




The Realization of the Fulfilment of the Children’s Sustenance Post-Divorce In Purworejo Religious Court in 2020-2021

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Abstract

Frequently, discordant married couples contemplate divorce as their final option for resolving household problems. Many do not realize that divorce is the beginning of the onset of new problems that affect not only married couples but also their offspring if they are already parents. This study seeks to find out the realization of the implementation of child support obligations after divorce at the Purworejo Religious Court with various factors that influence it. This investigation is limited to the years 2020 and 2021 in order to examine the most relevant cases, as the events are still relatively recent. This form of research employs a qualitative paradigm and is conducted in the field. This study's methodology employs a normative legal approach. On the basis of court records from the Purworejo Religious Court, researchers conducted direct observations and interviews with litigants. Even though the child's maintenance obligations have been stated in the decision of the Purworejo, the results of the study indicate that there are still many parents, particularly the father, who do not fulfill their responsibilities to provide a living for their children due to various factors, including lack of legal awareness, lack of awareness of the obligations of a father to provide for children, too involved parents in the household, social factors, and economic factors.

Keywords: Realization; child support; post-divorce.

Abstrak

Seringkali bagi pasangan suami istri yang tidak harmonis menganggap perceraian sebagai langkah terakhir dalam menyelesaikan persoalan rumah tangga yang membelit mereka. Banyak yang tidak menyadari bahwa perceraian menjadi awal terbukanya persoalan baru yang dampaknya tidak hanya bagi pasangan suami istri saja namun berimbas pada anak-anak mereka bagi pasangan yang telah memiliki anak. Penelitian ini bertujuan untuk mengetahui bagaimana realisasi pelaksanaan kewajiban nafkah anak pasca perceraian di Pengadilan Agama Purworejo dengan berbagai faktor

yang mempengaruhinya. Penelitian ini hanya dibatasi periode tahun 2020 sampai 2021 dengan maksud meneliti perkara yang paling valid karena peristiwanya masih relative baru. Jenis penelitian ini adalah penelitian lapangan dengan paradigma kualitatif. Adapun metode yang dipakai dalam penelitian ini menggunakan pendekatan yuridis normatif. Berdasar dokumen dari Pengadilan Agama Purworejo, peneliti melakukan observasi dan wawancara langsung dengan para pihak yang pernah berperkara di pengadilan. Hasil penelitian menunjukkan bahwa masih banyak sekali orang tua terutama sang ayah yang tidak melaksanakan kewajibannya memberikan nafkah anak dengan berbagai faktor, diantaranya kurangnya kesadaran hukum, kurangnya kesadaran akan kewajiban seorang ayah menafkahi anak, terlalu melibatkan orang tua dalam rumah tangga, faktor sosial, dan faktor ekonomi meskipun kewajiban nafkah anak tersebut telah tertuang dalam putusan hakim Pengadilan Agama Purworejo.

Kata Kunci: Realisasi; Nafkah Anak; Pasca Perceraian.

Introduction

According to a report in 2020, the rate of divorce in Purworejo Regency reached 2,066 cases, indicating that it is relatively high¹. Purworejo Subdistrict is one of the subdistricts that contributes to divorce cases. Geographically, the Purworejo sub-district is the most densely populated area considering that this sub-district is the district capital. As a metropolitan area with a high population density, it has no doubt extremely complex social issues, among of which is the divorce.

Many married couples believe that divorce is the only solution to their problems. They are unaware that divorce will result in another complex situation. The issue of hadhanah, particularly the obligation to provide for their children after the divorce, is frequently neglected. The reality on the ground is that many children become victims of their parent's divorce, and are then abandoned in their lives so that they can no longer obtain their rights as children, such as the right to love, the right to receive an appropriate education, the right to play, etc., as is appropriate for a growing child. and flourish in a harmonious family environment².

According to Syech Wahbah Az-Zuhaili's book *Fiqhul Islam wa-Adzillatuhu*, chapter 10, verse 233 of Surah Al-Baqarah requires parents to provide a means of subsistence for their offspring³. If a husband and wife divorce while their children are still dependent on them (immature/mumayyis), the wife has a greater right to care for their children and reside with their mother. However, the father is still responsible for providing the child's maintenance.

¹ Pengadilan Agama Purworejo, "Arsip Dokumen Pengadilan Agama Purworejo Tahun 2020" (Purworejo, 2020).

² Wawancara dengan Bapak Cahyo Subekti, SH., selaku Advokat yang menangani perkara perceraian di Pengadilan Agama Purworejo, tanggal 16 Agustus 2021 (pukul 08.40 WIB).

³ Hutri Rahayu, "Nafkah Madhiyah Dalam Perkara Cerai Talak Qobla Dukhul Di Pengadilan Agama Bekasi," *Skripsi*, 2019, <https://repository.uinjkt.ac.id/dspace/handle/123456789/51607>.

Similarly, positive law in Indonesia specifies that if a husband divorces his wife, he must support her and their children.⁴

Article 149 of the Compilation of Islamic Law specifies that giving a proper *mut'ah* to his ex-wife, whether in the form of money or goods unless the husband has yet to engage in sexual intercourse with his ex-wife, but yet he should provide (place to live) and *kiswah* (clothing) to the ex-wife during *iddah* unless the ex-wife has been sentenced to divorce *ba'in* or *nusyuz* and is not pregnant and the husband is obliged to provide *hadhanah* for their pre-adult children (before the age of 21)

The certainty of survival and the future of children is diminished by parental divorce. Even though the provisions of *hadhanah* (child support) have been stipulated in a court order, there is no assurance that the father will adhere to or implement these provisions. Multiple factors undoubtedly contribute to the reality that some children are unable to meet their basic needs.

According to a study conducted by Alfi Bariroh⁵ there were numerous impediments that could have prevented the execution. Among these, the petitioner for execution was unable to demonstrate the defendant's assets to be seized. The author has a solution by combining Yahya Harahap's ideas with the conclusion in Article 197 Paragraphs (5) and (9) that the applicant for execution requests assistance from the clerk or bailiff to accompany two appointed witnesses to the location of the goods to be confiscated. Presume that the items that will be seized by the execution are the defendant's. Research conducted by Fatkhori Rahman reveals that many people do not comply with providing child support due to economic and educational factors⁶ And Herman Kosasih has studied the results of this research and found that First Instance Court Judges only consider one aspect when deciding *mahdliyah* income cases, namely the plaintiff's petition, which is not always proportional to the defendant's income. Therefore, the defendant is unable to fulfill his obligation to support his children and wife.⁷

The three studies reviewed by Alfi Bariroh (2022), Fatkhori Rahman (2018), and Herman Kosasih (2020) have been briefly discussed in this introductory chapter, but the author believes that they are insufficient to be used as reading references for the general public who wish to understand the implementation of post-divorce child support. Because these three studies do not clarify what factors influence whether child support is implemented after a divorce, the author considers this a crucial point that will serve as a resource and an academic reference for the general public.

⁴Rita Widiyani, "Tinjauan Hukum Islam Dan Hukum Positif Terhadap Status *Nafkah Anak Pasca Perceraian Tanpa Melalui Keputusan Hakim PA (Pengadilan Agama)*", *Syakhshia: Jurnal Hukum Perdata Islam* 20, no. 2 (2019): 461-92.

⁵ Alfi Bariroh, Aulia Muthiah, *Eksekusi terhadap Kewajiban Pemberian Nafkah Anak Pasca Perceraian Menurut Hukum Positif*, (2022): 85-86.

⁶ Fatkhori Rahman, *Kewajiban Nafkah Anak Terhadap Anak Korban Perceraian*, (2018): 52-56

⁷ Herman Kosasih, *Pemberian Nafkah Mahdliyah Dalam Kasus Cerai Talak Di Pengadilan Agama Tigaraksa Dan PTA Banten*, (2020): 51-53

This is a qualitative research study involving analytic descriptive methodology in answering research inquiries; the research also refers to a normative legal approach. The data were collected through participant observations and in-depth interviews with research subjects, namely divorced married couples under the jurisdiction of the Purworejo Religious Court. In addition, the researcher obtained documentation from the relevant agency, namely the Purworejo Religious Court, which served as a research site and a source of data in the form of research-related cases. All obtained data will be reduced and then presented in order to draw conclusions.

Provision of Post-Divorce Child Support Rights Implementation at the Purworejo Religious Court in 2020-2021

In the recent years, there have been fluctuations in the number of divorce cases handled by the Purworejo Religious Court, where the uncertain amount of data in a given time period is influenced by various factors, such as household disharmony that results in disputes and quarrels, economic factors, social media social factors, etc.⁸

The Purworejo Religious Court received 1,974 divorce and separation petitions in 2020. This number is higher than the previous year's total of 1,821 cases. The total number of cases examined by the Purworejo Religious Court to were 2,252. This quantity represents the accumulation of the remaining number from the previous year and the number of cases received in 2020. Meanwhile, the total number of cases that the Purworejo Religious Court successfully resolved in 2020 was 2,043. This is due to the fact that not all cases filed with the Religious Courts can be decided at once. The dismissal of litigation is governed by article 124 of the HIR (Het Herziene Indonesisch Reglement). Several cases were declared null and void by the examining panel of judges because neither the plaintiff nor his counsel attended the trial. Other reasons why a lawsuit is dismissed include failure to meet formal requirements / NO (Niet Ontvangst Verklaard). In addition to these two reasons, parties have withdrawn a number of litigation because they were successful in mediation or reached a settlement.⁹

⁸ Interviewed with Nurul Huda, an administrative staff at LBH Sakti Purworejo, on 15 November 2021 (pukul 13.00 WIB).

⁹ Waluyo Sudarmaji, "Kesepakatan Para Pihak Sebagai Upaya Mencapai Putusan Verstek Dalam Perkara Perceraian," *Isti'dal: Studi Hukum Islam* 6, no. No. 2 (2019): 101–16, <https://ejournal.unisnu.ac.id/JSHI/article/view/1613>.

The 2020 Sued Divorce and Divorce Cases Received by the Purworejo Religious Court.¹⁰

No	Month	Sued Divorce	Divorce
1	January	196	46
2	February	133	18
3	March	99	26
4	April	90	17
5	May	49	5
6	June	189	53
7	July	142	55
8	August	142	23
9	September	172	141
10	October	125	37
11	November	154	39
12	December	84	31
Total		1.575	491

Source: Purworejo Religious Court Annual Case Report 2020.

According to the table above, the Purworejo Religious Court received a total of 1,575 lawsuit divorce cases and 491 divorce cases in the year 2020.

The 2021 Sued Divorce and Divorce Cases Received by the Purworejo Religious Court¹¹.

No	Month	Sued Divorce	Divorce
1	January	141	33
2	February	125	24
3	March	215	25
4	April	118	25
5	May	81	21
6	June	171	43
7	July	83	20
8	August	101	25
9	September	172	50
10	October	171	41
11	November	135	38
12	December	86	17
Total		1.599	362

Source: 2021 Purworejo Religious Court Case Statistics.

¹⁰ Religious court Purworejo, "Arsip Dokumen Pengadilan Agama Purworejo Tahun 2020."

¹¹ Religious court Purworejo, "Arsip Pengadilan Agama Purworejo" (Purworejo, 2021).

In 2020, the Purworejo Religious Court received 1,599 contested divorce cases and accepted 362 sued divorce cases, as shown in the table above.

Cases of Sued Divorce and Divorce Decided in 2020 by the Purworejo Religious Court¹².

No	Month	Sued Divorce	Divorce
1	January	165	57
2	February	133	18
3	March	130	22
4	April	80	5
5	May	56	5
6	June	174	52
7	July	182	51
8	August	127	36
9	September	141	44
10	October	112	33
11	November	184	47
12	December	139	41
Total		1.623	411

Source: Purworejo Religious Court Annual Case Report 2020.

According to the data in the table above, the Purworejo Religious Court adjudicated 1,623 divorce cases and 411 sued divorce cases in 2020.

The 2021 Sued Divorce and Divorce Cases Decided by the Purworejo Religious Court¹³.

No	Month	Sued Divorce	Divorce
1	January	68	21
2	February	163	24
3	March	180	36
4	April	165	17
5	May	79	23
6	June	114	43
7	July	151	25
8	August	137	19

¹² Religious court Purworejo, "Arsip Dokumen Pengadilan Agama Purworejo Tahun 2020."

¹³ Religious court Purworejo, "Arsip Pengadilan Agama Purworejo."

9	September	168	42
10	October	136	47
11	November	181	35
12	December	167	35
Total		1.709	367

Source: Statistical report Purworejo Religious Court, 2021.

According to the data above, the Purworejo Religious Court decided 1,709 divorce-related lawsuits and 367 divorce-related divorce cases in 2021.

According to Ita Qonita, S.H.I., as the Judge of the Purworejo Highest Religious Court, only 1% of people in Indonesia petition for child support after a divorce, indicating that very few mothers are concerned about their children’s future. Even though, according to him, a wife can easily apply for divorce rights after the 27 November 2019 release of Circular Letter Number 2 of 2019 concerning the Enforcement of the Formulation of the Results of the 2019 Supreme Court Plenary Meeting as a Guideline for the Implementation of Court Duties. The objective is to make it simpler for justice applicants, particularly women in legal cases, to obtain their rights.¹⁴

Following is a table of divorce decisions from the Purworejo Religious Court in 2020-2021

Year	Cases	Sued Divorce		Divorce	
		Request for children’s sustenance	Without requesting children’s sustenance	Request for children’s sustenance	Without requesting children’s sustenance
2020	2.034	16	1.607	4	407
2021	2.076	17	1.709	3	367

Based on the information presented, legal protection to provide for a child's subsistence after a divorce at the Purworejo Religious Court in 2020-2021 will continue to be categorized as low, as only 1% of divorce cases involve child support claims. When their mother and father divorced and there was no provision for maintenance, 99.9% of the children's legal rights were not protected.

In Book II, the Implementation of the Duties and Administration of the Religious Courts has been regulated so that claims for maintenance of children, wife,

¹⁴ Interviewed with Ita Qonita, SHI., the judge at the Main Religious Court of Purworejo, on 15 November 2021 (pukul 14.30 WIB). Lihat: Mulyadi, Anggi. *Pelaksanaan Nafkah Anak Oleh Pegawai Negeri Sipil Yang Bercerai Di Tinjau Dari Hukum Positif Dan Hukum Islam (Studi perkara Nomor. 37/Pdt. G/2018 di Pengadilan Agama Curup)*. Diss. IAIN Curup, 2019.

mut'ah, and 'iddah can be filed alongside divorce claims, whereas claims for hadhanah and joint assets of husband and wife must be filed separately or in separate cases¹⁵.

In the Republic of Indonesia, Supreme Court Decision, number 137 K/Ag/2007 establishes the following legal principle¹⁶:

“A wife who files for divorce from her husband is not always punished with nusyuz. Therefore, ex officio the living iddah must still be given by the husband, despite the fact that the wife must endure the iddah period, which aims to istibra and concerns the husband's needs”.

This can have a positive impact on fulfilling women's rights as a result of divorce, as many women no longer receive mutah, iddah, and child support due to the high cost of execution if the wife's rights are not fulfilled voluntarily by her ex-husband.¹⁷

In fact, with the Supreme Court Circular Letter (SEMA) Number 2 of 2019, a wife who is suing her husband for divorce is permitted to claim maintenance for the child, mut'ah and iddah maintenance. The judge will grant the request if it has strong legal grounds, but most plaintiffs (wives) only focus on the divorce case and put aside demands for child support, mut'ah and iddah maintenance when filing the lawsuit.¹⁸

Researchers will describe the following research findings based on the 2020-2021 decision of the Purworejo Religious Court regarding the implementation of child support obligations following divorce.

First, Decision Number 359/Pdt.G/2020/PA.Pwj. In the decision letter Number 359/Pdt.G/2020/PA.Pwj, whereby the Petitioner and the Respondent were married on Tuesday, January 18, 2005 in accordance with Duplicate Copy of Marriage Certificate Number 07/Kua.11.06.04/PW.01/02/2020. Ultimately, on

¹⁵ Mahkamah Agung RI, *Pedoman Pelaksana Tugas Dan Administrasi Peradilan Agama*, Revisi 2010 ed. (Jakarta: Perpustakaan Mahkamah Agung, 2011), [https://perpustakaan.mahkamahagung.go.id/assets/resource/ebook/Pedoman Pelaksana Tugas dan Administrasi Peradilan Agama.pdf](https://perpustakaan.mahkamahagung.go.id/assets/resource/ebook/Pedoman%20Pelaksana%20Tugas%20dan%20Administrasi%20Peradilan%20Agama.pdf).

¹⁶ Mahkamah Agung RI, “Putusan Mahkamah Agung RI Nomer 137K/AG/2007 Tentang: Istri Yang Menggugat Cerai Suaminya Tidak Selalu Dihukumkan Nusyuz. Meskipun Gugatan Perceraian Diajukan Oleh Istri, Tidak Terbukti Istri Telah Berbuat Nusyuz, Maka Secara Ex Officio Suami Dapat Dihukum,” JDIH Mahkamah Agung-RI, 2021, <https://jdih.mahkamahagung.go.id/index.php/beranda/database/3.-Yurisprudensi/Yurisprudensi-Terbitalan-Lama/Agama/Tahun-2007/137K-AG-2007/>.

¹⁷ Mahkamah Agung RI, “SEMA Nomor 2 Tahun 2019,” Bawas, 2019, https://bawas.mahkamahagung.go.id/bawas_doc/doc/sema_02_2019.pdf.

¹⁸ Interviewed with Ita Qonita, SHI., the judge at Main Religious Court of Purworejo, tanggal 15 November 2021 (at 14.30 WIB).

February 25, 2020, the Petitioner submitted a divorce application to the Purworejo Islamic Court.¹⁹

“The penalty for the Reconvventional Defendant to provide maintenance for the two children mentioned in dictum number 2 is Rp. 600,000,- (six hundred thousand rupiah) per month, with an increase of 10% per year, to be paid before the Reconvventional Defendant receives the divorce certificate.”

After their parents divorced, the two children resided with their mother, per the Purworejo Religious Court's ruling that the father was required to provide Rp. 600,000, - (six hundred thousand rupiah), and in fact, the father continues to support these two children after the divorce. This is due to the strong emotional bond between father and son and their effective communication. When they encounter the two children, the father's family still frequently provides pocket money²⁰.

Second, Decision Number 521/Pdt.G/2021/PA.Pwj. Decision Number: 521/Pdt.G/2021/PA.Pwj explains that the marriage of the Petitioner and Respondent occurred on February 25, 2002 in Grabag 2 District, Purworejo Regency, in accordance with the Duplicate Marriage Certificate Excerpt Number: 033/14/II/2002. And finally, on April 6, 2020, the Petitioner filed a petition for divorce with the Purworejo Religious Court. The Respondent (wife) attended the trial and lodged a counterclaim (reconvension) in which one of the decisions stated:

“Providing a monthly stipend of at least Rp. 500,000.- (five hundred thousand rupiah) to adult offspring, with an annual increase of 10%.”

However, according to the judge's decision, the child's maintenance is ignored by the father. The father's reason was that he believed that the divorce would result in the parents being free from responsibility towards their children, and he felt hatred towards his ex-wife or the mother of his child. The ex-husband also expressed concern that if he gave his child money, it would be used for illegal activities²¹.

Third, Decision Number 233/Pdt.G/2021/PA.Pwj. Decision Number 233/Pdt.G/2021/PA.Pwj explains the conditions under which the marriage between the Petitioner and the Respondent took place on January 6, 2012, in Purworejo Regency, in accordance with the Marriage Certificate Excerpt Number: 03/03/I/2012. On February 24, 2021, the Petitioner filed a petition for divorce with the Purworejo Religious Court.

The respondent (wife) attended the trial and filed a counterclaim (reconvension). The panel of judges at the Purworejo Religious Court granted part of the Plaintiff's lawsuit for reconvension by granting the Petitioner's petition and

¹⁹ Pengadilan Agama Purworejo, “Arsip Dokumen Pengadilan Agama Purworejo Tahun 2020.”

²⁰ The interview of litigant, the case number 359/Pdt.G/2020/PA/Pwj, on 16 November 2021 (at08.00 WIB).

²¹ The interview of the applicant on the case number 521/Pdt.G/2021/PA.Pwj, on16 November 2021 (at11.00 WIB).

assigning custody of the children to the Reconvention Plaintiff. The Religious Court stated in one of the verdicts:

“Provide monthly child support of Rp. 300,000 (three hundred thousand rupiah) until the child reaches adulthood, with an annual increase of 10%.”

Even though the Purworejo Religious Court has ruled that fathers are still obligated to provide child support, fathers do so only in the first month following a divorce, and the amount is less than what the Purworejo Religious Court determined. In this case, the ex-wife claimed that her ex-husband was no longer providing a living for the child due to economic factors where he was said to be often lazy to work and considered the divorce to have severed the living relationship, despite the fact that the judge had determined the amount of a living that the father was required to provide during the trial.²²

Fourth, decision number 236/Pdt.G/2021/PA.Pwj, in which the Petitioner submitted a divorce petition to the Purworejo Religious Court on 10 May 2021. The Respondent (wife) attended the trial and filed a counterclaim (reconvention) in which one of the stipulations reads:

“Provide minimum sustenance for his three children. A monthly allowance of IDR 1,500,000.- (one million five hundred thousand rupiah) with an annual increase of 10% until the child is an adult and/or independent or at least 21 years old, excluding education and health expenses”.

The nominee is a government employee. Article 8 of Government Regulation Number 10 of 1983 Concerning Marriage and Divorce Permits for Civil Servants, in conjunction with Government Regulation of the Republic of Indonesia Number 45 of 1990 Concerning Amendments to Government Regulation Number 10 of 1983 Concerning Marriage and Divorce Permits for Civil Servants, regulates specifically the income of civil servants, stating that if a divorce occurs at the will of a male civil servant, he is entitled to one-half of his salary. Where it has been determined that one-third of the father's income goes to his offspring. If these provisions are not implemented, the wife may petition the Purworejo Religious Court for her execution.²³

Following their divorce, their three children resided with their mother. The mother stated that the reason for their divorce was the frequent disagreements and conflicts that resulted from misunderstandings in her household. According to her confession, this occurred due to the fact that the father had another wife. And to this

²² Interviewed of the litigant by the case number 233/Pdt.G/2021/PA.Pwj, on 18 November 2021 (17.00 WIB).

²³ The Government Regulation of the Republic Indonesia, “Marriage and Divorces Regulation for Civuil Servant” (1983), Chapter 8 verse (1) and (2).

day the biological father of the three children continues to provide alimony but not routinely and must be requested first and then sent by the father.²⁴

*Fifth, Decision Number 342/Pdt.G/2021/PA.Pwj.*²⁵ Amar putusan Nomor 342/Pdt.G/2021/PA.Pwj, sesuai dengan Kutipan Akta Nikah The decision letter Number 342/Pdt.G/2021/PA.Pwj, in accordance with the Quote of the Marriage Certificate Number 319/01/IX/2013, stated that the Plaintiff and the Defendant were wed on September 1, 2003 in the Purworejo District. Then, on March 10, 2021, the Defendant filed a divorce suit with the Purworejo Religious Court, and on August 24, 2021, it was declared legally binding. The Defendant petitioned the Purworejo Religious Court for her husband's divorce. The lawsuit was filed because the defendant refused to cooperate, so the Plaintiff must provide for the needs of children and families as the backbone of the family. because the Defendant's parents considered him their golden child. Therefore, the Defendant's mother always handles it in their household. Disputes and quarrels frequently serve as the premise for these lawsuits.

In the fifth case, the defendant did not file a counterclaim (reconvention) because the outcome of the trial was decided in a verse, meaning that the defendant was not present at the divorce trial. As a result, there was no opportunity for three-way communication among the judge, the defendant, and the plaintiff. Nearly fifty percent of divorce cases heard by the Purworejo Religious Court are resolved via *verstek*.²⁶ In the fifth case, the defendant did not file a counterclaim (reconvention) because the outcome of the trial was decided in a verse, meaning that the defendant was not present at the divorce trial. As a result, there was no opportunity for three-way communication among the judge, the defendant, and the plaintiff. Nearly fifty percent of divorce cases heard by the Purworejo Religious Court are resolved via *Versteka*.²⁷

In response to the numerous instances of non-implementation of child support after divorce, the magistrate proposed the following solutions:

First, if the verdict specifies the amount of rupiah the defendant (father) must pay to support his children, the execution procedure is as follows:

- In deciding a case, judges typically consider numerous stakeholders, beginning with the mother, father, and child. Especially the defendant's (father's) income, this is done so that no decision can be executed. Because every judge's decision must involve the relationship between two parties.
- In the history of the Purworejo Religious Court, there has never been a request for the appellant (mother) to carry out a child support order. This is due to two

²⁴ The interview of the Litigant, case number 236/Pdt.G/2021/PA.Pwj, on 19 November 2021 (at 10.00 WIB).

²⁵ Religious court Purworejo, "Arsip Pengadilan Agama Purworejo."

²⁶ Sudarmaji, "Kesepakatan Para Pihak Sebagai Upaya Mencapai Putusan Verstek Dalam Perkara Perceraian."

²⁷ The interview of respondent the case number 342/Pdt.G/2021/PA.Pwj, tanggal 21 November 2021 (at 13.00 WIB).

possibilities: first, the magistrate may have already made a decision. Second, because the ex-wife no longer sues her ex-husband because she no longer wishes to do so. Because, in general, the wife has her own happiness when she is divorced from her husband, and for her, the most essential aspect of her marital status is legal certainty.

Second, if the decision does not specify how many demands the respondent (mother) wants, this is consistent with the principle that judges are passive, namely that the scope of the case cannot be determined by the judge, who only conducts an examination and decides based on the parties' requests. In civil proceedings, the judge functions as an arbitrator. Nonetheless, during an examination of the case, the judge must actively work to reconcile the parties and inquire about their intentions. According to SEMA RI NO. According to 1/2002, all judges must take all cases seriously and pursue peace. Because the judge is actively involved in the examination, even if it is not stated in the petition, the judge can question the parties about their intentions.

Third, the chairman of the Religious Court has been briefed by the Central Java High Religious Court on the implementation of Supreme Court Regulation (Perma) No. 3 of 2017 regarding the relationship between women and the law, particularly in regards to child care. Children should be encouraged to associate with anyone who can guarantee their rights, including the right to support. According to the explanation provided by the High Religious Court, the majority of judges pay little regard to the rights of minors when making decisions. The Chairman of the local Religious Court will receive a warning from the High Religious Court if he continues to act in this manner. Due to the novelty of this issue in the judicial system, it is still undergoing socialization. In previous cases, child custody disputes were included in decisions requested directly by the parties or in answers to the lawsuit incorporated in the reconvention.

Fourth, if a determination of child custody or child support is made verse (without the presence of the defendant), the judge believes that an application from the parties is required; it is not ex officio. Ex officio categories include iddah living and mahdiyah living (living owed).

Fifth, regarding the implementation of Perma No. 3 of 2017, which adopts foreign regulations, there are positive intentions, but the application of these regulations in Indonesia would be inappropriate due to sociological differences. In Indonesia, there is no concept of divorce, so children are raised by both parents.

Fifth, regarding the implementation of Perma No. 3 of 2017, which adopts foreign regulations, there are positive intentions, but the application of these regulations in Indonesia would be inappropriate due to sociological differences. In Indonesia, there is no concept of divorce, so children are raised by both parents).²⁸

²⁸ The interview of Abdurrahman, S.Ag., the judge of the main Religious Court of Purworejo, on 18 November 2021 (at 13.30 WIB).

According to the results of the researcher's interviews with the litigants, 7 people were still providing financial support for their offspring, while 3 were no longer doing so:

No	Cases	Providing Sustenance	
		Ya	Tidak
1	5	7 (5 mother, 2 father)	3 (father)

The preceding table provides additional information: According to this table, more than half of divorced fathers do not provide child support.

Analysis of Realization of Post-Divorce Child Support Obligations at the Purworejo Religious Court for 2020-2021

Parents' divorce has legal ramifications for their children resulting from their marriage; as a result, the child's parents still have an obligation to provide for the child's development and exclusively for the child's future. Even if the child resides with the mother, the father must assume entire responsibility for the child and pay for his upkeep and education. If the father is unable to provide for the child, the court may determine that the mother will shoulder a portion of the financial responsibility. If both parents are unable to provide for their child's needs, the Religious Court may appoint one of the child's closest relatives to fulfill child maintenance obligations.²⁹

According to the findings of an interview with one of the justices at the Purworejo Religious Court, Mr. Abdurrahman, S. Ag, regarding the implementation of post-divorce child support, the following is true:

“A father is obligated to care for his children despite the fact that he and his wife have divorced, but in reality, the decision of the Religious Courts stating that fathers are still obligated to support their children despite the fact that they are divorced exists only on paper. The reality in society is that many children become victims of divorce from their parents who have not received their rights properly, despite the fact that it is known that they have brighter future³⁰.”

In divorce cases involving a child support obligation, the husband typically files the divorce petition with the Religious Court. Typically, when the wife appears in court, she submits a counterclaim (reconvention). The wife's counterclaims included a request for child support costs. In this instance, the Religious Court has the authority to grant the request based on the husband's income and the children's requirements. In reality, however, almost all children of divorced parents whose

²⁹ Waluyo Sudarmaji, “Pertimbangan Hakim Dalam Memutuskan Perkara Dispensasi Nikah Berdasarkan Analisis Masalah (Studi Penetapan Hakim No. 266/Pdt. P/2020/PA. Pwr Di Pengadilan Agama Purworejo),” *Al-Syakhsyiyah: Journal of Law & Family Studies* 3, no. 1 (2021): 131–44.

³⁰ Interview of Abdurrahman, S.Ag., The Judge of the Main Religious Court of Purworejo, onm18 November 2021 (at 12.30 WIB).

rights have been terminated by religious tribunals reside with their mothers. And almost all of the child's living expenditures are also borne by the mother, despite the fact that the judge of the Purworejo Religious Court has determined that the father should bear the financial responsibilities.

From the above five cases, it was determined that almost all ex-husbands (fathers) did not adhere to the Panel of Judges' decisions. As a consequence, her mother had to work tirelessly to provide for her children. As stated by the Respondent in Case Number 233/Pdt.G/2021/PA.Pwj, he had to work as a diligent seamstress who frequently worked overtime in order to provide for his elementary school-aged child. As a mother, she should only be responsible for educating and caring for the child, but because her ex-husband no longer supports her, she must also cover the child's living expenses. In addition to having an effect on the child's cost of living and education, this phenomenon will have a negative psychological effect on the child's relationship with his father due to a dearth of communication between the two.

Based on the provisions that the researcher has outlined above, if the husband does not implement maintenance in accordance with the decision that has been determined by the Purworejo Religious Court, then the court can make a unilateral decision requiring the applicant or defendant (ex-husband) to comply with the contents of the decision of the Purworejo Religious Court, where the mother has the right to ask for the execution of the payment of living expenses to the Purworejo religious court. The court will then determine that her ex-husband must enforce the decision. Typically, this is only possible if the applicant or defendant (ex-husband) has assets that can be seized. To ensure the success of this execution, the ex-husband's movable and immovable assets may be confiscated if he possesses them. Regarding the confiscation of the ex-husband's property, the registrar, the bailiff, and the auction office are involved.³¹

Unfortunately, when the informants were questioned by researchers about petitions for execution, none of the respondents did so at the Purworejo Religious Court. This was due to the respondents' lack of legal knowledge as well as the high execution costs. Respondents feel inadequate due to the incomparability with the outcomes. Religious tribunals are also passive because they cannot carry out executions without the ex-wife's request. In terms of this execution, the Court should be able to be proactive by socializing a wife's post-divorce rights so that they have a thorough comprehension of their legally guaranteed rights.

By being aware of her rights, a wife going through a divorce may be motivated to take legal action so that the fulfilment of her and her children's rights after the divorce can proceed smoothly in accordance with the panel of judges' decision, taking into account the consequences of divorce have a significant impact on the future lives of their offspring. Law no. 7 of 1989 on Article 58 paragraph (1)

³¹ Interviews of Ita Qonita, SHI., the judge of the Main Religious Court of Purworejo, on 15 November 2021 (at 14.30 WIB).

and paragraph (2) concerning the Religious Courts and Article 90 of Law no. 3 of 2006 on the details of costs that are the Execution Petitioner's responsibility regulate the request for execution in detail.

Whatever the husband's obligation, the wife's right is the same, and likewise, whatever the wife's obligation, the husband's right is the same. If these rights and responsibilities can be carried out in a well-balanced manner, a peaceful existence will be created, resulting in physical and mental prosperity.

Factors Influencing Actualization in the Implementation of Post-Divorce Child Support Obligations at the Purworejo Religious Court in 2020-2021

Several factors affecting the implementation of child support obligations following a divorce, including:

First, a dearth of legal knowledge. In case number 342/Pdt.G/2021/PA.Pwj, where the father did not want to support his child because his ex-wife (mother) did not file a counterclaim (reconvention) against her ex-husband (father), a lack of legal awareness was a factor. This demonstrates that the husband does not comprehend his obligations as clearly outlined in Article 156 of the Marriage Law letter (d), which states that the father is responsible for all costs associated with the gift and child support until the child attains the age of majority (21 years). Aside from that, there are cases 521/Pdt.G/2021/PA.Pwj and 233/Pdt.G/2021/PA.Pwj in which the ex-husband (father) believes that the income will cease in the event of a divorce (separation). with regard to his offspring.

Second, parental dependence. Dependence on parents can be the drawbacks when establishing a family. For example, case number 342/Pdt.G/2021/PA.Pwj, where the ex-husband can be said to be not yet independent because all matters still depend on his parents, notably his mother. Therefore, if the ex-husband's mother does not want the child to provide for his grandson, the child's maintenance will not be implemented.

Third, the factor of egoism. The majority of divorces are caused by egotistical emotions that only care about themselves and disregard other parties. As in case number 359/Pdt.G/2020/PA/Pwj, where there were frequent disputes or quarrels between husband and wife prior to the divorce, the result was that the ex-husband was frequently reluctant to provide child support due to a lack of trust, believing that the money would only be used for the wife's needs.

Fourth, Social Aspects. For instance, in case number 236/Pdt.G/2021/PA.Pwj, where the ex-husband still communicates with his child, the ex-husband continues to provide child support, even though it is irregular and the amount is less than what the judge ordered.

Fifth, economic variables. This factor has become an accepted justification for fathers not providing for their offspring. For instance, in case number 233/Pdt.G/2021/PA.Pwj, the father felt unable to provide for his child. If you look at his age, he is still of productive age, meaning he is still able to work. However,

because he no longer has a wife and children, he spends most of his time idling around.

There are a number of factors that affect the actualization of post-divorce child support obligations, including:

First, the element of economic capability. In the case 236/Pdt.G/2021/PA.Pwj, the father supplied child support. In accordance with the basic obligation to provide maintenance for Civil Servants after divorce, which is outlined in Article 8 of Government Regulation Number 10 of 1983 Concerning Marriage and Divorce Permits for Civil Servants, if a male civil servant divorces of his own accord, he is required to provide a portion of his income to support his children and ex-wife.³²

Second, the factor of emotional relationship. As in case number 359/Pdt.G/2020/PA.Pwj, the father typically continues to provide for his child after a divorce because he believes he owns it. because children have a fundamental right to survive and develop. In addition, children have the right to care, health services, and education. In addition, children have the right to think freely and enjoy themselves if their parents provide sufficient financial support.³³

Third, exceptional legal acumen. As in case number 359/Pdt.G/2020/PA.Pwj, the father felt more obligated to implement the child support decision because the Purworejo Court had rendered a decision.

Mrs. Ita Qonita, SHI., as the Judge of the First Instance of the Purworejo Religious Court, once explained to the Judge of the Purworejo Religious Court the solution to the Realization of the Implementation of the Child Support Obligations if the child's maintenance is not met, without a request for Seizure of Execution, as follows:

“Divorced husbands and wives must give their offspring attention and priority. In addition to providing financial support in the form of child support. In order for a child to have a prosperous future, parents must also pay attention, show affection, ensure education in both general and religious matters, and provide for whatever the child requires during the process of growth and development. Article 41 of the Marriage Law of 1974 stipulates that if the father is unable to provide for his child, the mother may assist in child support. If there are problems in the family, there should be communication between family members to prevent undesirable outcomes, such as divorce. This communication may encompass multiple parties as mediators or intermediaries, in this case the parents of both parties. Because if there is a divorce, the children will also be affected by it.”³⁴

³² Peraturan Pemerintah RI, Izin Perkawinan Dan Perceraian Bagi Pegawai Negeri Sipil, Pasal 8 ayat (1) dan (2).

³³ Rianto Adi, *Peranan Lembaga Perlindungan Anak Dalam Advokasi Hak-Hak Anak* (Jakarta: Pengayoman, 2007), hlm. 1.

³⁴ Interview with Ita Qonita, SHI., the judge of the Main Religious Court of Purworejo, on 29 November 2021 (at 09.00 WIB).

Conclusion

The Fulfillment and implementation of post-divorce child support is a major concern. Children are a state asset that is needed for the progress of this country, where he must study as high as possible. However, if a child becomes a victim of divorce from parents who do not want to meet all their needs, then this can hinder their growth and education.

The data indicates that there are still a significant number of parents, particularly fathers, who do not fulfill their responsibilities to provide for their children for a variety of reasons, such as lack of legal awareness, lack of awareness of a father's obligation to provide for children, excessive parental involvement in the household, social factors, and economic factors.

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