

## THE RELATIONSHIP BETWEEN A WIFE'S SATISFACTION IN THE *IDDAH* PERIOD WITH MARRIAGE AND DIVORCE

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**Abstract:** The purpose of this study is to examine the relationship between *iddah* living with marriage and divorce. The specification of this research is a descriptive analytical law research. The type of data used in this study is secondary data sourced from the library, such as primary legal materials, namely documents and any statutory regulations that are binding and determined by the competent authorities relating to the obligation of living during the *iddah* period. Plus secondary legal materials and tertiary legal documents. The data collection tool used in this research is a document study by tracing legal materials in the library. Then analyzed qualitatively. The results of this study indicate that the *iddah* of the ex-wife can only be requested after the divorce from a marriage that is recognized as valid.

**Keywords:** Wife's Satisfaction, *Iddah*, Marriage, Divorce

**Abstrak:** Tujuan penelitian ini untuk mengkaji tentang kaitan antara nafkah *iddah* dengan perkawinan dan perceraian. Spesifikasi penelitian ini adalah penelitian hukum yang bersifat dikriptif analitis. Jenis data yang digunakan dalam penelitian ini adalah data sekunder yang bersumber dari perpustakaan seperti bahan hukum primer yaitu dokumen dan setiap peraturan perundang-undangan yang mengikat dan ditetapkan oleh pihak yang berwenang yang berkaitan dengan kewajiban nafkah pada masa *iddah*. Ditambah lagi dari bahan hukum sekunder dan dokumen hukum tersier. Alat pengumpulan data yang digunakan pada penelitian ini adalah studi dokumen dengan cara menelusuri bahan-bahan hukum yang ada di perpustakaan. Kemudian dianalisis secara kualitatif. Hasil penelitian ini menunjukkan bahwa nafkah *iddah* kepada mantan istri hanya dapat dimintakan setelah adanya perceraian dari suatu perkawinan yang diakui keabsahannya.

**Kata Kunci:** Kepuasan Istri, *Iddah*, Pernikahan, Perceraian

### Introduction

Marriage for mankind is a very sacred event

set by religious law. Marriage is not merely to satisfy lust, but to achieve tranquility, peace, and mutual care between husband and wife

based on deep love and affection.<sup>1</sup> But what is happening now is that there are so many lawsuits and requests for divorce. In the case of divorce, what appears to be the norms and rules that exist and regulate marital problems can be said to have begun to be ruled out by many parties so that what arises is the desire to divorce or legally terminate the household.<sup>2</sup>

In principle, marriage takes place with the aim of lifelong and to achieve eternal happiness for both the husband and wife concerned.<sup>3</sup> So that the Messenger of Allah strictly forbade divorce between husband and wife, whether it was done on the initiative of the man (husband) or the woman (wife). The Prophet's prohibition on divorce because divorce itself will have a bad impact on each party and also for their children. Divorce that occurs between husband and wife legally still creates rights and obligations between the two, especially when the wife is undergoing the *iddah* period.<sup>4</sup>

When a divorce occurs between husband and wife, of course there will be several rights and obligations that must be fulfilled by each party. For ex-husbands, one of the obligations that must be carried out is to provide a living.<sup>5</sup> Especially with regard to the living wife who is left behind (madhiah livelihood) which is one of the post-divorce issues in addition to

other issues such as child control, child maintenance, wife's living left behind (past livelihood), *iddah* living, and joint property.<sup>6</sup> The livelihood of the wife who is left behind is her right and can claim it again through the courts. Husbands never provide a living as long as their relationship is not harmonious.<sup>7</sup> Whereas legally, the husband is obliged to provide a living for his wife and children. The income that was never paid during the separation period became a debt for the husband to be paid. The obligation to provide a living for the wife is caused by the marriage bond between husband and wife. With the existence of a marital relationship, the livelihood continues until the marriage ends. However, if it is not given while still bound in the marriage bond because its whereabouts are no longer known, then the wife has the right to reclaim her rights.

This is also emphasized in Article 153 paragraph (1)<sup>8</sup> which reads: "For a wife whose marriage has broken up, a waiting period or *iddah* applies, except for *qobla dukhul* and the marriage is broken not because of the death of the husband".

From the sound of the article above, it can be understood that every wife who is divorced by her husband is required to undergo a period of *iddah*, the length of which is determined according to the circumstances of the divorced wife or the husband who divorced her, namely whether the divorce occurred due to divorce due to court proceedings or divorce due to death.

After the divorce based on civil law and sharia law, the husband is charged with providing housing to the ex-wife. If the hus-

<sup>1</sup> Nasruddin and Sulaeman L. "Pregnancy Married in the Perspective of Islamic Law and Five Mazhab". *Al-'Adl*, 14, no.1 (2021): 14-26.

<sup>2</sup> Mansari and Moriyanti. "Sensitivitas Hakim Terhadap Perlindungan Nafkah Isteri Pasca Perceraian. Gender Equality: *International Journal of Child and Gender Studies*, 5 no. 1 (2019): 43-58.

<sup>3</sup> Ramdani, Ryan, Syafithri, Nisa Fitri. "Penentuan Besar Nafkah Madhiyah, Nafkah Iddah Dan Mut'ah Dalam Perkara Perceraian Di Pengadilan Agama". *Adliya*, 15, no.1 (2021): p.38-50.

<sup>4</sup> Lutfi dan Amir Muallim. "Penerapan Kompilasi Hukum Islam pada Peradilan Agama dalam Perkara Hadhoh dan Eksekusi Pelaksanaan Putusannya", *Millah Jurnal Studi Agama*, 20, no. 2 (2021): 1-26.

<sup>5</sup> Moh. Nafik, Problematika Iddah Wanita Hamil di Luar Nikah. Mahakim, *Journal of Family Islamic Law*, 2, no. 2 (2018) : 119-134.

<sup>6</sup> Nurul Afiah Hikmatul Mutmainah, The Majelis Tarjih Muhammadiyah's Fatwa on the Pregnant Marriage: A Maqāṣid Approach. *Ulumuddin, Journal of Islamic Legal Studies*. 13, no.1 (2020): 68-90.

<sup>7</sup> Ahmad Mustarsidin and Akhmad Khisni, Pregnancy Married in The Perspective of Four): p. 699-704.

<sup>8</sup> Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan.

band does not provide it, be it housing or living (shopping money) then the wife can submit the matter to the religious court.<sup>9</sup>

Meanwhile, the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage also requires a living for the ex-wife who has been divorced by her husband, as contained in Article 41 point (c) which reads "The court can oblige the ex-husband to provide living expenses and or determine an obligation for the ex-wife."

The provision of a living to the ex-wife by the ex-husband of course has a certain level and time limit, but in fact, the problem of living is not uncommon in the field, it is found that there is less attention from the ex-husband who has divorced his wife. So, in the end all decisions will be determined by a court decision that must be obeyed and carried out by the parties concerned, if it is not carried out, the Religious Court can impose execution on that party.<sup>10</sup> Responding to the problems described above, this study aims to examine the relationship between the wife's income during the *iddah* period with marriage and divorce.

The number of divorces that occur as if people now consider divorce the main and best solution to solve the problem. The obligation of *'iddah* is actually also intended to provide protection to women after divorce. First, *'iddah* plays a very important role in maintaining the honor and credibility of a woman. This is related to the obligation for the *mu'taddah* to live the period of *'iddah* in the house where she lived with her husband before. By carrying out the *'iddah* where her husband used to be, it can protect the *mu'taddah* from slander when it turns out that she is pregnant. Second, *'iddah* is intended to ensure the health of mothers and children. This is related to the husband's obli-

gation to guarantee a living and a place to live for his divorced wife. Furthermore, child care does not end with birth, because the father still has an obligation to provide care for the child and mother, even if the mother has been divorced. Such conditions are certainly not conducive for the divorced parties to reconcile. There is a need for a reconstruction of the concept of enforceability of *'iddah* so that it can be binding on both men and women. The most important thing of the purpose of *'iddah* is to glorify marital status as a solid agreement. So far, she has neglected her husband's obligations during the *Iddah*. This of course makes a wife not get her rights, namely inner satisfaction. Moving on from the problems and phenomena that have been described, this study aims to examine the relationship between wife satisfaction in the *iddah* period with marriage and divorce.

The specification of this research is legal research that is descriptive-analytical, which describes the obligations of the ex-husband to the ex-wife during the *iddah* period. The type of data used in this study is secondary data sourced from the library, such as primary legal materials, namely documents and any statutory regulations that are binding and determined by the competent authorities relating to the obligation of living during the *iddah* period.

In addition, secondary legal materials are information or results of studies on marriage, especially those relating to the ex-husband's obligation to his ex-wife to provide a living during the *iddah* period, and tertiary legal documents containing concepts and information that support primary and secondary legal materials. secondary legal materials, such as dictionaries, encyclopedias, and so on. The data collection tool used in this research is a document study by tracing legal materials in the library. The analysis technique was carried out qualitatively. The data found are used as material for analysis of all the problems raised to answer the objectives of this study.

<sup>9</sup> Tengku Erwinsyahbana. 2020. (Sistem Hukum Perkawinan Pada Negara Hukum Berdasarkan Pancasila). *Jurnal Ilmu Hukum*, 3 no. 1. (2020): 1-7

<sup>10</sup> Rahayu Mulia Romadoni. The Iddah Period as a Reason for Cancellation of Marriage. *Lentera Hukum*, 6, no.2 (2019): .232-252.

## Obligations of ex-husbands to ex-wives

After a divorce occurs, the relationship between husband and wife has been severed and they live separately from each other and are not bound in an emotional household relationship.<sup>11</sup> Thus, with the divorce, the ex-husband will bear the title of widower and the ex-wife will be widowed as long as they have not married a new one.

In Article 34 paragraph (1) of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage<sup>12</sup> it is stated that the husband is obliged to protect his wife and provide all the necessities of household life according to his ability. From the sound of article 34 paragraph (1) it can be understood that the legislators leave it to the parties and in particular to the judge to determine the amount of the wife's right to support in the event of a divorce.

Regarding the ex-wife's income, it is regulated in Article 41 letter c of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage<sup>13</sup>, which reads "The court may oblige the ex-husband to provide living expenses and or determine an obligation for the ex-wife."<sup>14</sup>

Likewise in the Compilation of Islamic Law regarding the ex-wife's livelihood is regulated in Article 149 letter b which states to provide a living, food, and *kiswah* to the ex-wife during the *iddah*, unless the ex-wife has been sentenced to divorce or *nusyuz* and is not pregnant and is reaffirmed in Article 152 which

reads that the ex-wife has the right to receive *iddah* from her ex-husband except for *nusyuz*.<sup>15</sup>

From the above understanding, it can be concluded that the wife's livelihood depends on the husband's ability, while how much the income is not determined. *Iddah* income is given to the divorced wife in the form of *Raj'i* divorce. According to Ali As-Sayis explained:

"The scholars agree that the wife who is divorced in the form of *raj'i* divorce is entitled to a place to live and the *zahir* living of her ex-husband, do not take them out of their homes and do not expel them because the livelihood of a divorced wife in the form of *raj'i* divorce is the same as a wife seen from ex-husband's detention and power over her.

That the wife who is divorced in the form of *raj'i* is entitled to a living and a place to live from her ex-husband as long as she is in the *iddah* period. While the *iddah* support for a divorced wife is pregnant, the Act or its implementing regulations do not regulate it. According to Ibn Rushid:

"The scholars agree that the ex-wife in the state of *Raj'i* divorce is entitled to a living and a place to live (residence) as well as a divorced wife while pregnant."

The matter of maintenance and residence for the ex-wife continues until she gives birth, regardless of whether the divorce is in the form of *talak raj'i* or *talak ba'in*, whether the duration of her pregnancy or not, as the word of Allah SWT in the letter At-Talak verse 6 it reads as follows:

"Place them (wives) where you live according to your ability and do not trouble them to constrict (hearts) them, and if they are, and if (wives who have been divorced) are pregnant, then give them their livelihood until they give birth."

<sup>11</sup> Paul P, The Impact of Early Marriage on Pregnancy Outcomes of Ever-married Women: Findings from India Human Development Survey, 2011-12. *J Women's Health Care*, 2011-12 (2018): 1-9.

<sup>12</sup> Pasal 34 ayat (1)

<sup>13</sup> Pasal 41 huruf c Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan

<sup>14</sup> Ibid.

<sup>15</sup> *Nusyuz* is an act or word that arises from the husband to the wife in the form of disobedience to the obligations borne by the husband in the household or family.

Furthermore, in Article 41 sub c of the Law of the Republic of Indonesia Number 1 of 1974<sup>16</sup> About Marriage, has regulated where the court may require the ex-husband to provide living expenses and/or determine an obligation for the ex-wife after a divorce occurs. The ex-husband's obligation to his ex-wife after a divorce is not the same as the father's obligation to his child after the divorce from his mother. The ex-husband's obligation to his ex-wife is a temporary obligation, which means it has a fairly short time limit and only exists after the divorce.<sup>17</sup>

The fulfillment of the wife's income is not only when the marital bond is still established, but the wife's income must also be fulfilled after the divorce. Religion is very clear in regulating and bridging matters relating to the fulfillment of a wife's livelihood.<sup>18</sup> Problems surrounding the wife's post-divorce income are often a never-ending case because there are many cases where the ex-husband fails to fulfill his obligations to his ex-wife, as a result, the wife is often harmed. Cases that often come to the surface of society are caused by the number of wives whose legal statuses are simply resolved, while their rights are ignored.<sup>19</sup> This is because there are still many people who are not legal literate, especially those related to religious laws. On the other hand, husbands still tend to underestimate their obligations because it is considered that the problem has been resolved along with the divorce decision, so that many do not fulfill their obligations such as: providing a living

during the *iddah*, dividing joint assets (*gono-gini*), paying off the dowry owed and giving *badhanah* costs to children. -his son.<sup>20</sup>

The father's obligation to provide maintenance for his children is permanent which existed before the divorce and will end when the children are adults. If referring to the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage<sup>21</sup> as well as the implementing regulations there is no mention of the amount of living expenses that must be given, and there is also no mention of when the obligation ends. This shows that the matter of living for the ex-wife is fully determined based on the decision of the judge who examines and decides on the divorce case.

In addition, the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage regulates the issue of living ex-wife very generally, only referring to the word "The court can", only those words, and the next sentence, the ex-husband provides the ex-wife's living expenses, and still there is no further explanation about it. So, in this case, the court of course applies material law that is recognized as valid in Indonesia, such as Islamic law applies to Muslims, and the time limit for providing a living ex-wife is also the same as the provisions in Islamic law. Then because of the Government Regulation of the Republic of Indonesia Number 10 of 1983<sup>22</sup> has been refined by the Government Regulation of the Republic of Indonesia Number 45 of 1990 concerning Marriage and Divorce Permits for Civ-

<sup>16</sup> Ibid.

<sup>17</sup> Jaafar-Mohammad, Imani and Lehmann, "Women's Rights in Islam Regarding Marriage and Divorce," *Journal of Law and Practice*, 4, no. 3 (2011): 1-9.

<sup>18</sup> Eva Meizara Puspita Dewi. The Meaning Of Divorce For Wives (The Marriage Age 20 Years And Above). *Jurnal Psikologi Pendidikan & Konseling*, 3 no.2 (2017): 23-29.

<sup>19</sup> Ilham Hidayat, Yaswirman Yaswirman, Mardenis Mardenis. Problems Arising from Talak Divorce Outside the Court. *International Journal of Multicultural and Multireligious Understanding*, 2 (2019): 138-148.

<sup>20</sup> Abdurrahman Rahim, Judges' Consideration In The Decision Of Fulfilling The Rights Of Women And Children After Divorce In The Region Of The Dki Jakarta High Religious Court. *International Journal of Nusantara Islam Islam*, 8 no.2, (2020): 289-299.

<sup>21</sup> Ibid.

<sup>22</sup> Peraturan Pemerintah Republik Indonesia Nomor 10 Tahun 1983 Tentang Izin Perkawinan Dan Perceraian Bagi Pegawai Negeri Sipil Presiden Republik Indonesia

il Servants,<sup>23</sup> then the time limit for giving the ex-wife a living is until the ex-wife remarries, as regulated in Article 8 paragraph (6) which reads:

“If the ex-wife of the Civil Servant in question remarries, then her right to the salary portion of her ex-husband will be nullified as of the time she remarries.”

For this reason, the judge is required to be careful and consider carefully before making a decision so that the decision can later fulfill a sense of justice for the ex-husband and at the same time a sense of justice for the ex-wife herself. Thus, it can be concluded that the limits mentioned in Islamic law are also applied to Muslims in determining the time limit for giving a living.<sup>24</sup>

Thus, the relationship between *iddah* living with marriage and divorce is *iddah* income given if the marriage carried out by the parties is recognized as valid by the government, but if the marriage cannot be maintained for reasons justified by law, and then divorce occurs on the basis of a court decision, then the *iddah* income can be requested by the ex-wife to the ex-husband as outlined in a decision of the Religious Court. Thus, it can be stated that the *iddah* allowance for the ex-wife can only be requested after the divorce from a marriage whose validity is recognized.

### **Obligations of ex-husbands to provide livelihood to ex-wife during *Iddah***

A belief that must be the grip of Muslims is that the teachings of Islam contained in the Qur'an and as Sunnah are God's instructions that must be a guide for humans, especially Muslims and Muslims for the sake of their

safety in this world and in the hereafter. This is different from the teachings that have been revealed by Allah before where these teachings are only intended for certain people. Islamic teachings do not only apply to groups or people in certain societies and are not limited to certain times either.

However, since the teachings of Islam were revealed, it has been established as the guide for all groups and human beings in various places and times until the end of time.<sup>25</sup> Likewise, the issue of *iddah* which is a *shari'ah* that has existed since ancient times where they have never abandoned this custom and when Islam came the custom was recognized and carried on because there are many goodness and benefits in it. The scholars' have tried to analyze the wisdom of the global *iddah* that can be mentioned, firstly to find out the cleanliness of a woman's womb, so that it does not mix one's offspring with another, or in words so that there is no mixing and confusion of lineage. Second, it gives an opportunity for husband and wife who are separated to think again, whether to reconcile with his wife or will continue the divorce if it is considered better and thirdly the goodness of marriage cannot be realized before both husband and wife both live long in their *aqad* bonds.<sup>26</sup>

The firmness of inheritance in Islam is very important. Therefore, all provisions to avoid the occurrence of chaos in the *nisab* of human descendants are firmly established in the Qur'an and As-Sunnah. Among these provisions is the prohibition for women to marry several men at the same time. Besides that, to eliminate doubts about the sanctity of the woman's womb, so that in the future there will be no more doubts about the child conceived

<sup>23</sup> Peraturan Pemerintah Republik Indonesia Nomor 45 Tahun 1990 Tentang Izin Perkawinan dan Perceraian bagi Pegawai Negeri Sipil

<sup>24</sup> Rumondor, P. C. B., Paramita, G. V., Francis, N. P., & Geni, P. L. Influence of wife`s income to marriage satisfaction. *Jurnal Psikologi Ulayat: Indonesian Journal of Indigenous Psychology*, 1(2), (2020): 189–200.

<sup>25</sup> Rosdialena, Desmadi Saharuddin, Meirison Alizar Sali. Takhrij Fikih dan Permasalahan Kontemporer. *Al-Istinbath, Jurnal Hukum Islam*, 5. no. 1, (2020): 51-70

<sup>26</sup> Ibid.

by the woman if she has remarried with another man.<sup>27</sup>

*Iddah*, especially in talak *ra'ji*, is a possible grace period regarding their relationship. In this period both parties can introspect themselves to take better steps. Especially if they already have children who need love and good education from their parents. Besides, it provides an opportunity to think again with a clear mind after they face a hot and turbid household situation that resulted in their marriage breaking up. If their minds are clear and cool, it is hoped that in the future the husband will refer his wife back and likewise the wife does not refuse to reconcile with her husband again. So that their marriage can be continued again.

*Iddah*, especially in the case of divorce, is a period of mourning or condolences for the death of her husband. Divorce due to death is a disaster that is beyond human power to stem it. In fact, they have separated outwardly but inwardly they are so close. So, if the divorce is due to the death of one of the husband and wife, then the *iddah* period is to ensure that later there will be no displeasure from the family of the husband who is left behind, if at this time the wife accepts the application or she enters into a new marriage with another man.

If a wife is divorced because of divorce, which ex-husband is still entitled to refer to his ex-wife. So, the *iddah* period is to think again for the husband as to whether he will return as husband and wife. If the ex-husband thinks that he is able to paddle his household life again, then he is allowed to refer back to his wife during the *iddah* period. On the other hand, if the husband is of the opinion that it is impossible to resume domestic life, he must release his ex-wife in a good manner and do not prevent her ex-wife from marrying another man.

Thus, it is clear that the *iddah* has various virtues in various aspects, each of which has an inseparable relationship. In connection with this, it can be concluded that the development of modern science and technology cannot change the provisions in cases that have been clearly stated and determined by the Qur'an and Sunnah. However, only in the case of *wathsyubhat* and adultery can the development of science and technology be utilized, because the law between men and women, in this case, is only related to the issue of *dhuhul* which uses the sanctity of the womb.

Although there is a belief that the womb of a woman (wife) is clean and between them (husband and wife) it is impossible to reconcile, but it cannot be justified for the woman (ex-wife) to violate the provisions of the prescribed *iddah*. On the other hand, it is not justifiable to extend the *iddah* for the wife, which can result in persecution or profit, either for the ex-husband or for the ex-wife.

The wife's rights are the husband's obligation to carry out or fulfill the wife's rights. While the wife's obligation is the husband's right that must be carried out by the wife during the *iddah*. Based on the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, article 4 (sub c) which reads "The Religious Court may oblige the ex-husband to provide living expenses and or determine an obligation for the wife."<sup>28</sup>

This is also confirmed in the Compilation of Islamic Law Article 81 paragraph (1) and paragraph (2) which reads:

1. The husband is obliged to provide a place to live for his wife and children or ex-wife who is still in *iddah*.
2. Residence is a place of residence

Based on the article above and emphasized in the Compilation of Islamic Law, it shows that housing is included in the category of the

<sup>27</sup> M.A. Tihami dan Sohari Sahrani, *Fikih Munakahat (Kajian Fikih Nikah Lengkap)*, (Jakarta: Raja Grafindo Persada, 2014), 8

<sup>28</sup> Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan pasal 4 (sub c)

article and the law above to require the husband to provide a place of residence for his wife during the period of *iddah* or a place of residence for the wife can be interpreted as the husband giving another house to occupy. wife both during the *iddah* period or after.<sup>29</sup>

However, if the wife herself leaves the house that has been determined without a justifiable reason, then the wife is considered *nusyuz*. The other obligation for the husband is to provide maintenance costs during the *iddah* period, as contained in Article 149 (sub a and b) which reads, among others:

If the marriage breaks up due to divorce, then the ex-husband is obligated:

- a. Giving proper *mut'ah* to his ex-wife, either in the form of money or goods, unless the ex-wife is *qobla al-dukhul*.
- b. Provide maintenance, food and *kiswah* to ex-wife during *iddah*, unless ex-wife has been sentenced to divorce *Win* or *nusyuz* and is not pregnant.

If the wife wishes to demand *iddah* living, it can be carried out based on Article 86 paragraph (1) of the Law of the Republic of Indonesia Number 3 of 2006 concerning Amendments to the Law of the Republic of Indonesia Number 7 of 1989 concerning the Religious Courts, which reads:

“Lawsuits regarding child care, child support, wife's maintenance and joint property of husband and wife can be filed together in a divorce lawsuit or after the divorce decision has permanent legal force.<sup>30</sup>

*Iddah* subsistence is the wife's right during the *iddah* period and the husband's obligation to carry it out. If there is a dispute regarding the amount, it can be recommended and given direction by the Religious Court to be resolved

by deliberation and kinship. However, if there is no agreement in determining the amount, the religious court can determine the amount that is adjusted to the husband's ability and does not burden him, and vice versa is given at the time after the reading of *sighot thalak* in front of the judges of the Religious Courts. The husband cannot carry it out because the wife neglects her obligations, or for other reasons, namely, the wife forgives her husband not to carry out his obligations. This is in accordance with article 80 paragraph (4) to paragraph (7) of the Compilation of Islamic Law which reads, among other things:

1. In accordance with the husband's income to bear
  - a. Livelihood, *kiswah*, treatment costs, treatment for wife and children
  - b. Household expenses, self-care costs, medical expenses for wife and children
  - c. Education costs for children
2. The husband's obligations towards his wife as referred to in paragraph (4) letters (a) and (b) above come into effect after the wife has complete *tamkin*.

The wife can release her husband from his obligations towards himself as referred to in paragraph (4) letters (a) and (b). The husband's obligation as referred to in paragraph (5) is void if the wife is *nusyuz*. From the sound of the article above, it is clear that the husband cannot carry out his obligations namely: first, When the wife really has given it up and secondly, if the wife is in a state of *nusyuz*, then the legal consequences of the wife's rights during the *iddah* period fall automatically, whether the case is in court or not.

Furthermore, the rights and obligations of the ex-husband and ex-wife during the *iddah* period can be detailed, namely:

1. Wife's Rights during *Iddah*
  - a. Earning a living during the *iddah* period
  - b. Get housing during the *iddah* period
  - c. The wife has the right to decide to reconcile, while the wife's obligation is a period of mourning when her hus-

<sup>29</sup> Pranav Aditya.B. A Study on the Problems Faced by Women After Divorce. *International Journal of Advanced Science and Technology*, 29, no. 7 (2020): 4117-4130.

<sup>30</sup> Undang-Undang Republik Indonesia Nomor 7 tahun 1989 Tentang Peradilan Agama



band dies.

2. The husband's obligations during the wife's *iddah*
  - a. The husband is obliged to provide for his wife
  - b. The husband is obliged to provide housing to the wife
  - c. Husband has the right to refer back

## The Role of the Religious Courts

From the case described above, it can be stated that the court will grant the ex-wife's claim against her ex-husband for living expenses during *iddah* or what is referred to as *iddah* living.<sup>31</sup> The legal basis used by the Religious Courts is Article 149 letter a. The Compilation of Islamic Law determines, if a marriage breaks up due to divorce, then the ex-husband is obliged to give his ex-wife a proper *mut'ah* in the form of money or objects, this is in accordance with the word of Allah SWT in Surah Al Baqarah verse 241 which means: "And for women who are divorced (by their husbands) it (should) be given *mut'ah* by her husband as an obligation for those who are pious."

Another legal basis used by the Religious Courts is Article 149 of the Compilation of Islamic Law which states that if a marriage breaks up due to divorce, the ex-husband is obligated to give his ex-wife a proper *mut'ah*, either in the form of money or objects, unless the ex-wife is *qobla al dukhul*, provide a living, food and *kiswah* to the ex-wife while in *iddah*, unless the ex-wife has received divorce or *nusyur* and is not pregnant, pays off the dowry that is still owed in full, and half if *qobla al dukhul*, provides *hadhanan* costs for her children who have not reached the age of 21 years. In addition, the Religious Courts also based their decision on the Supreme Court of the Republic of Indonesia Number 137K/AG/2007 which

only required the ex-husband to pay *iddah* only, not accompanied by the obligation to pay *mut'ah* to his ex-wife.

Humanly, *iddah* income is also appropriate to be given to ex-wives, because not all ex-wives have their own income to meet their needs. If the *iddah* income is not given to the ex-wife, then there will be those who are persecuted and such actions can be categorized as unjust acts, *Zalim* is an act that is prohibited by Allah SWT and is one of the major sins. People who do wrong will get a reward in this world and a painful torment in the hereafter. As the word of Allah SWT in the Qur'an Surah Ash-Shura verse (42) which means "Indeed the great sin is on those who do wrong to humans and transgress the boundaries of the earth without right. They will have a painful punishment". The prohibition of doing wrong is explained in a hadith *qudsi* narrated by Abu Dzar Al Ghifari RA from the Prophet Muhammad SAW as follows:

"The Messenger of Allah said that Allah forbids all forms, including injustice against myself and injustice among human beings. Therefore, Allah forbids not to oppress one another. And Allah also says that if any of his servants go astray, then it is better to ask him for guidance, so that he is given guidance."<sup>32</sup>

In another hadith narrated by Bukhari and Muslim which means:

"that injustice is the cause of darkness for the perpetrators which will make him unable to determine the direction/path to be taken on the Day of Resurrection; or it could be a cause of narrowness and difficulty for the perpetrator."<sup>33</sup>

Whether we realize it or not, we very often do wrong, even though it is not a trivial matter. The law is forbidden in the Shari'a of Allah

<sup>31</sup> Jafarian Dehkordi, Masoud Amiri. Divorce: An International Multi-dimensional Challenge. *International Journal of Epidemiologic Research*, 5, no.2 (2018): 64-66

<sup>32</sup> Summarized Sahih Al Bukhary, Islamic University Al Madinah Al Munawarah

<sup>33</sup> Hadits riwayat Bukhari dan Muslim dari Abu Hurairah

subhanahu wa ta'ala. In fact, Allah *subhanahu wa ta'ala* has forbidden injustice to Himself. So if it is related to the issue of *iddah* during divorce, if the husband does not provide for the children and wife, then the husband is included in the *zholim* category.

Maintaining the marital bond is often a challenge in itself in the household, not a few are shaken in the middle of the road due to various threats that can destroy the marital bond of husband and wife. The marital bond will be at risk of becoming fragile until it finally ends in divorce. Basically a husband is obliged to provide a living after. Therefore, the property brought by the wife remains the right of the wife and is fully controlled by the wife. Vice versa, the property brought by the husband remains the right of the husband and is fully controlled by the husband. This is in line with the concepts contained in Law no. 1 of 1974 concerning Marriage and the Civil Code.<sup>34</sup> On the other hand, the Qur'an and Hadith do not explain that during the marriage, all assets obtained by the husband are fully the rights of the husband, while the wife is only limited to the maintenance provided by her husband.

## Conclusion

The relationship between *iddah* living with marriage and divorce is that *iddah* income is given if the marriage carried out by the parties is recognized as valid by the government, but if the marriage cannot be maintained for reasons justified by law, and then a divorce occurs on the basis of a court decision, then *iddah* living can be requested by the ex-wife to the ex-husband as outlined in a decision of the Religious Court. Thus, it can be stated that the *iddah* allowance for the ex-wife can only be re-

quested after the divorce from a marriage whose validity is recognized. The Religious Court will grant the ex-wife's claim against her ex-husband for the cost of living during *iddah* or what is referred to as *iddah* living. The legal basis used by the Religious Courts is Article 149 letter an of the Compilation of Islamic Law, and the Decision of the Supreme Court of the Republic of Indonesia Number 137K/AG/2007 which only requires ex-husbands to pay *iddah* expenses only, not accompanied by the obligation to pay *mut'ah* to his ex-wife; However, in its application, there are differences between one decision and another, in giving obligations to the ex-wife. This depends on the consideration of the panel of judges who hear the case.

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<sup>34</sup> Manswab Mahsen Abdulrahman. An Analysis of the Causes of Divorce among Muslims in Mombasa County in the Sharia Law Perspective. *IJISH (International Journal of Islamic Studies and Humanities)*, 3, no.2 (2020): 90-97.

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