

IDDAH MAINTENANCE OBLIGATION: PERSPECTIVE OF ISLAMIC LAW AND SOCIAL REALITY IN MANDAILING NATAL

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Abstract

This research examines the obligation of Iddah alimony from the perspective of Islamic law and socio-cultural realities in Mandailing Natal. Nafkah Iddah is the responsibility of the ex-husband towards the ex-wife during the Iddah period, which aims to ensure post-divorce social welfare and protection. Although this obligation has been clearly regulated in the Qur'an, hadith, and positive law in Indonesia, its implementation in Mandailing Natal still faces various challenges. This research uses a qualitative approach with literature study and field observation methods to analyse the factors that influence the fulfilment of Iddah alimony, including social, cultural, economic, and law enforcement aspects. The results show that the low compliance with Iddah alimony obligations is caused by economic factors, lack of religious understanding, weak law enforcement, and the influence of local customary norms that tend to shift responsibility for women in the Iddah period to the woman's family. In addition, modernisation and urbanisation have changed people's perspectives on women's rights, but local cultural norms are still dominant. This research recommends increased legal literacy, synergy between law and custom, strengthened law enforcement, and economic support for post-divorce women to ensure the fulfilment of their rights in accordance with the principles of justice and protection in Islamic law.

Keywords: *Iddah Maintenance, Islamic Law, Socio-Culture, Divorce.*

Abstrak

Penelitian ini mengkaji kewajiban nafkah *Iddah* dalam perspektif hukum Islam dan realitas sosial-budaya di Mandailing Natal. Nafkah *Iddah* merupakan tanggung jawab mantan suami terhadap mantan istri selama masa *Iddah*, yang bertujuan untuk memastikan kesejahteraan dan perlindungan sosial pasca-perceraian. Meskipun kewajiban ini telah diatur secara jelas dalam Al-Qur'an, hadis, dan hukum positif di Indonesia, implementasinya di Mandailing Natal masih menghadapi berbagai tantangan. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi literatur dan observasi lapangan untuk menganalisis faktor-faktor yang mempengaruhi pemenuhan nafkah *Iddah*, termasuk aspek sosial, budaya, ekonomi, dan penegakan hukum. Hasil penelitian menunjukkan bahwa

rendahnya kepatuhan terhadap kewajiban nafkah *Iddah* disebabkan oleh faktor ekonomi, kurangnya pemahaman agama, lemahnya penegakan hukum, serta pengaruh norma adat setempat yang cenderung mengalihkan tanggung jawab terhadap perempuan dalam masa *Iddah* kepada keluarga perempuan. Selain itu, modernisasi dan urbanisasi telah mengubah perspektif masyarakat tentang hak-hak perempuan, namun norma budaya lokal masih dominan. Penelitian ini merekomendasikan peningkatan literasi hukum, sinergi antara hukum dan adat, penguatan penegakan hukum, serta dukungan ekonomi bagi perempuan pasca-perceraian untuk memastikan pemenuhan hak-hak mereka sesuai dengan prinsip keadilan dan perlindungan dalam hukum Islam.

Kata Kunci : *Nafkah Iddah, Hukum Islam, Sosial-Budaya, Perceraian.*

INTRODUCTION

Divorce is a social phenomenon that has far-reaching impacts on the lives of individuals and society. In Islam, divorce is permitted but is regarded as an action that is disliked by Allah SWT (Syarifuddin 2007), as stated in a hadith of the Prophet Muhammad SAW: "The most detestable of lawful things in the sight of Allah is divorce." (Kementerian Agama 2014) Therefore, Islam emphasizes the importance of preserving the integrity of the family unit and only permits divorce when there are no other alternatives to prevent injustice and harm to both parties.

One of the consequences of divorce in Islamic family law is the obligation of *iddah* maintenance for divorced women. *Nafkah iddah* is a form of responsibility of the former husband towards his former wife during the *iddah* period, which aims to ensure her welfare, provide social protection, and provide an opportunity for both parties to consider the possibility of reconciliation. (Rizal 2019) The Qur'an confirms this obligation in Surah Al-Baqarah verse 241: 'To the divorced women (let their husbands give) *mut'ah* according to what is appropriate, as an obligation on the pious'." (Kementerian Agama 2014)

In Islamic *fiqh*, there are different views on the obligation of *iddah* maintenance. The Hanafi and Maliki schools of thought are of the opinion that *iddah* maintenance is still obligatory during the *iddah* period, whether the woman is pregnant or not. Meanwhile, the Shafi'i and Hanbali schools of thought state that *iddah* maintenance is only obligatory if the woman is pregnant. (Pratama, Azkia, and Bt Ismail 1970) This difference demonstrates the flexibility in the interpretation of Islamic law that allows for adjustments to various social and economic situations.

A number of contemporary scholars, such as Yusuf al-Qaradawi and Wahbah Zuhaili, emphasise that the obligation of iddah maintenance must be understood in a modern social and economic context. Al-Qaradawi in *Fiqh al-Islami* emphasises that iddah maintenance does not only cover material aspects, but is also a form of moral responsibility of a husband towards his ex-wife. (Yusuf al-Qaradawi 2021) Zuhaili in *Tafsir al-Wajiz* explains that the Qur'anic verses that speak of iddah maintenance emphasise the principles of justice and protection for women after divorce. (W Zuhaili and D Wahbah 1996)

In Indonesia, the obligation of iddah maintenance has been legitimised in positive legal regulations. Law No. 16/2019 on Marriage, specifically Article 41 letter c, states that the court may require the former husband to provide living expenses and/or determine an obligation for the former wife. (Kementerian Agama 2023) In addition, the Compilation of Islamic Law (KHI) Article 149 letter b states that due to the dissolution of marriage due to divorce, the husband is obliged to provide his ex-wife with a decent *mut'ah*. (Nation 2001) In addition, the Supreme Court also provides guidelines on how iddah maintenance can be decided in court to ensure justice for the entitled party. (Ketua Mahkamah Agung Republik Indonesia 2017)

However, in practice, the implementation of the iddah maintenance obligation still faces various challenges, especially in social and cultural aspects. Based on the theory of social change (K Judistira 1991), Modernisation and increased education in Mandailing Natal have changed people's perspectives on gender roles and women's rights. More educated women tend to be more economically independent and more aware of their rights, including the right to iddah maintenance. However, urbanisation and men's migration to big cities or abroad have made it difficult to enforce this obligation, as ex-husbands often no longer live in the same area as their ex-wives.

In Mandailing Natal, the fulfilment of iddah maintenance is often not optimally implemented. Many women are denied their rights due to economic factors, patriarchal culture, and a lack of understanding of Islamic law and positive law. (Hamid, Ritonga, and Nst 2024) Cultural norms often suggest that after divorce, ex-wives should be self-sufficient without the responsibility of their ex-husbands.

This is exacerbated by the ex-husband's ignorance of the obligation and economic limitations that make them reluctant to fulfil iddah maintenance.

In addition to economic factors and patriarchal culture, social aspects also play a significant role in the low fulfilment of iddah maintenance. In societies that still uphold traditional values, women who demand iddah maintenance often face heavy social stigma. They are labelled as ignorant, considered reluctant to accept fate, or even considered to have no self-respect because they still depend on their ex-husband for their livelihood.(Andri muda Nst 2021) This social pressure is so strong that many women choose to remain silent, suppressing their own rights in order to maintain honour in the community. As a result, legal recourse, which should be a means of protection, is rarely pursued, allowing this injustice to recur with social legitimacy.(Amalia 2023)

In addition, weaknesses in the law enforcement system are also a challenge. Based on Tyler's (1990) theory of legal compliance, low compliance with iddah maintenance obligations is influenced by weak legal legitimacy and lack of strict sanctions. Although regulations related to iddah maintenance have been stipulated in KHI and the law, their implementation often experiences obstacles due to a lack of legal awareness among the public as well as limited supervision from relevant authorities. Religious courts as institutions tasked with enforcing Islamic family law still face obstacles in ensuring that decisions regarding nafkah iddah are actually implemented by ex-husbands.

A number of previous studies have shown that the implementation of iddah maintenance is strongly influenced by cultural and economic factors, in addition to the applicable legal aspects. However, there is still a lack of research that specifically examines this phenomenon in Mandailing Natal. Therefore, this study aims to analyse the concept of iddah maintenance obligation from the perspective of Islamic law, examine its practice in Mandailing Natal, and reveal the socio-cultural factors that influence its implementation.

Thus, this research is expected to make a significant contribution to the development of Islamic family law studies and the problem of non-compliance in fulfilling iddah maintenance. In addition, this research also aims to offer practical

recommendations for policy makers and stakeholders in increasing awareness and compliance with the obligation of iddah maintenance in the community.

RESEARCH METHODS

This research uses a qualitative approach with a literature study method as the main strategy in analysing the obligation of iddah maintenance from the perspective of Islamic law and socio-culture in Mandailing Natal. This study examines classical and contemporary sources of Islamic law, legislation, and policy documents related to iddah maintenance. Documentation of regulations such as the Marriage Law, Compilation of Islamic Law, and classical books is the main basis for understanding related legal policies.

Based on Giddens' (1991) theory of social change, this study also considers the socio-cultural dynamics that influence the implementation of iddah maintenance, such as modernisation, urbanisation and increased education. This theory is used as an analytical lens to understand how social change affects people's perceptions and practices towards the obligation of nafkah iddah. In addition, Tyler's (1990) theory of legal compliance is used to analyse the factors that influence ex-husbands' compliance with iddah maintenance obligations, including legal legitimacy, sanctions, and social norms.

Although this research focuses more on literature review, field observations are still conducted to understand the socio-cultural realities that influence the implementation of iddah maintenance in Mandailing Natal society. These observations included the interaction of legal norms with local culture, the mindset of the community towards the obligations of former husbands, and the dynamics of the settlement of iddah maintenance disputes in religious courts. This approach allows the research to combine normative analysis (Islamic law and positive law) with empirical analysis (socio-cultural reality).

The data in this study was collected through three main methods: document study, interviews and observation. Document study involved in-depth analyses of Islamic and positive law regulations relating to nafkah iddah, including the Marriage Law and the Compilation of Islamic Law. Semi-structured interviews were conducted with competent parties, such as religious leaders, traditional leaders, ex-husbands and ex-wives involved in iddah maintenance disputes.

Observations were conducted to understand the social dynamics and legal practices in the field, including the interaction between legal norms and local culture.

Data analysis in this study used a descriptive-analytical approach with thematic analysis method. The stages of analysis included data reduction, data presentation, and conclusion drawing. The theory of social change is used to analyse how modernisation and increased education affect people's perceptions of nafkah iddah, while the theory of legal compliance is used to understand the factors that influence ex-husbands' compliance with this obligation. With this approach, the research is expected to provide a comprehensive insight into the challenges and opportunities in the fulfilment of iddah maintenance, both from the perspective of Islamic law and positive law in Indonesia.

DISCUSSION/RESULTS AND DISCUSSION

The Concept of Iddah Maintenance Obligation in Islamic Law

Etymologically, the word nafkah comes from the Arabic an-nafaqah (النَّفَقَةُ), which means expenditure, cost, or spending. (Ahmad Warson Munawwir 2002) In the context of Islamic law, nafkah refers to the financial obligation that a person has to give to those in his or her charge. (Abdurrahman al-Jaziri 2003) According to shar'i terminology, nafkah is defined as property or costs that must be given by someone to the party entitled to receive it, in the form of food, clothing, shelter, and other basic needs. (Abdurrahman al-Jaziri 2003) Imam An-Nawawi in Raudhah at-Talibin states that maintenance includes everything necessary for survival according to the standards prevailing in society (urf). (Abu Zakaria Yahya Muhyiddin An-Nawawi 2010) In the Encyclopedia of Islamic Law, nafkah is explained as expenditure that a person uses for his own benefit or for those for whom he is responsible, such as his wife, children, and close relatives. (Penyusun 2001)

In Islamic law, the obligation of maintenance can be categorised into two: Firstly, maintenance towards oneself, which covers the basic needs of a Muslim in running his/her life. And secondly, maintenance towards others, which is based on the relationship of marriage, kinship, or ownership. This obligation of maintenance includes: (1) Husband's maintenance to his wife, as mentioned in QS. Al-Baqarah: 233 and QS. An-Nisa: 34. And (2) maintenance to children and relatives, based on

QS. Al-Baqarah: 233 and the hadith of the Prophet ﷺ which states that a person will be rewarded for the maintenance given to his family. (Wahbah 2010)

In the context of modern Islamic law, maintenance is regulated in various regulations, such as the Compilation of Islamic Law (KHI) in Indonesia, which confirms that a husband is responsible for the maintenance of his wife and children, including after divorce in the form of iddah and mut'ah maintenance.

Etymologically, iddah (الْعِدَّةُ) comes from the word al-'add (الْعَدَّ) which means to count or something that is counted. In fiqh terminology, iddah is a waiting period that a woman must undergo after divorce or the death of her husband before she is allowed to remarry. This waiting period aims to ensure that there is no pregnancy from a previous marriage and as a form of respect for the marriage bond that has ended. (Yusuf 2010) Ibn Taymiyyah explained that iddah is a period that is determined to determine the state of a woman's womb, whether through childbirth, months, or quru' (the period of menstruation or purity). (Ibnu Taimiyah 2005)

In Islamic law, there are several types of iddah with different provisions:

1. Iddah based on Quru' (menstruation): Applies to women who are still menstruating and divorced by their husbands when they are not pregnant. The duration is three menstrual cycles or three pure cycles, as mentioned in QS. Al-Baqarah: 228.
2. Iddah is based on the number of months: This applies to women who have never menstruated or have gone through menopause. The duration of this iddah is three months (QS. At-Talaq: 4).
3. Iddah due to the death of the husband: For a woman whose husband dies and she is not pregnant, the iddah is four months and ten days (QS. Al-Baqarah: 234).
4. Iddah due to pregnancy: This applies to a woman who is pregnant at the time of divorce or death of her husband. Her iddah lasts until she gives birth, as mentioned in (QS. At-Talaq: 4). (Ahmad Sarwat 2018)

Based on the form of divorce, iddah can also be classified as follows:

1. Iddah of raj'i divorce: A wife can still be reconciled by her husband during the iddah period.
2. Iddah talak ba'in: There is no right of reconciliation for the husband except

through a new marriage contract.

3. Iddah of pregnant women: Ends when the woman gives birth.
4. Iddah due to the death of the husband: Lasts for four months and ten days or until she gives birth if she is pregnant..(Wahbah 2010)

The purpose and wisdom of iddah include several aspects, including: Firstly, it provides an opportunity for couples to rethink the divorce decision and the possibility of reconciliation. Second, showing a sense of mourning for women whose husbands died. Third, to determine whether a woman is pregnant or not, in order to maintain the clarity of the child's nasab.(Muhammad Syaifuddin 2014)

In the perspective of modern Islamic law, iddah has legal implications in court divorce cases, such as the right to maintenance during iddah and the right to guardianship of children. In Indonesia, the Compilation of Islamic Law confirms that divorced wives are entitled to iddah maintenance, the amount of which depends on the husband's ability and the judge's determination.

The Legal Basis

The obligation to provide maintenance during the iddah period has a strong legal basis in the Qur'an and hadith, Allah SWT says in Surah At-Talaq verse 6:

وَأَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ

'Settle them (wives in 'iddah) where you can, and do not trouble them to constrain them. And if they are pregnant, then provide for them until they give birth.' (QS. At-Talaq: 6)

According to Tafsir Ibn Kathir, this verse instructs husbands to provide shelter to divorced wives during their iddah period, according to the husband's ability. In addition, if the wife is pregnant, the husband is obliged to provide maintenance until she gives birth.(Ibnu Katsir n.d.) In addition, in Surah At-Talaq verse 7, Allah SWT also says:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُئْتِقْ بِمِمَّا آتَاهُ اللَّهُ ۚ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا ۗ سَيَجْعَلُ اللَّهُ بَعْدَ

عَشْرِ يُشْرًا

'Let him who has means spend according to his means. And he who has limited means should spend from the wealth that Allah has given him. Allah burdens no one except what He gives him. And Allah will make provision after hardship.' (QS. At-Talaq: 7)

According to Tafsir al-Qurtubi, this verse confirms that maintenance should be given according to the husband's economic ability. For those who have the flexibility of sustenance, should provide maintenance in accordance with its flexibility. Conversely, for those who are limited in sustenance, they should provide maintenance according to their abilities.(Al Qurtubi 1988) In addition, Surah Al-Baqarah verse 241 states:

وَالْمُطَلَّاتِ مَتَاعًا بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

'To the divorced women (let their husbands) give mut'ah according to what is appropriate, as an obligation on the pious.' (QS. Al-Baqarah: 241)

According to Tafsir Al-Baghawi, this verse shows that in addition to iddah maintenance, there is also an obligation to provide mut'ah, which is a gift as a form of respect for the divorced wife.(Al-Baghawi Abu Muhammad al-Husayn bin Mas'ud 1997)

In a hadith narrated by Al-Bukhari and Muslim, the Prophet said:

عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، أَنَّهَا أَخْبَرَتْهُ: أَنَّ أَبَا عَمْرٍو بْنَ حَفْصِ طَلَّقَهَا الْبَتَّةَ وَهُوَ غَائِبٌ، فَأَرْسَلَ إِلَيْهَا وَكَيْلَهُ بِشَعِيرٍ فَسَخِطَتْهُ، فَقَالَ: وَاللَّهِ مَا لَكَ عَلَيْنَا مِنْ شَيْءٍ، فَجَاءَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ ذَلِكَ لَهُ، فَقَالَ: "لَيْسَ لَكَ عَلَيْهِ نَفَقَةٌ"، وَأَمَرَهَا أَنْ تَعْتَدَّ فِي بَيْتِ ابْنِ أُمِّ مَكْتُومٍ.

'Fatimah bint Qais reported that Abu Amr bin Hafs divorced her with a ba'in divorce while he was away. His deputy sent grain to her, but she refused it. The deputy said, 'By Allah, you are not entitled to anything from us.' Fatimah then went to the Prophet and told him about it. He said, 'You are not entitled to any maintenance from him,' and ordered her to observe tiddah in the house of Ibn Ummi Maktum..'(Muslim ibn al-Hajjāj 1955)

According to Imam An-Nawawi's explanation, this confirms that women who are divorced ba'in are not entitled to iddah maintenance, unless they are pregnant. Therefore, iddah maintenance only applies to women who are divorced with a raj'i

divorce (because there is still the possibility of reconciliation) or women who are pregnant.(Abu Zakaria Muhyiddin bin Syaraf al-Nawawi n.d.)

The Concept of Iddah Maintenance in Islam

Iddah maintenance in Islam includes food, clothing, and shelter that must be given to a divorced wife, depending on the type of divorce that occurred. In the case of a raj'i divorce, a woman is still a wife during the iddah period, although she is not allowed to have conjugal relations.(Wahbah Al-Zuhaili 1989) Therefore, the husband is still obliged to provide maintenance. Similarly, in the case of divorce ba'in, if the wife is pregnant, the husband is still obliged to provide maintenance until she gives birth, as Allah SWT says: “*And the women who are pregnant, their 'iddah is until they give birth to their wombs..*”(Kementerian Agama 2014)

However, in the case of Ba'in divorce with a non-pregnant wife, there are different views among scholars regarding the obligation of Iddah maintenance. This difference can be seen in the views of the following schools of fiqh:

1) Hanafi Madhhab

The Hanafi school is of the opinion that iddah maintenance is still obligatory for a wife who is divorced with a ba'in divorce, as long as she does not leave the house that the husband has provided for the iddah period. If the wife leaves without permission, then she is considered nusyuz and her right to maintenance is cancelled.(Al-Syarakhsi 1993) In another statement it says:

The same applies to divorce by divorce ba'in, whether she is pregnant or not. But on condition that the wife who is in 'iddah does not leave the house that her husband has prepared for her. If she leaves without the husband's permission, then she is considered nusyuz and her iddah maintenance is waived..”(Abd al-Rahman al-Jaziry n.d.)

The Hanafi school argues that the obligation of maintenance is based on the status of the wife who is still in the iddah period for the sake of the husband's rights, as stated by Wahbah az-Zuhaili in his book:

“If the woman who is divorced ba'in is not pregnant, then she is still entitled to nafaqah and its kinds (food, clothing, and housing) according to the Hanafi school, because she is still in the iddah period”.(Wahbah Az-Zuhaili 2011)

2) Maliki and Shafi'i Madhhabs

In contrast to the Hanafi Mazhab, the Maliki and Shafi'i Mazhabs are of the opinion that a wife who is divorced with divorce ba'in and is not pregnant is not entitled to iddah maintenance, but the husband is still obliged to provide a place to live.(Wahbah Az-Zuhaili 2011) This view is based on the words of Allah SWT:

'Settle them (wives) where you can, and do not trouble them to constrain them.' (QS. At-Talaq: 6).' In addition, they also refer to another verse that confirms that iddah maintenance is only obligatory for pregnant wives:

'And if they (the divorced wives) are pregnant, then give them their maintenance until they give birth.' (QS. At-Talaq: 6) From this verse, the Maliki and Shafi'i Mazhabs conclude that iddah maintenance is only given in the case of pregnancy, while in other conditions, only housing must be provided by the husband.(Wahbah Az-Zuhaili 2011)

3) Hanbali Madhhab

The Hanbali school of thought is more strict in terms of iddah maintenance. According to Imam Ahmad bin Hanbal, iddah maintenance is only given to wives who are divorced with a raj'i divorce. In the case of ba'in divorce, whether the wife is pregnant or not, there is no obligation to provide maintenance or housing.(Ibn Qudamah 2020) This opinion is based on the hadith of Fatimah bint Qais who stated that after she was divorced three times, the Prophet did not stipulate maintenance and housing for her, but said:

'Indeed, maintenance and shelter are only for the wife if her husband still has the right of reconciliation to her.'(Muslim ibn al-Ḥajjāj 1955) This Hadīth is the basis that maintenance is only obligatory as long as the husband still has the right to refer his wife, namely in a raj'i divorce.

4) Compilation of Islamic Law

In the Compilation of Islamic Law, nafkah 'iddah is regulated in Article 149, which says; When the marriage is broken up due to divorce, the former husband is obliged;

- a. Provide decent mut 'ah to his former wife, either in the form of money or objects, unless the former wife (divorced) qobla ad-dukhul.
- b. Give nafkah (maintenance), maskan (housing) and kiswah (clothing) to the former wife has been sentenced to divorce ba'in or nusyuz and in a state of

not pregnant.(Majelis Ulama Indonesia 2003)

The provisions contained in Article 149 above can be concluded that a wife who is in the 'iddah period of divorce raj "i must be given nafaq, or the wife is divorced with divorce ba "in and she is pregnant, then she must be given nafaq (Article 149 letter b). However, if the wife is divorced with a ba'in divorce and is not pregnant, she is not obliged to provide Iddah maintenance.

Nafkah iddah is Nafkah given by the husband during the iddah period or the provision of livelihood costs provided by the husband for three months and ten consecutive days to the divorced wife based on the husband's ability as an effort to fulfil the obligations set by Islamic law and the decision of the Religious Court.(Abdurrahman 2007) If there is a divorce on the initiative of the husband, then the former wife is entitled to physical maintenance from the husband during the iddah period. This is stated in article 149 KHI letter (b). And in article 151 KHI it is required that 'the former wife who is in the iddah period must protect herself, not accept proposals and not marry other men', so the logical consequence of this obligation is that the former husband is obliged to fulfil physical maintenance, as a right that must be obtained as a result of his obligations, unless the wife acts nusyuz, then there is no right to iddah maintenance for her.(Majelis Ulama Indonesia 2003) However, it should also be noted that whether she receives the full amount of alimony or not depends on the form of divorce, not on the length of the iddah period.

Amount Of Iddah Maintenance

In Islam, there are no definite provisions regarding the level of iddah maintenance, either in the Qur'an, Hadith, or positive law. However, this level of maintenance can be equated with the maintenance that a husband is obliged to give to his wife while still in a marriage or before a divorce occurs. The Qur'an, especially Surah At-Thalaq verses 6 and 7, only provides a general description that maintenance should be given to the wife in accordance with the adequacy of daily needs and based on the husband's income.(Syarifuddin 2007)

In the Compilation of Islamic Law (KHI), the amount of *nafkah* is also not specified in detail. This is reflected in Article 80 Paragraph 2, which states that "The husband is obligated to protect his wife and provide everything necessary for household life according to his ability." Due to the absence of specific provisions,

scholars have differing opinions regarding the standards used in determining *nafkah*.

According to the majority of scholars, the socio-economic status of the husband and wife is not always the same. Therefore, there are three main perspectives regarding the standards for determining *nafkah iddah*.(Syarifuddin 2007) First, according to Imam Ahmad, the measure of *nafkah* is determined based on the combined socio-economic status of both the husband and the wife. Second, Imam Abu Hanifah and Imam Malik argue that the standard used is the needs of the wife. This view refers to the word of Allah in the Qur'an, Surah Al-Baqarah verse 233, which emphasizes that the father's obligation is to provide food and clothing for the wife in a reasonable manner and according to his ability. Third, Imam Shafi'i and his followers argue that the measure of the wife's *nafkah* is based on the husband's economic condition. This opinion is also held by Imamiyyah scholars, with the legal basis derived from the word of Allah in the Qur'an, Surah At-Talaq verse 7, which states that *nafkah* must be provided according to the husband's ability and should not impose a burden beyond his means.

The majority of scholars from the Imamiyyah school of thought argue that *nafkah* is measured based on the needs of the wife, encompassing food, clothing, housing, and household necessities that align with the standard of living in her local community. However, other schools of thought maintain that the standard is determined by the husband's economic condition, not the wife's.(Muhammad Jawad Mughniyah 2001)

The fuqaha (Islamic jurists) agree that a woman in the *iddah* period due to *thalaq raj'i* (revocable divorce) is still entitled to receive *nafkah* (maintenance) and housing. The same applies to a pregnant woman, as emphasized in the Qur'an, Surah At-Talaq verse 6, which instructs that a divorced wife should remain in her husband's home according to his ability, and if she is pregnant, she must be provided with *nafkah* until she gives birth.

Regarding *nafkah iddah* for a wife undergoing the *iddah* period due to *thalaq ba'in* (irrevocable divorce), there are differing opinions among scholars.(Muhammad Jawad Mughniyah 2001) The Hanafi school of thought holds that the wife is entitled to *nafkah* (maintenance), whether she is pregnant or not,

provided she does not leave the house provided by her husband during the *iddah* period. The Maliki school argues that if the wife is not pregnant, she is only entitled to housing, but if she is pregnant, she is entitled to *nafkah* in all its forms. This right to *nafkah* is not forfeited even if the wife leaves the house, as the *nafkah* is intended for the child she is carrying, not solely for herself. Meanwhile, the Shafi'i and Hanbali schools maintain that if the wife is not pregnant, she is not entitled to *nafkah iddah* or housing. However, if she is pregnant, she is entitled to housing and *nafkah* in all its forms. According to the Shafi'i school, if the wife leaves the house without a compelling reason, her right to *nafkah iddah* is forfeited. (Wahbah Az-Zuhaili 2011)

The Imamiyyah school holds a different view regarding *fasakh akad* (annulment of marriage). They argue that a woman undergoing the *iddah* period due to *fasakh akad*, whether pregnant or not, is still entitled to receive *nafkah* from her former husband. This difference of opinion among scholars demonstrates that the amount of *nafkah iddah* is not absolute but highly dependent on legal context, socio-economic conditions, as well as considerations of the wife's needs and the husband's ability to provide *nafkah*. (Muhammad Jawad Mughniyah 2001)

***Nafkah Iddah* in the Perspective of Positive Law in Indonesia**

Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, does not explicitly regulate *nafkah iddah* for a former wife who has been divorced. However, Article 41 letter (c) states that the court may oblige the former husband to provide livelihood or determine other obligations for his former wife. (Indonesia 1974) This provision provides a basis for judges to determine *nafkah* (maintenance) for the former wife in divorce rulings, particularly if there are conditions requiring financial protection for the former wife undergoing the *iddah* period.

Regarding the rights of a former wife after divorce, the Compilation of Islamic Law (KHI) Article 149 stipulates that as a consequence of the dissolution of marriage due to *talaq* (divorce), the husband is obligated to:

1. Provide appropriate *mut'ah* (compensation) to his former wife, either in the form of money or goods, unless the former wife is *qabla ad dukhul* (before

consummation of the marriage).

2. Provide *nafkah* (maintenance), *maskan* (housing), and *kiswah* (clothing) to the former wife during the *iddah* period, unless the former wife has been issued a *talaq bain* (irrevocable divorce) or is in a state of *nusyuz* (disobedience) and is not pregnant.
3. Settle the unpaid *mahar* (dower) in full, or half if the marriage was *qabla ad dukhul*.
4. Provide *hadanah* (custody) expenses for his children who have not yet reached the age of 21. (Abdurrahman 2007)

In the context of civil servants (*Pegawai Negeri Sipil* or PNS), the obligation to provide *nafkah* (maintenance) for a former wife is further regulated in Government Regulation (PP) Number 10 of 1983, as amended by PP Number 45 of 1990. Article 8 of this regulation stipulates the following provisions:

1. If the divorce occurs at the initiative of the male civil servant, he is obligated to allocate a portion of his salary for the livelihood of his former wife and children.
2. The distribution of the salary is one-third for the male civil servant, one-third for the former wife, and one-third for the children.
3. If there are no children, the portion of the salary allocated to the former wife is half of the male civil servant's salary.
4. If the divorce occurs at the initiative of the wife, she is not entitled to a portion of the former husband's income, unless the wife requests the divorce due to being in a polygamous marriage. (Abdurrahman 1986)

The legal consequences of divorce on the status, rights, and obligations of the former husband under Article 41 letter (c) of Law No. 1 of 1974, as amended by Law No. 16 of 2019, align with the principles of Islamic law. Islamic law obligates the former husband to provide appropriate *mut'ah* (compensation), in the form of money or goods, as well as to provide *nafkah* (maintenance), clothing, and housing to the former wife during the *iddah* period. This obligation is further emphasized in Article 81 paragraphs (1) and (2) as well as Article 194 letters (a) and (b) of the Compilation of Islamic Law (KHI).

Additionally, the *iddah* period in positive law has been regulated under Article

11 of Law No. 1 of 1974, which is further elaborated in Article 39 of Government Regulation No. 9 of 1975. This regulation aims to provide legal certainty and protect the rights of the parties involved in the marriage, as well as to ensure that the marriage is conducted in accordance with the principles of law and religion recognized in Indonesia. This provision states that for a widow who is still menstruating, the *iddah* period is set at three menstrual cycles or at least 90 days. If the widow is pregnant, the *iddah* period lasts until she gives birth. If the marriage is dissolved before consummation, there is no *iddah* period to be observed. (Pemerintah Republik Indonesia 1975)

Thus, the provisions of positive law in Indonesia regarding *nafkah iddah* have provided a normative basis for former wives to obtain financial rights after divorce. Although not explicitly mentioned in the Marriage Law, more detailed regulations in the Compilation of Islamic Law (KHI) and other regulations indicate that the aspect of economic protection for women post-divorce remains a focus within the legal system in Indonesia.

The Practice of Implementing the Obligation of *Nafkah Iddah* in Mandailing Natal.

Based on observations conducted, it was found that the level of compliance with the obligation of *nafkah iddah* remains very low. Many women reported not receiving *nafkah iddah* after divorce, either voluntarily or based on religious court rulings. Out of 30 cases studied, only about 40% of former husbands actually fulfilled their obligation to provide *nafkah iddah*. The rest avoided this obligation for various reasons, such as economic incapacity or lack of awareness regarding Islamic law and positive law that mandate *nafkah iddah*. According to Tyler's theory of legal compliance (1990), this low level of compliance can be understood as a result of weak legal legitimacy and the lack of strict sanctions for violations.

Another factor influencing this level of compliance is the weak law enforcement system at the local level. Many women are unaware of their rights and face difficulties in demanding that their former husbands fulfill *nafkah iddah*, especially if the divorce occurs informally or is not registered with the Religious Court. Additionally, the prevailing social norms in Mandailing Natal also play a role in the practice of fulfilling *nafkah iddah*. In some cases, the woman's family prefers

not to claim the right to *nafkah iddah* to avoid prolonged conflict and the perception that divorce ends all forms of financial ties with the former husband. This highlights the disparity between religious norms and the social norms prevalent in the local community. Giddens' theory of social change (1991) explains that modernization and increased education have shifted societal perspectives on women's rights, but strong local cultural norms, such as the concept of *marsipature hutanabe* (family solidarity), tend to shift the responsibility of *nafkah iddah* to the woman's family. (RI Siregar 1990)

There are several key factors contributing to the denial of the obligation of *nafkah iddah* in Mandailing Natal:

Economic Factors: Many former husbands claim they are unable to provide *nafkah iddah* due to difficult economic conditions. In rural areas, where the majority of the population works as farmers or daily laborers, unstable income is often the primary reason for the denial of *nafkah iddah*. In some cases, former husbands do not even have a steady income, making the provision of *nafkah iddah* a burden deemed difficult to fulfill. According to Giddens' theory of social change (1991), modernization and urbanization have transformed the economic structure of Mandailing Natal society, but economic instability in the agricultural and daily labor sectors remains a major challenge.

As mentioned by Mr. A.B. (37 years old), he stated:

"I don't mean to avoid providing *nafkah iddah*, but my economic situation doesn't allow it. My income is unstable, and even meeting daily needs is often difficult. Moreover, the conflicts during the marriage have made me reluctant to continue bearing the responsibility of *nafkah* for my ex-wife. With all the past issues, how can I provide *nafkah* to her?" (Abdul Basit 2024)

On the other hand, the ex-wife S.R. (35 years old) stated:

"After the divorce, I returned to my parents' house because I did not receive *nafkah iddah* and did not have enough savings to cover my daily needs. I once brought up the issue of *nafkah iddah*, but my ex-husband refused, citing economic difficulties and unstable income." (Siti Romlah 2024)

However, according to her, it is not only economic factors that make her ex-husband reluctant to provide *nafkah*, but also the conflicts during the marriage that

left lingering disappointment. Currently, she relies on her parents' support and is trying to find work to become independent. Despite her disappointment, she hopes her ex-husband realizes that *nafkah iddah* is an obligation that cannot simply be ignored.

Lack of Religious Understanding: Most of the community lacks sufficient understanding of the obligation of *nafkah iddah*. In some cases, former husbands feel that after divorce, they no longer have any responsibility toward their ex-wives. As explained by Mr. S.H. (27 years old):

"Honestly, I don't really understand the obligation of *nafkah iddah*. As far as I know, after divorce, my responsibility toward my ex-wife is over."

On the other hand, the ex-wife, named M.S. (25 years old), stated:

"Honestly, I don't really understand *nafkah iddah* and its provisions. After the divorce, I assumed there were no more rights I could expect from my ex-husband. That's why, without much thought, I chose to return to my parents' house to meet my own needs, and I really don't want to reconcile."

A statement from a community and religious leader reveals:

"We often witness cases where divorced women immediately return to their parents' homes without realizing that they are still entitled to *nafkah iddah* (post-divorce financial support). Meanwhile, many former husbands assume that their obligations end automatically. This issue arises due to a lack of information available to them. Religious institutions and religious courts must play a greater role in educating the public to ensure that no one misunderstands their rights and obligations after divorce."(Tokoh Masyarakat 2024)

Based on Tyler's (1990) legal compliance theory, the low legal awareness of society regarding the obligation of *nafkah iddah* (post-divorce financial support) is a key factor in the neglect of this responsibility.

Weak Law Enforcement: The weakness of law enforcement is one of the main factors contributing to the difficulty many women face in obtaining *nafkah iddah*, despite existing regulations. Former husbands tend to disregard this obligation due to the absence of strict sanctions for non-compliance with religious court rulings. On the other hand, ex-wives often feel they lack an effective mechanism to claim their rights, leading them to resign themselves to a situation without clear legal

protection. Authorities acknowledge that while court rulings can be issued, the lack of a strong enforcement mechanism renders the implementation of *nafkah iddah* obligations weak and dependent on the goodwill of former husbands. According to legal compliance theory, weak legal legitimacy and the absence of strict sanctions are the primary factors behind the low adherence to the *nafkah iddah* obligation.

The Influence of Local Culture and Customs: In Mandailing society, divorce is not merely an individual matter between husband and wife but also involves the relationship between two extended families. The deeply rooted Mandailing customary traditions perceive divorce as having broad social consequences for both men and women. One crucial aspect of Mandailing customs is the concept of *marsipature hutanabe*, which reflects family solidarity in assisting relatives facing difficulties, including divorced women.(Hilda 2016) In practice, divorced women typically return to their parents' or relatives' homes to seek protection and economic support. The obligation of *nafkah iddah*, which in Islam is the responsibility of the former husband, is often shifted to the woman's family in the reality of customary traditions.

Based on Giddens' (1991) theory of social change, strong local cultural norms, such as the concept of *marsipature hutanabe*, tend to shift the responsibility of *nafkah iddah* from the former husband to the woman's family.

Mandailing customs also place a significant moral burden on divorced women. Although divorce is permitted in Islam, in Mandailing culture, divorced women are often perceived as experiencing social decline, especially if they do not have children or if their divorce is seen as a consequence of their own mistakes.(Asrul Hamid 2020) In some cases, this social pressure discourages women from claiming their rights, including *nafkah iddah*, out of fear of being seen as prolonging the conflict or bringing shame to their family.

Moreover, Mandailing customs tend to emphasize the concept of *Hamoraon* (family honor) in resolving domestic conflicts. As a result, many women's families choose not to claim *nafkah iddah*, believing that taking legal action against a former husband could further strain the relationship between the two families previously united through marriage. Consequently, the practice of *nafkah iddah* in Mandailing

society often does not align with its regulations in Islamic law.(Putra, Hasibuan, and Linur 2023)

The Influence of Social Change on Society Along with the passage of time, significant social changes have occurred in the Mandailing community, which have also influenced the practice of nafkah iddah. These changes are driven by various factors, including modernization, urbanization, increased access to education, and the role of formal legal institutions in handling divorce cases.(Hamid, Ritonga, and Nst 2024)

One of the most striking changes is the increasing level of women's education. In the past, Mandailing women generally relied on their husbands or extended families to meet their economic needs. However, today, more and more women have jobs and their own income. This makes them financially independent, but on the other hand, it also shifts perspectives on nafkah iddah. In some cases, women with their own income tend to be less demanding of nafkah iddah from their ex-husbands, either because they feel capable of supporting themselves or to avoid prolonged conflicts.(Andri muda Nst 2021)

Urbanization has also brought changes to the lifestyle patterns of the Mandailing community. Many Mandailing men migrate to big cities or work abroad, resulting in situations where, in many divorce cases, ex-husbands no longer live in the same area as their ex-wives. This condition makes it even more difficult for women to claim nafkah iddah, as ex-husbands who live far away or frequently change workplaces tend to be harder to track and more difficult to hold legally accountable.

Nevertheless, there are also positive impacts of these social changes. More women are becoming aware of their rights in divorce, including their right to nafkah iddah. The role of women's organizations and legal institutions that provide advocacy for women has also increased, gradually fostering legal awareness within the Mandailing community.

One of the main challenges in implementing nafkah iddah in Mandailing Natal is the conflict between customary norms and Islamic law. Islamic law clearly stipulates that an ex-husband is obligated to provide nafkah iddah to his ex-wife during the iddah period. However, in practice, customary norms often play a more

dominant role in determining how divorce and post-divorce responsibilities are carried out.

Another common conflict is the lack of customary legal mechanisms to enforce regulations on nafkah iddah. Although the Religious Court has the authority to rule on nafkah iddah obligations, its implementation still depends on individual compliance, as there is no customary mechanism that actively enforces such rulings.

However, in recent years, efforts have been made to bridge the conflict between customary norms and Islamic law in the implementation of nafkah iddah. Religious and traditional leaders in Mandailing Natal have begun to play a role in educating the community about the importance of aligning customary norms with Islamic law. Some communities have also started to advocate for divorce settlements to not only be based on customary practices but also to consider women's rights as stipulated in Islam and Indonesia's positive law.

CONCLUSION

The obligation of nafkah iddah in Islamic law has been clearly established in the Qur'an, Hadith, and Indonesia's positive law. However, its implementation in Mandailing Natal still faces various challenges, particularly due to socio-cultural and economic factors, as well as weak law enforcement. Strong customary norms, such as the concept of *marsipature hutanabe*, often shift the responsibility of nafkah iddah from the ex-husband to the woman's family. Additionally, low legal awareness among the community and the economic inability of ex-husbands contribute to the lack of compliance with this obligation. Although social changes, such as increased women's education and modernization, are taking place, the practice of nafkah iddah has yet to fully align with the provisions of Islamic law.

Recommendations

1. **Enhancing Legal Literacy:** Intensive socialization efforts by religious institutions and religious courts are necessary to improve public understanding of the obligation of nafkah iddah.
2. **Integration of Customary and Islamic Law:** Religious and traditional leaders should collaborate to bridge the gap between customary norms and Islamic law, ensuring that women's post-divorce rights are upheld.

3. Strengthening Law Enforcement: The government and relevant authorities must reinforce legal enforcement mechanisms, including imposing strict sanctions on ex-husbands who neglect their nafkah iddah obligations.
4. Economic Support: Economic empowerment programs for women after divorce can help reduce dependence on nafkah iddah, while still ensuring their rights are fulfilled.

With these measures, the fulfillment of nafkah iddah in Mandailing Natal can be more aligned with the principles of justice and protection mandated by Islamic law.

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