

Nafkah Iddah After Divorce Hadith Perspective

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Abstract

Alimony in this form is obligatory based on the Qur'an, the Sunnah and the consensus of scholars. When the two couples are both adults, it is the husband's obligation to provide food, clothing and housing for his wife and children in accordance with the social status of the couple and in accordance with the customs of the community in their place of residence. Iddah maintenance is everything that the husband gives to his divorced wife in the form of clothing, food and shelter. The time of giving alimony is during the iddah period and if the ex-wife has visited her iddah period, it means that the responsibility of the husband who provides alimony is over. The research on "Nafkah Iddah Post Divorce" is a literature review. In this study, the researchers took discussions from books, journals, magazines, or articles that discussed Post-Divorce Iddah Alimony. While this method of approach, the researcher uses an approach method that is viewed from the hadith perspective. In this research we use a hadith perspective review.

Keywords: *Alimony; Iddah maintenance; Divorce*

Abstrak

Nafkah dalam bentuk ini wajib hukumnya berdasarkan al-Qur'an, al-Sunnah dan ijma' ulama. Bila kedua pasangan itu telah sama-sama dewasa, hal ini merupakan kewajiban suami untuk memberikan makanan, pakaian dan kediaman bagi isteri dan anak-anaknya sesuai dengan tingkat kedudukan sosial pasangan tersebut dan selaras dengan adat kebiasaan masyarakat di tempat tinggal mereka. nafkah iddah adalah segala sesuatu yang diberikan oleh suami kepada istri yang telah diceraikannya baik berupa pakaian, makanan maupun tempat tinggal. Waktu pemberian nafkah tersebut adalah selama masa iddah dan jika mantan istri telah lewat masa iddahnya, berarti tanggung jawab suami yang memberikan nafkah sudah selesai. Penelitian mengenai "Nafkah Iddah Pasca Perceraian" merupakan penelitian kajian pustaka. Kajian putaka ini peneliti mengambil pembahasan dari buku, jurnal, majalah, atau artikel yang membahas mengenai Nafkah Iddah Pasca Perceraian. Sedangkan metode pendekatan ini, peneliti menggunakan metode pendekatan yang ditinjau dari perspektif hadis. Didalam penelitian ini kita menggunakan tinjauan perspektif hadis.

Kata Kunci: Nafkah; Nafkah Iddah; Perceraian

INTRODUCTION

The problem of marriage is an essential problem for human life, which is because there are civil relationships, and worship relationships. Civil is not only a means to form a family, but also a natural means of human beings in distributing their biological needs. The relationship of worship, this is based on the existence of procedures for its implementation that are regulated in Islam, with the hope that the main goal can be realized, namely to obtain peace of life that is overwhelmed with love and affection.

The Islamic rules about marriage are actually clear and detailed, so that if implemented, it will be able to bring a couple to a happy family. However, because of human nature as a place for mistakes and mistakes, in married life sometimes prolonged disputes arise, so that not a few eventually lead to divorce.

Divorce in fiqh terms is also called talaq or firqah. Talaq means to untie or cancel an agreement. Firqah means divorce which is the opposite of gathering. Divorce exists because of marriage, there is no marriage, of course there is no divorce. Divorce is something that is allowed in Islamic teachings if various ways have been taken to realize harmony, peace, and happiness, but the hope in the purpose of marriage is not realized or achieved so that what happens is divorce.¹

Among the problems that need to be resolved as a result of the breakup of a marriage due to divorce, one of them is the fulfillment of child support. As a child who is present as a result of a marriage, there is an obligation of parents to face the child, namely parents are obliged to maintain and educate their children and even though the parents have separated, they are still obliged to pay for the maintenance of the child.

RESEARCH METHODS

Research on "Nafkah Iddah After Divorce" is a literature review research. In this study, the researcher takes discussions from books, journals, magazines, or articles that discuss the Post-Divorce Iddah Maintenance. While this approach method, the researcher uses an approach method that is reviewed from the perspective of hadith. In this study, we use a review of the hadith perspective, as well as understand how the process of Iddah Maintenance After Divorce from a Hadith perspective.

¹ E A Prasada and Y M Sari, '*FULLFILLMENT OF CHILD SUPPORT AFTER PARENTAL DIVORCE (Case Study in Secondong Village, Pampangan District, Ogan Komering Ilir Regency)*', *Uniski Law Journal*, 2023. P. 165.

RESULTS AND DISCUSSION

Definition of Maintenance

The word livelihood comes from the verb نفق - ينفق - نفقا in Arabic which etymologically means to spend and spend. In terminology, alimony is fulfilling what the wife needs, in the form of food, shelter, services, and medicine.²

Another meaning of alimony is the sustenance that a person gives to his family. In *al-Mu'jam al-Wajiz*, alimony is the property that a husband must give to his wife for food, clothing, shelter, nurturing and others. Meanwhile, in the Great Dictionary of the Indonesian Language, livelihood is shopping for living; Income money, in addition to that, also means daily living provisions, sustenance. In this case, alimony is money given by the husband for his family's living expenses.

Maintenance is the right of wives and children to get food, clothing and housing, as well as some other basic needs and medicine, Maintenance in this form is mandatory based on the Qur'an, al-Sunnah and ijma' ulama. When both couples are adults, it is the husband's obligation to provide food, clothing and shelter for his wife and children in accordance with the level of social status of the couple and in accordance with the customs of the people in their place of residence.³

Iddah Maintenance According to Hadith

In the Qur'an, the breakup of marriage will give rise to various rights and obligations, one of which is about the obligation to provide maintenance after the breakup of marriage. This provision is as contained in the words of Allah Q.S At-Thalaq verse 6:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولِي حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَمْرُهُنَّ بِمَعْرُوفٍ وَإِنْ تَعَاَسَرْتُم فَسَتْرَضِعْ لَهُنَّ أُخْرَىٰ ۗ

It means: "Place them (divorced wives) where you dwell according to your ability and do not trouble them to narrow their hearts. If they are pregnant, give them their sustenance until they give birth, and if they nurse your children,

² H Khitam, 'Nafkah and Iddah: Perspectives of Islamic Law', Az-Zarqa': Journal of Islamic Business Law, 2020, p. 190-191.

³ A F ISLAMIA, ... ISLAMIC LAW ON THE OBLIGATION OF CIVIL SERVANTS TO PROVIDE SUPPORT TO EX-WIVES AFTER DIVORCE (Analytical Study on PP ... (repository.uin-suska.ac.id, 2023).

give them the reward; and counsel among yourselves well; And if you are both having difficulties (in the matter of breastfeeding), then another woman may breastfeed (the child) for her." (Q.S At-Talaq:6)

The above verse explains that the ex-husband has an obligation to provide maintenance to his ex-wife. As the researcher also quotes from the application of the book of tafsir jalalain that the alimony includes housing, living expenses, alimony for the wife who is pregnant, the obligation until childbirth and also includes alimony in terms of breastfeeding.

In addition to being regulated in the Qur'an, as the second source of law, the hadith also explains that a husband is still obliged to provide for his ex-wife as narrated by the hadith of the Prophet narrated by Fatimah bint Qais, where the Prophet (saw) said:

انما النفقة والسكنى للمرأة اذا كانت زوجها عليها الزوجة

Meaning: "Actually, maintenance and residence are the rights of the wife if her husband has the right to refer to them." (HR. Al-Nasa'i)

The above verses and hadiths expressly state that if a husband divorces his wife, he is obliged to provide alimony. This is because the wife has been obliged to wait for the iddah period, and the husband also has the right to refer to his wife during the iddah period. Maintenance in divorce can also be interpreted as mut'ah, which means giving a husband to his divorced wife, be it in the form of money, clothes, or any provision as help and respect to his wife to avoid the cruelty of talaq that he has imposed⁴

Iddah means counting in terms According to Hanafi's opinion, it is a period determined by sharia or the masses waiting that must be done by the wife when her friendship is broken. According to Jumhur Iddah's opinion, the masses wait for women to know the cleanliness of their wombs, for worship, or to undergo a period of grief over the departure of their husbands. During iddah in talaq raj'i, the wife has the right to receive alimony and all her rights, except for the cost of makeup because she no longer

⁴ A Sulalah and P A Halida, 'Nafkah Iddah After Divorce Hadith Perspective', El Nubuwwah: Journal of Hadith Studies, 2023.

belongs to her husband. In addition, the husband is obliged to provide maintenance to his wife if the wife is still pregnant.⁵

According to Ibn Taymiyah, Iddah is the period of time when a woman waits to know the emptiness of the womb, which is obtained by birth, the number of months and the calculation of quru'. During the iddah period, a woman is not allowed to marry another man.

The definition of iddah alimony is everything that a husband gives to his divorced wife, either in the form of clothes, food or shelter. The time of providing alimony is during the iddah period and if the ex-wife has visited the iddah period, it means that the responsibility of the husband who provides alimony has been completed.⁶

From the above understandings, it can be formulated that iddah is a waiting period for a woman during this period who is forbidden to marry. This waiting period is lived because of divorce or death, which is sometimes calculated by counting aqra', counting months, or until giving birth. While the purpose is to find out the emptiness of the uterus from pregnancy, to worship, or as a period of mourning for the death of the husband.⁷

The form of maintenance given by the husband during the iddah period is food, drinks, money or others. In this case, it needs to be emphasized that the form of providing support to the wife is a material need, not a spiritual need. The form and amount of the alimony is basically not clearly stated, but in general. In the provision of the form and amount of alimony, it is more determined on the basis of the husband's ability.

There is no definite provision that regulates the issue of the size of the iddah alimony related to how much it is, both in the Qur'an, Hadith, and in positive law. However, it can be equated with the amount of alimony given by the husband who is still in the marriage bond or before the divorce occurs. Regarding the measure of the amount of iddah alimony, by looking at the Qur'an, Surah Athalaq verses 6 and 7 only

⁵ W Nuroniyah, 'IDDAH ALIMONY RIGHTS IN DIVORCE CASES DUE TO DOMESTIC VIOLENCE ANALYSIS VERDICT', *Repository.Uinjkt.Ac.Id.* pp.17-18.

⁶ D U Hasanah, 'Iddah Maintenance Rights After Divorce Lawsuit and Its Implementation at the Tanjung Pati Religious Court', *Repository.Uinjkt.Ac.Id.* p. 43.

⁷ D Rusydianti, *Analysis of the Judge's Decision at the Holy Religious Court in Determining the Rate of Payment of Iddah and Mut'ah Maintenance to the Wife Before the Talak Pledge (Study ...* (*repository.iainkudus.ac.id*, 2022), p.33.

give a general picture that alimony is given to the wife according to the adequacy of daily needs and in accordance with the husband's income.⁸

There are several things that concern the rights of wives who are in the iddah period of talaq raj'i, the division is as follows:

- a. There is no difference of opinion among scholars on the obligation of the husband to provide iddah maintenance to his wife who is talaq raj'i. According to the jurists, the husband is still obliged to provide maintenance in the form of a place to live and the maintenance of his wife's life during the iddah period. This is because the husband still has the right to refer back to the wife who has been talaq.
- b. Wives who are in the iddah period of talaq raj'i are entitled to inheritance from their deceased husbands, while women who have been talaq three times are not entitled to it.

Meanwhile, the rights of wives who are in the iddah period of talaq ba'in are divided as follows:

- a. Wives who are sentenced to talaq ba'in, according to the majority of scholars, are still entitled to a place to live. However, they still have different opinions about providing for him. According to Imam Shafi'i, there is no maintenance for him unless he is pregnant.
- b. A wife who is in the iddah period due to talaq ba'in, if she is pregnant, has the right to a place to live and alimony.

If the wife is in the iddah period due to the death of her husband and is pregnant, she is entitled to alimony and housing. However, if the wife is not pregnant, scholars have different opinions on this. Some scholars including Imam Malik, Imam Shafi'i, and Imam Hanafi are of the opinion that wives who are in iddah due to the death of their husbands have the right to a place to live.

Judging from the cause of divorce, iddah can be distinguished into two, namely, iddah of death and iddah of talaq.⁹

⁸ I ILHAM ILAHI, *ANALYSIS OF THE JUDGE'S DECISION AT THE BELOPA RELIGIOUS COURT IN DETERMINING THE PAYMENT OF ALIMONY IDDAH AND MUTA'AH TO ...* (repository.iainpalopo.ac.id, 2021), p.40.

⁹ A Yuniar, *Analysis of the Judge's Decision at PTA Semarang in Determining Iddah and Mut'ah Maintenance After Divorce from the Perspective of the Compilation of Islamic Law (Study of the Decision ...* (repository.iainkudus.ac.id, 2023), p.23-24.

a. Iddah of death

Wives who live in the death of their husbands must undergo their iddah period as follows:

- a) For wives who are not pregnant, the iddah is 4 months and 10 days. This ruling is stated in the Qur'an surah al-Baqarah verse 234, which reads: "Those who die among you by leaving their wives, let those wives undergo a period of iddah for four months and ten days".
- b) For wives who are pregnant with iddah, it is until childbirth. The basis is the Qur'an surah at-Talaaq verse 4, which reads: "A wife who is pregnant is iddah until she gives birth".

b. Iddah Talak

A wife who divorces her husband by way of talaq, the iddah is as follows:

- a) For a wife who is divorced in a state of pregnancy, the iddah is until she gives birth to her pregnancy.
- b) Wife who is still menstruating, the iddah is three times pure; Including holy at the time of talaq, as long as there was no previous marital relationship, in accordance with the provisions of Surah al-Baqarah 228.
- c) A wife who has never or can no longer understand experiences her iddah menstruation for three months. This provision is contained in the Qur'an Surah At-Talaq verse 4.
- d) For wives who have never been collected and then rejected, then according to the provisions of the Qur'an surah al-Akrab verse 49, the wife does not need to undergo the iddah period. And if at the time of the marriage contract it has not been determined how many mascots will be given to him, then the mentally ill husband is obliged to give a sum of property to the wife who was rejected before being interfered with.
- e) Divorce by way of fasakh also applies to the provisions of iddah because of talaq.

CONCLUSION

Based on the results of the research, it was concluded that maintenance is the right of wives and children to get food, clothing and housing, as well as several other basic needs and medicine, maintenance in this form is mandatory based on the Qur'an, al-Sunnah and ijma' ulama. Iddah maintenance is everything that a husband gives to his divorced wife, either in the form of clothes, food or shelter. The time of providing alimony is during the iddah period and if the ex-wife has visited the iddah period, it means that the responsibility of the husband who provides alimony has been completed.

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