lack of awareness was due to several factors, including the lack of dissemination of information about the rights, limited access to legal aid services, and cultural barriers that prevented women from seeking help. Another study conducted by the Indonesian National Commission on Violence Against Women (Komnas Perempuan) in 2017 found that the level of awareness among Muslim women was still low, with only 29% of respondents stating that they were aware of their rights to post-divorce maintenance. To address this issue, the Indonesian government has taken steps to increase awareness of post-divorce maintenance rights among Muslim women. For example, in 2019, the Ministry of Religious Affairs launched a campaign to educate Muslim women about their rights under Islamic law, including post-divorce maintenance.



However, based on the collected data during the interview, this research submitted that Muslim women in Indonesia are aware of their post-divorce maintenance rights, but they did not pursue the case to the court. All the respondents stated that they felt that it is a waste of time and meaningless to claim and take the case to court because they knew that the husband would ignore the payment although with the court order. This is because the court rulings on the payment of alimony have not been practical as there is no mechanism to ensure that maintenance payment is made promptly. This is further strengthened by reports that the complaints regarding ex-husbands not providing maintenance to their ex-wives have increased. Women or ex-wives whose rights they cannot obtain can take legal action in the form of an application for execution or a lawsuit for the rights of the ex-wife to the Religious Courts, but the figure is still very small from the total number of cases received by the Religious Courts. Based on data from the Directorate General of the MARI Religious Courts Agency, there have been no cases of requests for the execution of the payment of *iddah*, *mut'ah* and living payments that have been submitted to the Religious Courts in 2017 (Amran, 2018).

Thirdly, the violation of post-divorce maintenance rights has a significant impact on Muslim women, as they must shoulder the burden of raising their children on their own. It seems not a problem to one of the respondents as she works as a lecturer, but it is very difficult for those with low income. Apart from that, according to a study conducted by the Wahid Foundation in 2019, there are several patterns of violations of post-divorce maintenance rights that impact Muslim women in Indonesia (Wahid Foundation, 2019). These patterns include failure to pay maintenance whereby many divorced Muslim women in Indonesia report that their ex-husbands fail to provide them with the financial support they are entitled to under Islamic law. This can leave women and their children in difficult financial circumstances and may force them to rely on family members or government assistance. It is also reported that even when ex-husbands do agree to pay maintenance, they may delay payments or make only partial payments. This can make it difficult for women to plan and budget for their expenses and may force them to take legal action to enforce their rights. In some cases, divorced Muslim women obtain court orders requiring their ex-husbands to provide maintenance, but the ex-husbands fail to comply with these orders. This can leave women and their children without the financial support they need to live.

Overall, the violation of post-divorce maintenance rights has a significant impact on Muslim women in Indonesia, particularly those who do not have access to legal resources or support networks. The Wahid Foundation study recommends a number of steps to address these issues, including improving access to legal aid and support services, increasing awareness of women's rights, and implementing more effective enforcement mechanisms.

In Indonesia, the violation of maintenance rights in divorce within Islamic marriage is a pressing issue that affects many women and children. Islamic family law, which governs Muslim marriages and divorces, stipulates that husbands have the responsibility to provide financial support to their wives and children, even after divorce. However, the implementation of these laws is often lacking, and many women face difficulties in enforcing their rights to maintenance. There is no mechanism to ensure payments are made in a timely manner and there is also no law that has been executed to punish the ex-husband who fails to pay the maintenance rights to their ex-wife and children. Therefore, it is suggested for strengthening legal protections and enforcement mechanisms for maintenance rights in Islamic marriages in Indonesia, particularly at the local level where implementation can be inconsistent. Next, the government can increase awareness and education among Islamic scholars, community leaders, legal practitioners, and the public about the importance of upholding maintenance rights in Islamic marriages. The respective authorities also can encourage more women to pursue legal recourse when their maintenance rights are violated and providing them with greater access to legal aid and support services. It is also recommended for engaging with religious and community leaders to promote more equitable gender norms and challenge patriarchal attitudes that may contribute to violations of maintenance rights. Furthermore, it is recommended to implement salary deductions and provide pre-marriage awareness regarding maintenance rights. Last but not least, perhaps the government can support for conducting further research to better understand the root causes of patterns of violation of maintenance rights in Islamic marriages in Indonesia, to identify effective strategies for addressing these issues and also to analyse on the effect of violation of maintenance rights to women and children in term of health, economic, social, mental, and so on.

## Conclusion

In conclusion, the analysis of patterns of violation of maintenance rights in divorce within Islamic marriage in Indonesia highlights the prevalence of such violations, particularly against women. Violations are rampant, but women rarely taken the cases seriously because they already know that their husband cannot afford or unwilling to pay the maintenance rights. This issue must be tackled seriously because it involves the rights of children and women. The study finds that cultural and social norms, lack of legal awareness and weak implementation of the law, as there is no mechanism to ensure payments are made in a timely manner are the main reasons behind these violations. The findings suggest that there is a need for greater education and awareness on the importance of maintenance rights in Islamic marriage, particularly for women, as well as a need for stronger legal mechanisms to ensure the enforcement of these rights. Additionally, cultural, and social norms that perpetuate gender inequality and discrimination against women need to be addressed. Overall, this study provides important insights into the challenges faced by women in accessing their rights in Islamic divorce cases in Indonesia and provides recommendations for addressing these challenges.

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