

The Law Application on Post-Divorce Women: A Case Study

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Abstract

This paper discusses the fulfillment of the wife's rights after divorce. Judicial divorce is the most common case in almost all Religious Courts. Bangkalan Religious Court reports that in 2019, the cases of judicial divorce got 60.3% cases. Based on the increase in the number of divorce cases every year, The judge must be able to translate the language of law and to apply it by the sense of justice to the litigant and seeking justice. The Bangkalan Religious Court in 2019 has accommodated gender justice by providing a living for post-divorce women based on the reconciliation lawsuit of the talaq divorce case. Some of the Bangkalan Religious Court decision in 2019 did not fulfill the post-divorce women right's due to the incomplete petitum, the wife's lack of understanding of her rights after divorce, and the wife's distrust of her former spouse in fulfilling their rights after divorce. This research is a text-based study through reading religious court decisions from a gender perspective. The study of gender justice in family law is an embodiment of an Islamic family law reform in protecting women's rights.

Keywords: *Divorce, Gender, Justice, Religious Court, Bangkalan*

Introduction

An understanding of husband and wife towards religious laws is necessary for fostering a household so that both parties know and strive to fulfill their respective rights and obligations. The lack of understanding of religious values, lack of emotional maturity, poor household management, and lack of respect for partners are just a few of the many causes of household disputes. It cannot be denied that divorce is a social reality and a necessity that does exist in husband-wife relationships. Divorce often has bad consequences for husband and wife relationships because, after divorce, problems often arise for the living of the wife and children, common assets (*gono gini*), and child care.

Divorce in the religious court is divided into two forms. The divorce proposed by the husband is called talaq divorce and the divorce proposed by the wife is called Judicial divorce.¹ The different types of divorce have an impact on the differences in the rights that wives get after divorce. If the divorce is filed by the husband, the ex-husband is obliged

¹ Article 114 Compilation of Islamic Law (KHI) "The dissolution of a marriage due to divorce can occur due to divorce or based on a divorce suit."

to give mut'ah,² nafkah, maskan, and kiswah to the ex-wife during the iddah, paying the dowry which is still owed in full, and a half if qobla al dukhul, gono-gini rights, and hal'lanah rights.³ It is different if a divorce is filed by the wife (Judicial divorce and khuluk).⁴

In the concept of classical fiqh, a wife is not entitled to receive iddah, mut'ah, maskan, and kiswah livelihoods if divorce is filed at the wife's initiative. The wife is considered to be willing to give up all her rights for the sake of divorce. The ḥāhiriyah stated that the request for divorce at the will of the wife was part of the act of Nusyuz.⁵ The concept of classical fiqh is still inherent in Islamic family law in Indonesia.⁶ This principle is used in interpreting talaq as the absolute right of the husband in return for the obligation to provide a living. In the end, the problem is what if the divorce filed by the wife because her husband has neglected his obligations, polygamy without the wife's permission, or even non-domestic violence?.

The jurisprudence and decision of the Supreme Court have stated that a wife who sues for divorce from her husband is not always sentenced to nusyuz. Even though the divorce was filed by the wife but the wife was not proven to have committed nusyuz, by his ex-officio rights, the judge could punish the husband to provide iddah support to his wife, because the ex-wife had to go through an iddah period, the purpose of which was for istibra' which also concerns the interests. husband.⁷ However, post-divorce problems that often occur in society include the fact that husbands cannot carry out court decisions or carry out court decisions but the amount of income given to their ex-wife is not following court decisions, tends to be even smaller, and what is more concerning is that the ex-wife has no idea that she still has rights to fight for. As a result of the wife's ignorance of her rights, it is a vulnerable cause for the wife to accept losses in post-divorce livelihood problems.⁸

² Article 1 (j) Compilation of Islamic Law (KHI) "Mutah is the gift of a former husband to the wife, who is subject to divorce in the form of objects or money and others."

³ Article 149 Compilation of Islamic Law (KHI) "If a marriage breaks up due to divorce, the ex-husband is obliged to: a) Give proper mut'ah to his ex-wife, either in the form of money or objects, unless the ex-wife is qobla al dukhul; b) Giving support, maskan and kiswah to the ex-wife while in iddah, unless the ex-wife has fallen into talak ba'in or nusyuz and is not pregnant; c) Pay all the dowries that are still owed in full, and a half if qobla al dukhul; d) Providing gifts for children who have not reached the age of 21 years. See also Article 66 paragraph (5) Chapter talak, Law No. 7 of 1989 concerning Religious Courts.

⁴ Article 1 (i) Compilation of Islamic Law "Khuluk is formulated as a way of divorce proposed by the wife by giving something to the husband as compensation or compensation for the husband's willingness to divorce her (iwadl)". See, Boedi Abdullah dan Beni Ahmad Saebani, *Perkawinan Perceraian Keluarga Muslim*, (Bandung; Pustaka Setia, 2013), 203.

⁵ Supriatna, dkk, *Fiqh Munakahat II dilengkapi dengan UU No.1/1974 dan Kompilasi Hukum Islam*, (Yogyakarta: Bidang Akademik UIN Sunan Kalijaga, 2008), 52.

⁶ Article 149 (b) of the Compilation of Islamic Law (KHI) stipulates the exemption from providing a living for the former husband to the ex-wife when the ex-wife has been subjected to talak ba'in or nusyuz. Because the result of khuluk is the fall of talak ba'in shughraa (article 119 verse (2) b Compilation of Islamic Law). So that it can be interpreted that if a marriage breaks up because of khuluk, then the husband is not obliged to pay for Iddah.

⁷ Supreme Court Jurisprudence No.137 K/AG/2007 dan Putusan No 276K/AG/2010

⁸ Hasanatul Jannah, *Kompetensi Hukum Pemenuhan Nafkah Istri Pasca Perceraian*, *De Jure, Jurnal Syariah dan Hukum*, Volume 2 Nomor 1, Juni 2010, 71-79

Sex and Gender: A Theoretical Basis

Confusion in the meaning of sex and gender often creates discrimination against women. Sex in the sense of gender is a biological identification of men and women, a natural thing. Meanwhile, gender is a trait inherent in men and women who are built based on social constructions.⁹ The fact that the existence of biological differences is not sufficient as a standard basis for classifying roles in social life has given rise to two major theories about gender.¹⁰

First, the theory of nature which considers differences in masculine and feminine traits to be related and influenced by biological differences between men and women.¹¹ Based on this theory, the different biological anatomy of men and women is a major factor in social roles. This difference also becomes the basis for the separation of functions and responsibilities: men play a role in the public sector while women work in the domestic sector.

Second, the nurture theory which states that the differences in gender relations between men and women are not determined by biological factors but by cultural factors or social constructs. This argument distinguishes between gender (sex) as a concept of nature and gender as a concept of nurture. In other words, the social role which has so far been considered standard and understood as religious doctrine, according to this understanding, is not God's will or nature nor is it a product of biological determination but a product of social construction.¹²

Gender issues are an open area to be interpreted by considering the existing social context.¹³ Gender analysis tried to be a tool to find solutions to women's actual and contextual problems, especially regarding the problem of injustice against women. Mansour Faqih stated that to understand the injustice in the relationship between men and women the gender theory is needed.¹⁴ Gender equality is a condition in which women and men have an equal status in fulfilling rights and obligations and realizing their full potential for development in all lines of life.¹⁵ Gender equality creates gender justice in which women and men go through cultural and policy processes fairly by removing barriers to their roles for both women and men. Gender justice analysis is presented in this context to help analyze how the law was decided for both parties masalah. Indicators of masalah on gender are included not based on stereotypes, does not lead to marginalization, does not lead to gender-based violence, and is not based on subordination.¹⁶

⁹ Mansour Fakih, *Analisis Gender dan Transformasi Sosial*, (Yogyakarta: Insist Press, 2008), 12.

¹⁰ Nasaruddin Umar, *Argumen Kesenjangan Gender Perspektif al-Qur'an*, cet.II (Jakarta: Paramadina, 2001), 7.

¹¹ Ratna Megawangi, *Membiarkan Perbedaan? Sudut pandang Baru Relasi Gender*, cet I (Bandung: Mizan, 1999), 94.

¹² Ibid., 93-102

¹³ Khoirudin Nasution, *Pengantar Studi Islam, (An Introduction into Islamic Studies)*, (Yogyakarta: Academia Tazafaa, 2004), 153.

¹⁴ Mansour Faqih, *Analisis Gender dan Transformasi Sosial*, 136.

¹⁵ Mencapai Kesenjangan Gender Dan Memberdayakan Kaum Perempuan, Accessed from <https://www.kemennppa.go.id/index.php/page/read/31/1439/mencapai-kesetaraan-gender-dan-memberdayakan-kaum-perempuan> on August 22, 2020

¹⁶ Arskal Halim, dkk., *Demi Keadilan: Dokumentasi Program Sensitivitas Gender Hakim Agama di Indonesia*, (Jakarta: PuskomHAM UIN Jakarta & Asia Foundation, 2009), 66

Women in The Gender Justice Bias

Gender differences, which are also referred to as sex differences in socio-culture, are closely related to sex differences because they are a product of the societal meaning in certain socio-culture about the nature, status, position, and role of men and women with their biological characteristics. Gender differences do not become a problem, while they do not cause injustice and oppression of one particular sex in social life. The phenomenon that exists in life in society, gender injustice affects women more, starting from the existence of gender disparities in various aspects of life, especially in terms of access to education, economic resources, and position in the public. Gender injustice that afflicts women is manifested in several forms, such stereotyping, subordination, marginalization, double burden, and violence.¹⁷

Surah An-Nahl states “whoever does good deeds, both male and female in a state of faith, we will certainly give him a good life and we will reward him with a better reward than what has been. they do.”¹⁸ Tafsir Al-Azhar explained that in righteous deeds and the results of work are equal between men and women. Each of them can cultivate faith in his heart and each of them can do good. In their capacity as servants, men and women will each receive an award from God according to their level of devotion. The verse states that men and women have the same position, Islam does not differentiate between occupations, positions, or human status in terms of gender. Islam requires all sexes to perform actions that can benefit human life. The verse also implies the ideal concept of gender justice and affirms that individual achievement, both in the spiritual sphere and in professional career matters, does not have to be monopolized by any one type of gender. Men and women have the same opportunity to achieve optimal performance.

One of the obsessions of Islamic teachings is to create justice in society. Justice in an Islamic perspective covers all aspects of human life, both as individuals and as members of society. Because Islam does not tolerate all forms of oppression, whether based on ethnic groups, skin color, ethnicity, and beliefs or based on gender.

Law Number 52 of 2009 about Population Development and Family Development Article 1 Paragraph 11 states that family resilience and welfare are conditions of a family that have resilience and resilience and contain material physical abilities to live independently and develop themselves and their families to live in harmony in increasing welfare and happiness.¹⁹ All family members, without exception, have an important role in building family resilience. The Ministry of Women’s Empowerment and Child Protection provides several dimensions and variables to measure the level of family resilience, two of which are the dimensions of the legality base and family integrity, one of which is the gender partnership in the family and the dimensions of socio-cultural resilience, one of the indicators is the existence of an anti-violence attitude towards women and children.²⁰ The results of research by scientists on marital harmony show that three main factors determine the happiness of

¹⁷ Mansour Fakhri, Analisis Gender dan Transformasi Sosial, Yogyakarta: Insist Press, 2008. See <https://www.kemendppa.go.id/index.php/page/view/23>

¹⁸ Q.S. An-Nahl (16-97)

¹⁹ Law Number 52 of 2009 about Population Development and Family Development

²⁰ Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, Pembangunan Ketahanan Keluarga 2016, 29. Diakses melalui <https://kemendppa.go.id> pada 24 Agustus 2020. .

husband and wife; first, personality factors, such the ability to control yourself, optimism, cooperation, second, family environmental factors, such the absence of conflict between family members, third, sexual factors, such to carry off offspring normally.²¹

The inability to manage the marriage created a rift in the household which resulted in divorce. As part of the marital problem, divorce will always appear in the realm of human life as a logical consequence of marriage failure. Divorce is the last way that husband and wife must take if they are unable to maintain the marriage, due to the inability of one of the parties to enforce their rights and carry out their obligations,²² which is allegedly the cause of marriage not lasting due to several factors; first, there is no strong intention to maintain the marriage, second, they do not have a clear goal of married life, third, the husband and wife relationship is not harmonious, fourth, they do not place the role of religion as a support for the longevity of marriage and; fifth, the occurrence of disputes in the household.²³

Gender Justice in the Legal Products of the Bangkalan Religious Court

The provisions of Article 1 paragraph (7) PERMA Number 3 of 2017 about Guidelines for Judging Women Against the Law, state: Gender stereotypes are general views or impressions about attributes or characteristics that should be possessed and played by women or men.²⁴ Stereotypes are assessments of a person based solely on perceptions of the group in which that person can be categorized. Stereotypes are thought shortcuts that are used intuitively by humans to simplify complex things and help in making decisions quickly. However, stereotypes can be in the form of positive as well as negative prejudices and are sometimes used as an excuse to commit discriminatory acts.²⁵

In several decisions of the Bangkalan Religious Court, there were several reasons for the Judge to provide mut'ah and iddah support for the plaintiff. Among these reasons was because the plaintiff had indeed "asked" to be given the mut'ah and iddah living for him in the petitum of the lawsuit.²⁶ Another reason is that requests for support of iddah and mut'ah were submitted in the contest's lawsuit. In more detail, several decisions of the Bangkalan Religious Court in 2019 which contain the fulfillment of the rights of wives after divorce are as follows:

1. Decision number 0299/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Reconvention Defendant (Plaintiff/Ex-husband) to pay the Reconvention Plaintiff (Defendant/Ex-wife) in the form of 1) The minimum livelihood of one child is IDR 1,200,000 until the child is an adult /independent; and 2) Mut'ah amount Rp.

²¹ Hasanatul Jannah, Kompetensi Hukum Pemenuhan Nafkah Istri Pasca Perceraian, De Jure, Jurnal Syariah dan Hukum, Volume 2 Nomor 1, Juni 2010, hlm. 71-79Hanna Djumhana B, Integrasi Psikologi Dengan Islam,(Yogyakarta: pustaka pelajar, 1995), hlm. 204

²² 79Hanna Djumhana B, Integrasi Psikologi Dengan Islam,(Yogyakarta: pustaka pelajar, 1995), hlm. 204

²³ Hasanatul Jannah, Kompetensi Hukum Pemenuhan Nafkah Istri Pasca Perceraian, 73

²⁴ Article 1 paragraph (7) Supreme Court Regulations (PERMA) No.3/2017 about Guidelines for Judging Women Against the Law

²⁵ A. Choiri, Stereotip Gender Dan Keadilan Gender Terhadap Perempuan Sebagai Pihak Dalam Kasus Perceraian, Accessed from <https://badilag.mahkamahagung.go.id/> on August 24, 2020

²⁶ Results of filling out a questionnaire by the Bangkalan Religious Court Judge

600,000.²⁷

2. Decision number 0605/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Reconvention Defendant (Plaintiff/Ex-husband) to pay the Reconvention Plaintiff (Defendant/Ex-wife) in the form of a child's income of IDR 1,500,000.²⁸
3. Decision number 0893/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Reconvention Defendant to pay the Reconvention Plaintiff (Respondent/Ex-wife) in cash in the form of 1) Nafkah madhiyah IDR 10,000,000; 2) iddah income, IDR 6,000,000; 3) Mut'ah amount IDR 2,000,000; 4) A monthly income for one child IDR 1,000,000, with an increase of 10% annually, until the child is an adult/independent; And paid just before pronouncing the divorce vow at court.²⁹
4. Decision number 1655/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Respondent Defendant (ex-husband) to pay the Respondent Plaintiff (ex-wife) in the form of 1) Nafkah madliyah income IDR 4,200,000; 2) iddah income IDR 1,500,000; 3) Mut'ah amount IDR 500,000; 4) A child's income IDR 500,000 per month until the child is an adult or 21 years old or already married, with an increase of 5% annually; And paid just before the execution of the divorce vow.³⁰
5. Decision number 1395/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Reconvention Defendant (Petitioner/Ex-husband) to pay the Reconvention Plaintiff (Respondent) in the form of 1) iddah income IDR 1,100,000; 2) Mut'ah IDR 500,000; 3) An income for two children IDR 1,000,000 every month until the children are adults/independent; That is paid just before the pronouncement of the divorce vow at the court.³¹
6. Decision number 1222/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Petitioner (ex-husband) to pay compensation from the Collective Property of the Petitioner and Respondent, such to pay IDR 7,000,000 to the Respondent, which was paid just before the pronouncement of the divorce vow at the trial. This decision was based on the judge's consideration of the respondent's answer asking for the distribution of joint assets in the form of cars and land.³²

²⁷ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Chairperson of the Assembly Dra. Hj. Nurul Qalbi, M.HES, Member Judge 1 Zainuri Jali, S.Ag., M.H., and Member Judge 2 Hj. Alvia Agustina Rahmah, S.H.,

²⁸ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Chairperson of the Assembly Hj. Alvia Agustina Rahmah, S.H., Member Judge 1 Dra. Hj. Farhanah., M.H., and Member Judge 2 Zainuri Jali, S.Ag., M.H.

²⁹ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Hj. Alvia Agustina Rahmah, S.H. as Chairman of the Assembly, Zainuri Jali, S.Ag., M.H. and Nirwana, S.HI. each as Member Judge.

³⁰ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Dra. Hj. Farhanah, M.H. as Chairman of the Assembly, Zainuri Jali, S.Ag., M.H. and Hj. Alvia Agustina Rahmah, S.H. each as Member Judge

³¹ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Hj. Alvia Agustina Rahmah, S.H. as chairman of the assembly, Zainuri Jali, S.Ag., M.H. and Nirwana, S.HI respectively as member judges

³² Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Hj. Alvia Agustina Rahmah, S.H. as chairman of the assembly, Zainuri Jali, S.Ag., M.H. and Nirwana, S.HI respectively as member judges

7. Decision number 1192/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Petitioner to pay the Respondent in the form of 1) A minimum of IDR 1,500,000 every month until the child is an adult; 2) iddah income IDR 3,000,000; 3) Mut'ah IDR 1,500,000. This decision was based on the respondent's verbal answer that the defendant demanded iddah, mut'ah, and child support in court.³³
8. Decision number 0005/Pdt.G/2019/PA.Bkl. The Panel of Judges decided to sentence the Petitioner to pay the Respondent in the form of 1) Mut'ah IDR 2,000,000; 2) iddah IDR 1,500,000; 3) The income of four children IDR 1,000,000 every month until the child is an adult or married. This decision was based on the respondent's verbal answer that the defendant demanded iddah, mut'ah, and child support at the court.³⁴

The Role of Judges in Supporting Gender Justice for Post-Divorced Women

In some opinions of jurisprudence experts and facts about the form of the marriage contract according to Islam, the gender stereotype is:³⁵

1. Women are the object of marriage and the legal consequence of the marriage contract is that women are obliged to fully surrender themselves to the man who has married or has become her husband.
2. The women who are divorced have lost their "virginity", or have given up their husbands to enjoy their virginity while virginity is the highest treasure and honor that a woman has which is priceless.
3. As a result of divorce, most women will bear the burden of maintaining hadhanah for their children.

From the 3 kinds of general views on women as parties in divorce cases, the Judge is expected to be able to give a decision with pro-gender considerations to every woman who is a party in a divorce case by providing the following rights:

1. Determine the provision of mut'ah that is appropriate and commensurate with the sacrifice and length of service as a wife who always surrenders herself to her husband, even though the divorce occurs because of the wife's initiative (Judicial divorce).
2. Determine the provision of a nafkah, kiswah, and maskan during iddah. During the iddah period, a woman is obliged to maintain (purity) herself, not accept proposals from other men, and not to marry other men.
3. Determining child support is the duty of the father by the judge's ex-officio rights if the child is under the care of the mother.³⁶

³³ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Hj. Alvia Agustina Rahmah, S.H. as chairman of the assembly, Zainuri Jali, S.Ag., M.H. and Nirwana, S.HI respectively as member judges

³⁴ Directory of Decisions of the Supreme Court of the Republic of Indonesia. www.putusan.mahkamahagung.go.id. Dra. Hj. Farhanah, M.H. as Chairman of the Assembly, Zainuri Jali, S.Ag., M.H. and Hj. Alvia Agustina Rahmah, S.H. each as a member judge

³⁵ A. Choiri, Stereotip Gender Dan Keadilan Gender Terhadap Perempuan Sebagai Pihak Dalam Kasus Perceraian, Accessed from <https://badilag.mahkamahagung.go.id/> on August 24, 2020

³⁶ Supreme Court Circular Letter (SEMA) No.4/2016 about the Results of the Formulation of the Supreme Court Chamber as Guidelines for the Implementation of Duties for Courts. See also Supreme Court Circular Letter (SEMA) No.7/2012 about the Results of the Formulation of the Supreme Court Chamber as

The results of the analysis of the Judge's decision of Bangkalan Religious Court in 2019 found that who took the initiative to file a divorce had implications for the rights of the wife to property in the legal products of Bangkalan Religious Court. The legal product of Bangkalan Religious Court related to the wife's right to property after divorce has not fully provided gender justice which provides benefits for the wife after divorce. The judge sentenced according to the ability and income of the ex-husband because the inability of the ex-husband to pay the wife's rights, which was decided to be too high, made it possible to not pay all the rights of the wife after the divorce. In several judges' decisions, the wife's rights to the property after divorce were not granted because it was not asked for in a lawsuit resulting the marginalization of women, both in the economic and social fields. The results of the justification for the level of family resilience based on the single-family classification are stated to be resistant in terms of the legality of the structure and socio-culture. Just be resistant to the gender partnership aspect. Less resistant to the aspects of physical, economic, and social psychological resilience.³⁷

In the talaq divorce case, the judges still considered the ex-officio payment of mut'ah, iddah, and child support, even though the case was decided by verstek because the wife (respondent) was not present at court. To uphold gender justice and legal protection for children who are actually under the care of their mothers, it is very wise for the Judges to ignore the use of arguments about the loss of rights of someone who does not fulfill the judge's summons in court.

In the judicial divorce case, the judges can also consider the Ex-Officio payment of mut'ah and iddah livelihoods, if the judge finds the fact that the cause of household chaos experienced by the plaintiff and defendant was due to the attitude and behavior of the husband (defendant) even though the case was decided verstek. Mut'ah needs to be given because the purpose of giving mut'ah is to provide comfort for the plaintiff's heart, which is sick and injured because of his husband's actions. While the iddah support is given because the iddah that is obliged to be undertaken by the plaintiff is for the benefit of the husband (defendant). If children are resulting from marriage, the Judge is also obliged to provide legal protection to the children of the divorce victims by stipulating the obligation to pay the child support to the defendant ex-officio and assigning the person responsible for the child's hadhonah to one of the two parents who are taking care of the child.

Thus to fulfill gender justice the Judges need to put aside the use of the legal basis that a wife who files for divorce is categorized as a nusyuz wife who is not entitled to mut'ah and iddah livelihoods.

Conclusion

According to Hakim Bangkalan Religious Court, filing a divorce suit by a wife is not always considered a special act. In the trial examination agenda, it will be examined whether the wife's act deserves to be called nusyus or not because basically to be able to divorce, the husband and wife must have a reason that they cannot live in harmony anymore, as stated

Guidelines for the Implementation of Tasks at the Court.

³⁷ Qomaro, Galuh Widitya, Analisis Ketahanan Keluarga Petani Garam di kabupaten Pamekasan, Unpublished paper by LPPM Universitas Trunojoyo Madura

in Article 39 paragraph (2) of the Marriage Law. By procedural law rules, that the judge will examine by the petitum, to anticipate the wife's ignorance of her rights, the court will socialize the rights of the wife in litigating cases in court or whenever a meeting is held with posbakum. However, the rights of a wife can be proposed separately after a divorce has occurred.

Whereas regarding the imposition of a husband's living expenses on his wife has been stated in the verdict and must be completed before the divorce pledge is pronounced, if he is not able to complete his living then the husband will be given the opportunity for 6 months to complete the burden, if he is still unable until the specified time then the case is declared invalid. To anticipate this, in a decision concerning the wife's rights, the judge includes the sentence 'wages are paid just before the divorce pledge is pronounced' so that if the husband does not carry out the contents of the decision, the pledge cannot be implemented.

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